



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION
issued under the
Environmental Planning and Assessment Act, 1979 Section 4.18(1)(a)

Development Application No. 10.2021.364.1

Byron Shire Council
10 Bayshore Drive
BYRON BAY NSW 2481

Email: jhart@byron.nsw.gov.au

Property description	LOT: 2 DP: 706286 45 Wallum Place BYRON BAY
Development	Bioenergy Facility
Determination	Consent granted <i>Subject to the attached schedule of conditions</i>
Date determined	26 May 2022
Consent to operate from	1 June 2022
Consent to lapse on	1 June 2027

IMPORTANT INFORMATION

It is the responsibility of the applicant, landowner, builder, and any other contractors or agents involved with the development to read and understand all conditions of consent prior to commencing work.

The Environmental Planning and Assessment Act 1979 require you to:

1. Obtain a **Construction Certificate** prior to the commencement of any **building works** as required by conditions of this consent. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the Construction Certificate. Additional fees are payable for this application.
2. Nominate a **Principal Certifying Authority (PCA)** which may be either Council or an accredited certifier and notify Council of that appointment. You **cannot lawfully** commence works without complying with this requirement.
3. Give Council at least two days notice of your intention to commence the erection of a building **before** commencing construction works. You cannot lawfully commence works without complying with this requirement.
4. Obtain an **Occupation Certificate** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

SCHEDULE 1. CONDITIONS OF CONSENT

Parameters of consent

1. Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Revision	Description	Drawn by	Dated
4312SK1100	S	Proposed Site Plan with Aerial Overlay	SHAC	22/12/2021
4312SK1101	V	Proposed Site Plan	SHAC	22/12/2021
4312SK2201	A	Floor Plan – Receival Hall	SHAC	30/04/2021
4312SK2202	A	Floor Plan – Composting Tunnels	SHAC	30/04/2021
4312SK2210	A	Floor Plan – Administration Building	SHAC	30/04/2021
4312SK2401	F	Roof Plan	SHAC	22/12/2021
4312SK3101	A	North & South Elevations – Main Building	SHAC	30/04/2021
4312SK3102	A	East & West Elevations – Main Building	SHAC	30/04/2021
4312SK3110	A	Elevations – Administration Building	SHAC	30/04/2021
4312SK3201	A	Sections 1 & 2	SHAC	30/04/2021
4312SK3201	B	Sections – Administration Building	SHAC	30/04/2021
1983-LP01	C	Landscape Concept Plan	Moir Landscape Architecture	30/05/2021
190178-C02	7	General Arrangement Plan	MPC Consulting Engineers	16/11/2021
190178-C03	7	Typical Sections and Details	MPC Consulting Engineers	16/11/2021
190178-C04	7	Entry Road and Link Road	MPC Consulting Engineers	16/11/2021
190178-C05	7	Entry Road Cross Section Sheet 1 of 2	MPC Consulting Engineers	16/11/2021
190178-C06	7	Entry Road Cross Section Sheet 2 of 2	MPC Consulting Engineers	16/11/2021

190178-C07	7	Pavement Layout Plan Link Road Section	MPC Consulting Engineers	16/11/2021
190178-C08	7	Stormwater Drainage Longitudinal Sections – Sheet 1	MPC Consulting Engineers	16/11/2021
190178-C09	7	Stormwater Drainage Longitudinal Sections – Sheet 2	MPC Consulting Engineers	16/11/2021
190178-C10	7	Earthworks Cut and Fill Plan	MPC Consulting Engineers	16/11/2021
190178-C11	7	Soil and Water Management Plan Acid Sulphate MNGT – Sheet 1	MPC Consulting Engineers	16/11/2021
190178-C12	7	Soil and Water Management Plan Acid Sulphate MNGT – Sheet 2	MPC Consulting Engineers	16/11/2021
190178-C13	7	Soil and Water Management Plan Post Acid Sulphate MNGT – Sheet 1	MPC Consulting Engineers	16/11/2021
190178-C14	7	Soil and Water Management Plan Post Acid Sulphate MNGT – Sheet 2	MPC Consulting Engineers	16/11/2021
190178-C15	7	Soil and Water Management Plan Details	MPC Consulting Engineers	16/11/2021
21007		Traffic & Parking Assessment Report SEAR 1471 – Proposed Bioenergy Facility	Varga Traffic Planning	17/06/2021
Project No. 2000486.02	2	Byron Bionenergy Facility Response to submissions Appendix G “Acid Sulfate Soils Management Plan’	Douglas Partners	October 2021
		Noise and Vibration Impact Assessment Byron Bay Bioenergy Facility	Waves Consulting	18/06/2021
		<i>Waste Minimisation and Management Plan Byron Shire Council Byron Bioenergy Facility</i>	Jackson Environment and Planning Pty Ltd	15/06/2021
217402.0006 report02		Air Quality Assessment - Proposed Bioenergy Facility, Byron Bay	Trinity Consultants Australia	26./04/2021

The development is also to be undertaken generally in accordance with the Environmental Impact Statement prepared by Jackson Environment and Planning Pty Ltd, dated 28/06/2021 as amended or updated by:

- updated Section 11.3.6 (Construction Impacts) dated 19/10/2021
- Addendum 1 dated 28/03/2022

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.

