

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:
2023 -02 Rev G	Proposed Ground Floor & Site Plan	Logan Architecture	6/4//21
2023-03 Rev G	Proposed First Floor	Logan Architecture	6/4//21
2023-05 Rev D	Proposed Roof Plan	Logan Architecture	29/3/21
2023-04 Rev D	Open Space & Landscape Plan	Logan Architecture	30/3/21
2023-05 Rev G	Proposed Elevations and sections with South Section	Logan Architecture	6/4/21
2023-07 Rev D	Boarding House West Section Plans, Sections & Elevations	Logan Architecture	29/3/21
2023-08 Rev C	Boarding House South Section Plans, Sections & Elevations	Logan Architecture	2/12/20
2023-09 Rev E	Boarding House East Section Plans, Sections & Elevations	Logan Architecture	29/3/21
2023-01B Rev C	Typical Room Plans	Logan Architecture	03/21
2023-02A Rev B	Typical Room Plans	Logan Architecture	03/21
2023-AD-01	Balustrade & Privacy Detail	Logan Architecture	02/21
2023-AD-02	Privacy Screen Details & Images	Logan Architecture	02/21
2023-AD-03	Bin Store	Logan Architecture	02/21
2023-AD-04	Bike Locker	Logan Architecture	02/21
2023-10-A	Proposed Finishes	Logan Architecture	10/20

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:

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

3. **Conditions prescribed by the Regulation**

This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in **Schedule 3** of this consent.

4. **Bush fire safety measures**

This land is identified as being designated bushfire prone land and Under S4.14 of the act, Council must be satisfied prior to making a determination for development on bushfire prone land that the development complies with "Planning for Bush fire Protection 2019".

5. An Emergency Management and Evacuation Plan is to be prepared in accordance with the NSW Rural Fire Service Guidelines for the Preparation of Emergency/Evacuation Plan and comply with Australian Standard AS 3745 -2010 'Planning for emergencies in facilities.

6. **Asset Protection Zones**

From the commencement of building works, and in perpetuity, the entire property must be managed as an inner protection area (IPA) in accordance with the following requirements of Appendix 4 of Planning for Bush Fire Protection 2019:

- a) tree canopy cover should be less than 15% at maturity;
- b) trees at maturity should not touch or overhang the building;
- c) lower limbs should be removed up to a height of 2m above the ground;
- d) tree canopies should be separated by 2 to 5m;
- e) preference should be given to smooth-barked and evergreen trees;
- f) large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- g) shrubs should not be located under trees;
- h) shrubs should not form more than 10% ground cover;
- i) clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
- j) grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- k) leaves and vegetation debris should be removed.

The proposed residential unit block is to have a minimum setback of 6.2m to the cantilevered concrete balcony and 7.7m to the wall of the building measured in accordance with Figure A4.1 of Planning for Bushfire Protection 2019 and Clause 2.2.4 - AS 3959-2018 Notes 1 and 2.

7. **Construction Standards**

New construction of building 1 on the entire roof and eastern elevation must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'. The southern, western and northern elevations must comply with section 3 and section 6 (BAL 19) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.

8. New construction of building 2 on the entire roof and eastern, southern and western

elevations must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'. Except, the southern balcony must be cantilevered and of concrete construction with any balustrading being non-combustible. The northern elevation must comply with section 3 and section 6 (BAL 19) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.

9. New construction of building 3 must comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.
10. A 1.8m high non-combustible fence is to be provided along the southern boundary and extend 6m past the width of Building No. 2. The fence is to be in close contact to the ground and not have any perforations within the non-combustible paneling.
11. **Water and Utility Services**
Fire hydrants as shown in the certified hydraulic designed prepared by Glen Haig and Associates, Dwg. Nos.FS001 and FS002 Issue C dated 12 October 2020. The design certificate certifies compliance in accordance with AS 2419.1-2005. The final hydraulic design certificate will need to be update to include reference to BCA NSW.
12. Electricity and gas are to comply with Section 7 and Table 7.4a of 'Planning for Bushfire Protection 2019'.
13. **Landscaping Assessment**
Landscaping design and management is to comply with the following requirements of Planning for Bush Fire Protection 2019;
 - a) Asset protection zone requirements conditioned within this approval;
 - b) a clear area of low-cut lawn or pavement is maintained adjacent to the building; and
 - c) trees and shrubs are located so that:
 - i. the branches will not overhang the roof;
 - ii. the tree canopy is not continuous; and
 - iii. any proposed windbreak is located on the elevation from which fires are likely to approach.
 - d) Fences and gates, with the exception of the requirements of condition 7 of this approval, shall be made of either hardwood or non-combustible material. Where the fence is within 6m of a building or in areas with a construction level of BAL-29, BAL-40 or BAL-FZ, fences and gates shall be made of non-combustible material only.

