

Development Application 10.2017.742.1

SCHEDULE 1 CONDITIONS OF CONSENT**Parameters of consent****1. Development is to be in accordance with approved plans**

The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
DA 00 Issue E	Site Plan	Harley Graham Architects	31/08/18
DA 01 Issue E	Ground Floor Plan	Harley Graham Architects	31/08/18
DA 03 Issue E	Elevations	Harley Graham Architects	31/08/18
17.15.01	Site Plan – Alterations and Additions	Michael Spiteri	July 2017
17.15.02	First Floor Plan – Northern End – Alterations and Additions	Michael Spiteri	July 2017
17.15.03	First Floor Plan – Southern End – Alterations and Additions	Michael Spiteri	July 2017
17.15.04	Ground Floor Plan – Northern End – Alterations and Additions	Michael Spiteri	July 2017
17.15.05	South & East Elevations – Alterations and Additions	Michael Spiteri	July 2017
17.15.06	North & West Elevations – Alterations and Additions	Michael Spiteri	July 2017
17.15.09	Basix Commitments – Alterations and Additions	Michael Spiteri	July 2017
17.15.10	Window & Door Schedule	Michael Spiteri	July 2017
Plan 1	Studio Elevations	Softplan	20/10/17
Plan 2	Studio Floor Plan	Softplan	20/10/17

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. Support for neighbouring buildings

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made or builder must:

- a. Inform the neighbouring property owner immediately.
- b. Engage a structural engineer to determine any remedial works that may need to be undertaken.
- c. Preserve and protect the adjoining building from damage.
- d. If necessary, underpin and support the building in an approved manner.

3. Home occupation

The proposed home occupation use of the studio associated with the existing dwelling house must be carried out in accordance with the requirements of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or a separate application is required.

The following conditions are to be complied with prior to issue of a Construction Certificate for building works

4. Plans of retaining walls and drainage

The application for a Construction Certificate is to include plans and specifications that indicate retaining walls or other approved methods of preventing movement of the soil, where any excavation or filled area exceeds 600mm in height. Adequate provision must be made for drainage.

Such plans and specifications must be approved as part of the Construction Certificate.

5. Sink to be removed from studio plans

Plans submitted for approval of the Construction Certificate must be amended to remove the sink from each studio in accordance with stamp approved Plan 2 dated 20/10/17.

Such plans are to be approved as part of the Construction Certificate.

6. Essential Energy approval required

The applicant must engage the services of an Accredited Service Provider to obtain approval to relocate the over head powerline with Essential Energy. This provider will guide the applicant through this process and will engage with Essential Energy directly. Documentary evidence from Essential Energy is required to demonstrate that approval has been obtained prior to issue of a Construction Certificate.

7. **On-site sewage management facility - Section 68 approval required**
An **Approval** under Section 68 of the Local Government Act 1993 for on-site effluent disposal must be obtained from Council prior to issue of a Construction Certificate. Such approval must be issued after the date of this consent.

The application for Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters, which addresses the site specific design of sewage management in accordance with the requirements of the NSW Local Government Act, and Approvals Regulation and Guidelines approved by the Director General.

8. **Certificate of Compliance from Rous Water – Water Management Act 2000**
Obtain a Certificate of Compliance from Rous Water confirming that all Developer Charges payable to Rous Water have been provided to Rous Water.

***Note:** Rous Water is the Water Supply provider for the location of the subject development. The applicant must organise the provision of a water service to the development with Rous Water and provide a Certificate of Compliance from Rous Water to this Council.*

9. **Developer Contributions to be paid**
Contributions set out in the schedule at the end of this consent are to be paid to Council prior to the release of a construction certificate. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). Contributions may be paid on a proportional basis dependant on the number of dwellings to be released in a construction certificate.

The Plan may be viewed on line at <http://www.byron.nsw.gov.au/> or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

The contributions in the schedule are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The schedule contains a date for which the schedule remains valid, after this date you will have to contact Council for an updated schedule.

PAYMENTS WILL ONLY BE ACCEPTED BY CASH OR BANK CHEQUE.

10. **Details of pool and spa compliance required**
The application for a Construction Certificate is to include plans and specifications that indicate the details of compliance for the swimming pool and spa in accordance with the Swimming Pools Act 1992 and AS1926.1.

Such plans and specifications must be approved as part of the Construction Certificate.

11. Geotechnical Report required – Building Works

A certificate from a professional Engineer experienced in Geotechnical Science is to be provided to the Principal Certifying Authority, certifying that the site is stable and will not be affected by landslide or subsidence at, above or below the site when the building is erected. The certificate must be prepared in accordance with AS 1726.

12. Access & Parking

The application for a Construction Certificate is to include plans and specification that indicate access, parking and manoeuvring details in accordance with the plans approved by this consent.

The access, parking and manoeuvring for the site is to comply with the requirements of AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking and AS 2890.2 – 2010 - Parking facilities. Plans are to include, but not be limited to, the following items:

- a) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- b) site conditions affecting the access;
- c) existing and design levels; and
- d) longitudinal section from the road centreline to the car space(s).

Such plans and specifications must be approved as part of the Construction Certificate.

NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

13. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. A291284, dated 30/08/2017

The development is also to comply with the submitted Single Dwelling Basix Certificate.

The commitments indicated in the Certificate are to be indicated on the plans submitted for approval of the Construction Certificate.

The plans submitted must clearly indicate all windows numbered or identified in a manner that is consistent with the identification on the Basix Certificate.

Minor changes to the energy efficiency measures may be undertaken without the issue of any amendment under Section 96 of the Act, provided that the changes do not affect the form, shape or size of the building.

Proposed colours must be consistent with the provisions of Section D2.2.3 of Council's Development Control Plan 2014. White colours are not permissible.

Such plans and specifications must be approved as part of the Construction Certificate.

14. Building materials and colours to be specified

The application for a Construction Certificate is to include plans and specifications that indicate the proposed building materials and colours consistent with the provisions of Development Control Plan 2014 – Chapter D2.2.3 - Character and Visual Impact. Please note that colours must be non-reflective earth tone colours and that the use of white and near white colours is not permissible

Such plans and specifications must be approved as part of the Construction Certificate.

15. Long Service Levy to be paid

A Long Service Levy must be paid to the Long Service Payments Corporation. This is a State Government Levy and is subject to change.

These payments may be made online at www.longservice.nsw.gov.au or at Council's Administration Office, Station Street, Mullumbimby. When paying to Council, cheques are to be made payable to 'Byron Shire Council'.

For further information regarding the Long Service Payment please refer to the website above.

16. Site Waste Minimisation and Management

All works must comply with the objectives of waste minimisation and waste management of Part B8.1.2 of DCP 2014.

The following conditions are to be complied with prior to any building or construction works commencing

17. Erosion & sediment measures

Erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. A full copy may be downloaded from Council's web site at www.byron.nsw.gov.au.

The following conditions are to be complied with during any building or construction works

18. Inspection for on-site sewage management

All plumbing and drainage works are to be installed by a suitably qualified person. The plumber must adhere to the requirements of the NSW Code of Practice and AS/NZ 3500. The plumber is to arrange for the following inspections to be undertaken:

- a) Internal drainage prior to covering of the works.
- b) External drainage prior to the covering of works.
- c) Irrigation installation prior to the covering of works.
- d) Final

19. Aboriginal cultural heritage

The recommendations of the Cultural Heritage Sites Inspection Report undertaken by Tweed Byron Local Aboriginal Land Council dated 21 June 2018 must be followed in the event of any unexpected finds being encountered during construction works.

20. Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:

- a. Monday to Friday, from 7 am to 6 pm.
- b. Saturday, from 8 am to 1 pm.

No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

21. Construction Noise

Construction noise is to be limited as follows:

- a. For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b. For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A)

Note: Council may impose on-the-spot fines for non-compliance with this condition.

22. Signs to be erected on building and demolition sites

A sign must be erected in a prominent position on the work site:

- a. stating that unauthorised entry to the work site is prohibited, and
- b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

23. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

24. Fill to be retained on the subject land

Any fill material must not encroach onto any adjoining land.

25. Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

Note: Council may impose on-the-spot fines for non-compliance with this condition.

26. Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

27. Demolition

Any required demolition works must be undertaken in accordance with the relevant requirements of Australian Standard AS 2601–1991: The Demolition of Structures published by Standards Australia, and the WorkCover Authority of NSW.

28. Removal of demolition and other wastes

All wastes, including asbestos and lead-contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licenced Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with the NSW DECC Waste Classification Guidelines (2008)

www.environment.nsw.gov.au/resources/waste/08202classifyingwaste.pdf

29. Muted bushland tones external finishes

To ensure the development is compatible with the surrounding environment, colours and finishes are to be muted bushland tones. In this regard white, light or bright colours are not permissible.

The following conditions are to be complied with prior to occupation of the building

30. Relocation of electricity infrastructure

Documentary evidence is required to demonstrate that relocation of electricity infrastructure has been completed in accordance with Essential Energy approval prior to issue of an Occupation Certificate.

31. On-site sewage management system must be completed

The on-site sewage management system is to be constructed in accordance with approved plans and in accordance with current specifications and standards. The system is not to be used and/or operated until a Council Officer has inspected the system and authorised its use.

32. Approval to Operate required

In accordance with the Local Government Act, an Approval to Operate the onsite sewage management system must be obtained from Council. Forms may be downloaded from Council's website with ['http://www.byron.nsw.gov.au/on-site-sewage'](http://www.byron.nsw.gov.au/on-site-sewage).