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

14. **Water and Sewerage - Section 68 approval required**
If required, an **Approval** under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.

15. Drainage upgrade, on-site stormwater detention and stormwater quality improvement devices required

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard.

- Stormwater drainage upgrade must generally be in accordance with Strutterre Consulting Engineers drawing BB20184-SW2 Issue F dated 18/02/2021;
- Stormwater upgrade proposal in catchment 2 and 3 requires further investigation to include all applicable catchment draining into the system (the reserve area has not been accounted for) to ensure the new system will provide sufficient capacity without surcharging at pits in Torakina Rd and compliance to the minimum separation requirements between stormwater, water and sewer infrastructure in accordance with Water Services Association of Australia (wsaa) codes;
- Works inside the public reserve northwest of the development will require owners consent. The consent will need to be included in the application;
- The proposed 300mm RCP inside the road reserve in Kingsford Drive must be upgraded to 375mm RCP and provision must be made to provide a trench grate at the front boundary in Kingsford Drive. The trench grate must be connected into the internal underground drainage system;
- All stormwater drainage for the development must be conveyed via an on-site stormwater detention system by gravity; and
- The following stormwater quality improvement devices (SQIDs) must be designed and constructed:-
 - 4 x Ocean Guard Baskets in pits with 200 micron mesh bag (OG-200);
 - 8 x Tall (690) PSorb cartridge StormFiltersystem within a 6m² Stormfilter chamber inside an OSD tank; and
 - 2 x Tall (690) PSorb cartridge StormFiltersystem within a 4m² Stormfilter chamber inside an OSD tank.

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

All stormwater drainage systems within the lot and the connection to a public or an inter-allotment drainage system must:

- (a) comply with any requirements for the disposal of stormwater drainage and on-site stormwater detention contained in Council's Development Control Plan, Stormwater Guideline and Local Approvals Policy; and
- (b) unless exempt from obtaining an approval under section 68 of the Local Government Act 1993 by a Local Approvals Policy, an approval must be obtained under that Act prior to issue of a Construction Certificate

16. Sediment and Erosion Control Management Plan required

The application for a Construction Certificate is to include plans and specifications that indicate the measures to be employed to control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as filter fences and sedimentation basins.

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".

17. Consent required for works within the road reserve

Consent from Council must be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve.

Such plans are to be in accordance with Council's current Design & Construction Manuals and are to provide for the following works:

Driveway (commercial areas) in Kingsford Drive and Torakina Rd

Driveways in accordance with AS2890.2 and Council's standard "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings". The footpath crossing must be designed to provide a cross fall of 1 % or 1:100 (maximum 2.5% or 1 in 40) for a width of at least 2.4 metres to provide for pedestrians with access disabilities.

18. Car parking layout, vehicle circulation and access plans required.

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, Part 2: Off-street commercial vehicle facilities. Plans are to include, but not be limited to, the following items:

- (a) 23 parking spaces of User Class 1A for Boarding houses;
- (b) 10 parking spaces of User Class 1A for Shop top housing;
- (c) 16 parking spaces of User Class 3A for Commercial uses;
- (d) 19 bicycle parking spaces minimum;
- (e) 8 motorcycle parking spaces minimum;
- (f) 1 x loading bay in accordance with the approved plan;
- (g) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- (h) site conditions affecting the access;
- (i) existing and design levels;
- (j) longitudinal section from the road centreline to the car space(s);
- (k) cross sections every 15 metres;
- (l) drainage details; and
- (m) line marking and signage.
- (n) A limited concrete footpath to be provided through the adjacent reserve shall be provided to the development site with one additional path provided from Torakina Road opposite Omega Circuit intersection and a further connecting path from the existing footpath in the reserve. The footpaths shall be designed to provide a cross fall of 1 % or 1:100 (maximum 2.5% or 1 in 40) and a width of at least 1.8 metres to provide for pedestrians with access disabilities. Any existing part of the footpath that is redundant can be removed provided its shown on the plans. Owners Consent from Council to be provided to the Principle Certifying Authority with the construction certificate.

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers

Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

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".

19. Car Share Management Plan

A Car Share Management Plan must be submitted to the Council for approval prior to the issue of the Construction Certificate. The car is:

- to be owned and maintained by the Boarding house operators at all times;
- be able to accommodate a minimum of four adults;
- be for available **only** for residents of the development;
- be no more than 5 years in age from the time of manufacture;
- be an automatic;
- be suitable for use on sealed and unsealed roads;
- be registered and appropriately comprehensively insured for residents use including public liability; and
- parked in the approved car share space and signposted at all times for the car share vehicle.

The Management Plan to address the above requirements and include the following detail:

- a) Type of vehicle;
- b) Reserved Parking location in the Basement;
- c) Booking arrangements and measures for residents;
- d) Measures to promote the car share vehicle to residents;
- e) Refuelling measures;
- f) Maintenance and cleaning regime; and
- g) Monitoring to enable data to be collected as to the effectiveness of the Car Share arrangements and sharing of that detail with Council if requested.

20. Detailed landscaping plan required

The application for a Construction certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9 of Development Control Plan 2014.

Species identified in Chapter B9 of Development Control Plan 2014 are to be planted where possible. The landscaping plan must indicate:

- (a) proposed location for planted shrubs and trees
- (b) botanical name of shrubs and trees to be planted
- (c) mature height of trees to be planted
- (d) location of grassed and paved areas, and
- (e) location of trees identified for retention in the development application plans.

The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist who has appropriate experience and competence in landscaping.

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

21. Easement required over pipelines

An easement in gross benefitting Byron Shire Council shall be provided for all pipelines in accordance with the Council Policy: Building in the Vicinity of Underground Infrastructure 2020.

Easement documentation shall be prepared in accordance with NSW Land Registry Services requirements over the pipeline/s within the allotment/s. Easement documentation must be submitted to Council for execution, together with a survey showing location, size and depth of the pipeline/s and payment of fees in accordance with Council's adopted fees and charges.

Prior to issue of the construction certificate, proof of lodgement to NSW Land Registry Services must be provided to the Principal Certifying Authority.

22. Compliance required with Building in the Vicinity of Underground Infrastructure Policy

The development must comply with Policy: Building in the Vicinity of Underground Infrastructure 2020. Details to be submitted with the construction certificate demonstrating compliance with the Policy.

23. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate **No. 1193540M-02, dated 9/4/2021.**

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 measures may be undertaken without the issue of any amendment under Section 4.55 of the Act, provided that the changes do not affect the form, shape or size of the building.

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

24. Adaptable housing units

Four (4) dwellings are to be constructed as adaptable housing in accordance with AS4299 Adaptable Housing.

25. 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 D1.2.4 - 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.

26. **Common antennae**

Shared television antennae/satellite dishes are to be provided to reduce the visual impact of multiple services. Details to be included with the construction certificate for approval.

27. **Privacy controls.**

The plans submitted for approval of the Construction Certificate must include a privacy screens as shown on the approved plans.

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

Note: Where a privacy screen is installed it must be constructed from lattice, vertical slats or other similar non-transparent screenings. Where slats are used they are to be angled to ensure the line of sight is directed away from the adjoining sites. The screen must be a minimum of 1.8m high.