33. Works to be completed prior to issue of a Final Occupation Certificate

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development including approvals issued under the Local Government Act 1993 and the Roads Act 1993, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Council's road/footpath reserve.

34. Stormwater disposal

Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

- a. Clear of buildings and infrastructure,
- b. Clear of effluent disposal areas,
- c. Not concentrated so as to cause soil erosion,
- d. Not directly to a watercourse, and
- e. Not onto adjoining land.

35. Swimming pool and spa compliance

The swimming pool and spa must comply with the requirements of the Swimming Pools Act 1992 and Regulations.

The following conditions are to be complied with at all times

36. Use of studios

The studios must not be used for any habitable purposes.

37. Pool and Spa Safety Sign

The occupier of the premises must ensure that there is at all times a sign in the immediate vicinity of the swimming pool and spa bearing the words 'Young children must be supervised when using this swimming pool'. The sign is to be in a prominent position and be otherwise in accordance with clause 9 of the Swimming Pools Regulation.

A pool resuscitation sign is to be installed in a conspicuous location within the pool area to the satisfaction of the Principle Certifying Authority.

38. Pool backwash in rural areas

Pool water disposal and backwash is to be directed to a soakage trench located in such a location as to not cause any nuisance to adjoining properties

or damage to any structures.

39. Swimming pool pump location

The filter pump is to be located such that noise from its operations does not cause a nuisance to adjoining residents. If necessary an acoustic enclosure must be provided around the pump to achieve the required noise attenuation.

40. Swimming pool and spa compliance

The swimming pool and spa must comply with the requirements of the Swimming Pool Act 1992 and Regulations at all times.

SCHEDULE 2 PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the Environmental Planning and Assessment Regulation apply as are of relevance to this application:

Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 <http://www.legislation.nsw.gov.au/-/view/regulation/2000/557/part6/div9>

Clause 98A Erection of signs

Clause 98B Notification of Home Building Act 1989 requirements

Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 3 REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

Statement of Reasons

The proposed development will not have significant adverse impacts on the natural, built or social environment or economic impacts on the locality.

The proposed development is considered suitable for the proposed site.
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The proposed development is unlikely to prejudice or compromise the public interest.
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How community views were addressed

The DA was advertised in accordance with Level 1 notification as per Development Control Plan 2014. All issues raised within submissions have been taken into consideration in determining this application.
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SCHEDULE 4

NOTES

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website

www.byron.nsw.gov.au

Principal Certifying Authority:

Work must not commence until the applicant has:-

- a. appointed a Principal Certifying Authority (if the Council is not the PCA); and
- b. given Council at least two days notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- c. notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Occupation Certificate required:

The building must not be occupied until the Principal Certifying Authority has issued an Occupation Certificate.

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine (generally \$600) being issued pursuant to section 127A of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 125 of the Environmental Planning & Assessment Act 1979.

Plumbing Standards and requirements.

All Plumbing, Water Supply, Sewerage and Stormwater Works shall be installed in accordance with the Local Government Act 1993, Plumbers Code of Australia and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications. Any plumbing inspections required under a Section 68 Approval are to occur in accordance with that approval.

Schedule of Development Contributions

The following contributions are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The current contribution rates are available from Council offices during office hours. **Payments will only be accepted by cash or bank cheque.**

Section 94 contributions Schedule for Rural North Catchment

This schedule was calculated in spreadsheet #E2015/28112

1 bedroom units =	0	@	0.55 SDU	=
2 bedroom units =	0	@	0.75 SDU	=
3 bedroom units/dwellings =	2	@	1 SDU	=
Allotments =	0	@	1	=
Less Site Credits =	1	@	-1	=

Total SDU =

Schedule valid until **24/10/2018**

**After this date contact Council
CPI update.**

Local Open Space & Recreation	(OS-RN)	1.00	SDU @	\$ -	=	\$
LGA Wide Open Space & Recreation	(OS-SW)	1.00	SDU @	\$ 743.70	=	\$
LGA wide Community Facilities	(CF-SW)	1.00	SDU @	\$ 1,089.23	=	\$
Local Community Facilities	(CF-RN)	1.00	SDU @	\$ -	=	\$
Bikeways & Footpaths	#N/A	1.00	SDU @	\$ -	=	\$
Shire Wide Bikeways & Footpaths	(CW-SW)	1.00	SDU @	\$ 79.90	=	\$
Urban Roads	#N/A	1.00	SDU @	\$ -	=	\$
LGA Wide Roads	(R-SW)	1.00	SDU @	\$ 225.04	=	\$
Rural Roads	(R-RN)	1.00	SDU @	\$ 14,684.99	=	\$ 1
Administration Levy	(OF-SW)	1.00	SDU @	\$ 1,124.91	=	\$
Total					=	\$ 1