28. **Design and Layout Plans - Food Premises**

Detailed plans prepared by a suitably experienced person showing the design and layout of the premises to be used as a food business must be submitted to Council. The design details are to be drafted in accordance with relevant legislation and standards, including:

- a) Food Act 2003;
- b) Food Regulation 2015;
- c) Food Standards Code, Chapter 3.2.3;
- d) Relevant Australian Standards:
 - i. AS 4674 – 2004 Design, Construction and Fit-Out of Food Premises;
 - ii. AS 1668.1 & AS 1668.2 Mechanical Ventilation;
 - iii. Other relevant standards.
- e) The Building Code of Australia.

Such plans must be approved by Council's Environmental Health Department prior to the issue of a construction certificate for building works. Plans are to be submitted in duplicate and accompanied by fees as described in Council's adopted Fees and Charges.

Advisory note:

Application forms are available from Council's Environmental Health department. The following document [Food premises design, construction and fit-out guide](#) on Council's website can provide guidance about the design requirements of a food premises based on the Food Safety Standard 3.2.3 (Food Premises and Equipment) and the Australian Standard 4674-2004 (Design, construction and fit-out of food premises).

29. **Trade Waste - Section 68 Part C approval required**

An **approval** under Section 68 Part C of the Local Government Act 1993 to discharge trade waste into Council's sewer must be obtained in accordance with NSW Office of Water Liquid Trade Waste Regulations Guidelines 2009, Council's Liquid Trade Waste Policy and Liquid Trade Waste Guidelines.

Commercial, business, trade and industrial activities discharging or proposing to discharge to the sewer are required to notify Council and complete the Trade Waste Registration Form available at the Mullumbimby Office and from Council's website at:

http://www.byron.nsw.gov.au/files/publications/liquid_trade_waste_application_form_0.pdf

Trade Waste approval must be obtained prior to gaining Section 68 Part B approval to carry

out water supply work and sewerage work.

30. **Certificate of Compliance – s307 Water Management Act 2000**

Prior to issue of any Construction Certificate, a Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous Water Development Servicing Plans. Where staging of the Construction Certificate occurs, a separate s307 Compliance Certificate must be obtained for each stage.

Byron Shire Council acts as Rous Water's agent in this matter and will issue a Certificate of Compliance on behalf of Rous Water upon payment of the Rous Water Development Servicing Charge to this Council.

Note: For issue of the Certificate of Compliance, an application form and associated fee must be lodged via Council's website. Copies of Byron Shire Council's Development Servicing Plans are available via Council's website.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Utilities on 02 6626 7000. Applicable charges can also be found on Council's website:

<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.

Payment by Personal or Company Cheque will not be Accepted

31. **Developer Contributions to be paid**

Contributions set out in the schedule below 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). The Plan may be viewed on line at 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.

32. **Long Service Levy to be paid**

In accordance with Section 6.8 of the Environmental Planning and Assessment Act 1979 (as amended), a Construction Certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid (as applicable).

These payments can be made online at www.longservice.nsw.gov.au. Proof of payment is required to be submitted with the Construction Certificate application.

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

33. Bond required to guarantee against damage to public land

A bond of \$10,000 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development, together with payment of an asset inspection fee in accordance with Council's fees and charges. Evidence is to be provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets.

Such bond will be held until Council is satisfied that the infrastructure is maintained/repaired to pre development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths etc.

34. 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.

35. Tree Removal

No trees or vegetation to be cleared or removed until a Construction Certificate has been issued.

36. Insect screening required

The application for a Construction Certificate is to include plans and specifications that provide effective insect screening to all windows, doors and other openings to all parts of the development used for habitable purposes.

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

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

37. Erosion and Sediment Control Management Plan required

Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.

Sediment and erosion control measures in accordance with the approved Erosion and Sedimentation Control plan/s must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

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

38. **Toilet facilities**

Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

39. **Water service to be connected**

A water service must be connected to the property using an approved backflow prevention device. It is the applicant's responsibility to engage a licensed plumber who shall liaise with council during this process.

Any new water service will be at the applicants cost.

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

40. **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 Sundays or public holidays.

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

41. **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.

42. **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.

43. **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.
44. **Fill to be retained on the subject land**
Fill material must not encroach onto any adjoining land.
45. **All excavated soils to be disposed of off-site**
All excavated soils to be disposed of off-site and in accordance with NSW EPA *Waste Classification Guidelines* (2014) and approved environmental management plans.
46. **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.

47. **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.
48. **Stormwater drainage work**
Stormwater drainage for the development must be constructed in accordance with the approved plans and specification by a suitably qualified person.
49. **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 \(2008\)](#).
50. **Aboriginal Relics**
If any Aboriginal archaeological relics or items are exposed during construction works, the Applicant shall:
a. immediately cease works;
b. notify the NSW National Parks and Wildlife Service (NPWS);
c. obtain any necessary permits and/or approvals to continue the work under the National Parks and Wildlife Act 1974.
- The Applicant shall comply with any further request made by the NPWS to cease work for the purposes of archaeological assessment and recording.
51. **Site Location**
The location of the building on the site to be established by a suitably qualified Surveyor and must comply with this approval including any required setbacks to boundaries.

52. Acid Sulfate Soils Management

Acid sulfate soils must be managed and disposed of in accordance with the approved ASS Management Plan. A copy of this report must be kept on the property at all times during construction and made available to any person.

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

53. 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 Councils road/footpath reserve.

54. Easement required over pipelines

The easement over Council pipelines required by conditions of this consent must be registered on title and a copy of the title search and registered easement documentation, including plan of easement, must be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate (including Interim Occupation Certificates).

55. Plumbing Works

All works in relation to any associated Section 68 Water and Sewerage approval must be fully complied with and have a Final Plumbing Certificate issued prior to the issue of an Interim or Final Occupation Certificate.”

56. Site Location Survey

A final survey of the structures showing setbacks to boundaries to be submitted to the Private Certifier with the Occupation Certificate demonstrating compliance with the approved plans.

57. Access to be completed.

The access is to be constructed in accordance with the approved plans and Roads Act consent.

58. Construction - Food Premises

Prior to the issue of the occupation certificate the food premises must be constructed in accordance with design and layout plans approved by Council.

Advisory note:

Requirements of Food Standard Code 3.2.3 and Australian Standard AS4674 – 2004 “Design, construction and fit-out of food premises” to be considered to achieve the necessary construction standards for the food business.

59. Trade Waste

An approved trade waste device shall be installed, inspected by Council and maintained to ensure that all relevant environment protection and plumbing code standards are satisfied.

60. **Exhaust System**
On completion of the kitchen exhaust-hood installation, provide a certificate and system specifications detailing the air flow velocity readings to Council. The certificate should be completed by a suitably qualified professional and shall ensure that the installation satisfies AS1668.2 "Mechanical ventilation for acceptable indoor-air quality"
61. **Airlock**
An airlock shall be constructed between the toilet facilities and internal workspaces to prevent the transfer of contaminants into the food business and comply with the Building Code of Australia.
62. **Internal driveway and parking in accordance approved plans**
A driveway is to be constructed from the property boundary to the proposed car space(s) in accordance with the approved plans.
63. **Car Share vehicle in place**
The car share vehicle must be provided and in-place as per the approved Car Share Management Plan. All details must be submitted to the Principal Certifying Authority prior to the issue of any occupation certificate. A copy to be provided to Council prior to the issue of the Occupation Certificate
64. **Positive Covenant**
Documentary evidence is to be provided to the Principal Certifying Authority that a public positive covenant, pursuant to the provisions of S.88E of the Conveyancing Act, 1919, has been placed on the title to the land, the subject of this consent to ensure that the car share is to be provided and managed in accordance with this development consent, DA10.2020.571.1.

The covenant to be registered prior to the issue of any Occupation Certificate.

Please note: Documents requiring the endorsement of Council associated with the creation or cancellation of easements, restrictions, covenants are subject to fees listed within Council's Fees & Charges.

65. **Maintenance Plan of SQIDs**
A maintenance plan must be prepared in accordance with the Manufacturer's specification and a signed maintenance contract agreement with the manufacturer specialist technician in perpetuity to ensure the system is maintained regularly to meet the results as modelled in MUSIC.
66. **Works-As-Executed Plans – Stormwater upgrade**
Following completion of works and prior to issue of the subdivision certificate, Work-as-Executed Drawings, together with a Work-As-Executed Certification Report, in accordance with Council's requirements are to be submitted to Council. Two categories of Work-as-Executed Drawings are to be submitted to Council, being Amended Design Work-as-Executed Drawings and Summary Work-as-Executed Drawings.

Amended Design Work-as-Executed Drawings, being certified copies of all approved design plans with as constructed departures, deletions and additions clearly noted and detailed on the plans, are to be submitted to Council in the following formats:-

- (a) One (1) paper copy at the same scale and format as the approved design plans,

- but, marked appropriately for as constructed information and with original signatures; and
- (b) An electronic copy of above in PDF format and provided to Council on CD, DVD or via email.

Summary Work-as-Executed Drawings are to be prepared on a background plan of lot layout and kerb lines with a set of separate plans for stormwater drainage, and site works. The site works drawing/s shall include the 1 in 100 year flood and flood planning level extents and levels, where relevant. Such drawings are to be submitted to Council in the following formats:

- (a) One (1) paper copy of each drawing with original signatures and in accordance with Council's requirements.
- (b) Electronic copy of the above in AutoCAD DWG or DXF format and provided to Council on CD, DVD or via email. The AutoCAD (DWG or DXF) files are to be spatially referenced to MGA Zone 56.
- (c) Electronic copy of above in PDF format and provided to Council on CD, DVD or via email.

Note: Council's requirements are detailed in Council's adopted engineering specifications, currently the Northern Rivers Local Government Development Design and Construction Manuals, and on Council's website.

67. Maintenance Bond

With respect to external works undertaken on Council land or with respect to Council assets on any land, a maintenance bond of 5% (**minimum bond amount of \$1,000.00**) of the value of the works constructed is to be lodged with Council. A copy of the contract construction cost of the works is to be submitted with the bond. The maintenance period is 6 months in accordance with Council's current Design & Construction Manuals and will commence from the date of issue of the **Occupation Certificate**. The security may be provided, at the applicant's choice, by way of cash bond or a satisfactory bank guarantee. An application in writing for the release of the bond must be made at the satisfactory completion of the maintenance period.

68. Record of Infrastructure

A record of infrastructure coming into Council ownership, prior to the issue of the occupation certificate, is to be submitted to Council. The information is to be submitted in the form of Council's Standard Form titled "Asset Creation Record". This form is available from Council's Local Approvals Section

69. Compliance with bushfire conditions

Documentary evidence from a suitably qualified professional is to be submitted demonstrating that the bush fire conditions of this Notice of Determination have been complied with.

The following conditions are to be complied with prior to commencing operations

70. Notification – Food Business

In accordance with Section 100 of the Food Act 2003, the operator of the food business must submit a completed [Food Business Registration form](#) five (5) working days prior to trading. The notification must occur before the food business commences any food handling operations.

71. Council Inspection required – Food Premises

The operator of the food premises shall obtain a satisfactory pre-operational inspection from Council's Environmental Health Officer prior to trading.

Advisory note:

Inspections by Council's Environmental Health Officers can be arranged during the fit-out stage and the final pre-operational inspection. Inspection fees are levied as per Council's adopted Fees and Charges. Note requests for a final inspection must be made with at least five (5) working days notice.

The following conditions are to be complied with at all times

72. Must not interfere with the amenity of the neighbourhood

The use of the development must not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) Any complaints to Council about 'offensive' noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.
- b) Only clean and unpolluted water is permitted to be discharged to Council's stormwater drainage system or any waters.
- c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- d) All waste storage and sewage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.

Goods deliveries shall be restricted to daytime operating hours.

73. Separate application required for advertising structures

A separate application is to be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures, other than those permitted without consent under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

74. Vehicles to enter/leave in a forward direction

Vehicles using any off-street loading/unloading and/or parking area must enter and leave in a forward direction. All driveways and turning areas must be kept clear of obstructions that prevent compliance with this condition.

75. Car Share

A vehicle as required under the Car Share Management Plan to be provided at all times for the use of the guests of the hotel.

76. Plant and Equipment

Plant and equipment to be appropriately located and shielded such that noise from its operations does not cause a nuisance to adjoining properties. If necessary an acoustic enclosure must be provided around plant and equipment to attenuate noise.

77. Separate application required for signs not approved by this consent

A separate application is to be submitted to, and approved by Council prior to the erection

of any advertisements or advertising structures other than the sign(s), approved in this consent.

78. Operation- Food Premises

The food business must be operated in accordance with the NSW Food Act 2003, Food Regulation 2015; and Food Standards Code.

The premises will be subject to inspections without notice, fees apply.

An annual administration fee applies

79. Fire extinguisher and fire blanket to be located in every kitchen

An appropriate fire extinguisher and fire blanket must be located and maintained in every kitchen. An effective evacuation plan must be developed and displayed to ensure the safe escape of patrons from for all areas of the building.

80. Access must be permitted to Council officers

Access must be permitted to any authorised Council officers during normal business hours for the purpose of ensuring compliance with consent conditions.

81. Tables and chairs not permitted offsite

Tables and chairs are not permitted over adjoining parkland area.

82. Approved use - Restaurant or cafe

Use of the development is approved for a restaurant or cafe. Any activity other than that defined as '*restaurant or café*' must not be carried out unless development consent is sought.

Note. *Restaurant or cafe* means "a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

The restaurant or cafe is not approved as a Function Centre as defined under Byron LEP 2014 or the like.

83. Approved use – Retail Premises (Shop)

Use of the development is approved for a 'shop'. Any activity other than that defined as '*shop*' must not be carried out unless development consent is sought.

Note. *Shop* means "*premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop and neighbourhood supermarket, but does not include food and drink premises or restricted premises*".

84. Approved use – Office Premises (Co-Working Space)

Use of the co-working space is approved as an office premises. Any activity other than that defined as '*office premises*' must not be carried out unless development consent is sought.

Note. *Office Premises* means "*a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except*

where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used”.

85. Approved use – Shop Top Housing

Dwellings 1 to 8 on the first floor of the east block must not be used for any purpose other than shop top housing.

Note. *Shop Top Housing* means “one or more dwellings located above ground floor retail premises or business premises.”, and dwelling means “a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile”. The Shop Top Housing units are not approved as short term rental accommodation, tourist and visitor accommodation or to be “holiday let”.

86. Approved use – Boarding House

Rooms numbered 1 – 38 in the South and West block must not be used for any purpose other than a boarding house.

Note. *Boarding House* means “a building that—

- a) is wholly or partly let in lodgings, and
- b) provides lodgers with a principal place of residence for 3 months or more, and
- c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,
- e) but does not include backpackers’ accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment..

The boarding house is not approved as short term rental accommodation, tourist and visitor accommodation or to be “holiday let”.

87. Car Parking spaces are to be available for the approved use

Forty nine (49) car parking spaces (as shown on ‘*Proposed Ground Floor & Site Plan*’, Dwg. No. 2023-02-E, by Logan Architecture and dated 26/02/2021) are to be provided and maintained, together with all necessary access driveways and turning areas, to the satisfaction of Council.

Tenants and customers of the development must have unrestricted access to the car parking spaces on a daily basis during business hours of the development.

No car parking spaces are to be reserved (generally or specifically) for any tenant or customer. Only carparking spaces required for the residential component (Parking no 1 to 25 and Parking 42 to 49) of the development are to be reserved and made available for particular residents.

88. Outdoor lighting to be shielded

Any outdoor lighting must be located or shielded so that no additional light is cast on adjoining land and so that motorists will not be distracted.

89. Restricted hours of operation - business and commercial uses

The hours of operation are restricted to;
Monday to Friday 7:30am to 6:00pm

Saturday, Sundays and Public Holidays: 8:00 am to 5:00 pm.

Any alteration to the above hours of operation will require the further consent of Council.

SCHEDULE 2. PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Part 6 Division 8A of the Environmental Planning and Assessment Regulation as at the date of this development consent as are of relevance to this development must be complied with:

Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

Clause 98A Erection of signs

Clause 98B Notification of Home Building Act 1989 requirements

Clause 98C Conditions relating to entertainment venues

Clause 98D Condition relating to maximum capacity signage

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

Refer to the NSW State legislation for full text of the clauses under Part 6 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

Note: From July 1 2018, Council's are required to give and publicly notify reasons for a range of planning decisions where they are deciding if development should proceed to help community members to see how their views have been taken into account and improve accountability to stakeholders. A statement of reasons for the determination of this application is provided below.

Statement of Reasons

The proposed development complies with the provisions of Byron Local Environmental Plan 2014.
The proposed development complies with relevant State Environmental Planning Policies
The proposed development complies with relevant provisions of Development Control Plan 2014
The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.
The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.
The proposed development is considered suitable for the proposed site.
The development application was notified/advertised in accordance with Council's Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application.
The proposed development is unlikely to prejudice or compromise the public interest.

How community views were addressed
The DA was advertised in accordance with Council's Community Participation Plan. The submissions received were considered on merit and addressed during assessment of the application.
To view the considerations, please contact Council to view a copy of the assessment report relating to this DA.

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 being issued pursuant to section 4.2(1) of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 9.50 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.

S7.11 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 7.11 contributions Schedule for Brunswick Heads Catchment						
This schedule was calculated in spreadsheet #E2018/73086						
1 bedroom units =	41	@	0.55 SDU	=		22.55
2 bedroom units =	6	@	0.75 SDU	=		4.5
3 bedroom units/dwellings =	0	@	1 SDU	=		0
Allotments =	0	@	1	=		0
Less Site Credits =	1	@	-1	=		-1
Total SDU				=		26.05
Schedule valid until		24/04/2021		After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-BH)	26.05	SDU @ \$	2,619.92	=	\$ 68,248.92
LGA Wide Open Space & Recreation	(OS-SW)	26.05	SDU @ \$	769.79	=	\$ 20,053.03
LGA wide Community Facilities	(CF-SW)	26.05	SDU @ \$	1,127.45	=	\$ 29,370.07
Local Community Facilities	(CF-BH)	26.05	SDU @ \$	214.60	=	\$ 5,590.33
Bikeways & Footpaths	(CW-BH)	26.05	SDU @ \$	582.51	=	\$ 15,174.39
Shire Wide Bikeways & Footpaths	(CW-SW)	26.05	SDU @ \$	82.70	=	\$ 2,154.34
Urban Roads	(R-BH)	26.05	SDU @ \$	2,845.63	=	\$ 74,128.66
LGA Wide Roads	(R-SW)	26.05	SDU @ \$	232.94	=	\$ 6,068.09
Rural Roads	#N/A	26.05	SDU @ \$	-	=	\$ -
Administration Levy	(OF-SW)	26.05	SDU @ \$	1,164.38	=	\$ 30,332.10
Total					=	\$ 251,119.93

Relics Provisions- Advice

Attention is directed to the NSW Heritage Act 1977 and the provisions of the Act in relation to the exposure of relics. The Act requires that if:

- a relic is suspected, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation; and/or
- any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation;

Those responsible for the discovery must notify nominated management personnel who will in turn notify the Heritage Council of New South Wales or its delegate, the Office of Environment and Heritage, NSW Heritage Branch, and suspend work that might have the effect of disturbing, damaging or destroying such relic until the requirements of the NSW Heritage Council have been satisfied (ss139, 146).

Water payments under the Water Management Act 2000

Charges will be calculated based on the additional water and sewerage load that the proposed development generates, shown in Equivalent Tenements (ET) by the following table:

ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT **(ET Policy 2018)**

Water	22.14 ET
Bulk Water	22.14 ET
Sewer	26.84 ET

NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>).

These charges will enable you to calculate the total contribution charges payable when you are ready to pay them. Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment.

Enclosed public places (smoke-free environment)

Environment Act 2000 and the Smoke-Free Environment Regulation 2000 and the guidelines in the Regulation for determining what an enclosed public place is. Enquiries may be directed to the NSW Department of Health. The legislation may be viewed on:

<http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>