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

2. Processing Limit

The facility is to receive and process a maximum of 28,000 tonnes of waste material per annum.

3. Compliance Audits

Compliance audits are to be undertaken on three separate occasions- three, 12 and 36 months after operations at the bioenergy facility commence. Each audit is to review and report on the facility's compliance with all conditions of consent given in this determination and is to make necessary recommendations to address any non-compliances. The audits are to be undertaken by a suitably qualified and independent person[s], whose suitability is approved by Council's Manager of Sustainable Development prior to the person[s] being appointed. The audit reports together with any responses from the operator of the facility are to be published on Council's website within seven (7) days of receipt of the audit report and any operator response. The auditor[s] is to be retained by the operator of the facility and the costs of the audits are to be met by the operator.

4. 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 2** of this consent.

5. Integrated Approvals from other State Government Approval Bodies

This development consent includes an Integrated development approvals under Sections 4.46 and 4.47 of the Environmental Planning and Assessment Act 1979, being Sections 43(b), 48 and 55 of the Protection of the Environment Operations Act 1997 and is subject to the General Terms of Approval from *NSW Environment Protection Authority in Notice No. 1613881 dated 12 November 2021* contained in **Schedule 3** of this Notice of Determination.

6. Bush fire safety measures

This land is identified as being designated bush fire prone land and under section 4.14 of the Environmental Planning and Assessment Act 1979, Council must be satisfied prior to making a determination for development on bush fire prone land that the development complies with "Planning for Bush Fire Protection 2019".

The development is approved subject to the NSW Rural Fire Service conditions provided in **Schedule 4** of this consent, or as otherwise approved by the NSW Rural Fire Service.

Note: Notwithstanding Condition 4 (dot point 3) of Schedule 4, doors for maintenance and emergency access to the technical corridors may only be provided on the flame zone side of the building, provided these are constructed to the standard of Condition 4 dot points 1 or 2.

7. Bushfire Audit

To ensure on-going compliance with the bush fire prevention measures contained in **Schedule 4** of this consent, an annual bush fire prevention audit from the site operator is to be submitted to Council.

8. Mitigation Measures

Compliance with the mitigation measures identified in Section 15 of the Environmental Impact Statement dated 22 June 2021 (Jackson Environment and Planning Pty Ltd) and the additional measures identified in the Executive Summary of the 'Response to Submission' document prepared by Jackson Environment and Planning Pty Ltd, unless varied by a condition of this Consent.

9. Bird Population Studies

Studies of bird populations in the wetlands adjoining the facility are to be undertaken on two occasions; firstly, prior to the facility becoming operational and secondly, 36 months after operations commence. The studies are to document the population size of relevant target bird species that illustrate habitat conditions and quality. The studies are to be undertaken by an independent and suitably qualified ornithologist, whose suitability is to be approved by Council's Manager of Sustainable Development prior to the person[s] being appointed. The reports are to make any recommendations necessary to address any adverse impacts on bird habitats in the wetlands, that can be attributed to the bioenergy facility. The reports are to be published on Council's website together with any response from the facility's operator within seven (7) days of receipt of the audit report and any operator response. The costs of the reports are to be met by the operator.

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

10. Long Service Levy to be paid

In accordance with Section 4.68 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.

11. Contaminated Soil and Groundwater Management Plan

Consistent with the recommendations within the Preliminary Site Investigation for Contamination report provided (E2021/88361) the following investigations and reporting is required:

- a) Additional sampling is required to meet the recommended sampling density to characterise a 0.9 ha site and minimise the likelihood of missing contaminated soils hot spots in accordance with the NSW EPA Guidelines (reference [Statutory guidelines \(nsw.gov.au\)](http://Statutory%20guidelines%20(nsw.gov.au))).
- b) If any excess soil is created during works, removal of the soil will require stockpiling and additional analysis, to ensure proper disposal and management of the soil, consistent with NSW EPA guidelines (reference [Statutory guidelines \(nsw.gov.au\)](http://Statutory%20guidelines%20(nsw.gov.au))).
- c) if during works, groundwater is extracted, treatment and additional analysis will be required before disposal on or offsite. consistent with NSW EPA guidelines (reference [Statutory guidelines \(nsw.gov.au\)](http://Statutory%20guidelines%20(nsw.gov.au))).

- d) an Unexpected Finds Protocol (UFP) should be prepared and included in works/bulk earthworks environmental management plans at the site.

12. Detailed Environmental Management Plan - Construction

An Environmental Management Plan (EMP) must be submitted to Council for approval prior to any construction works commencing. The EMP must be prepared by a suitably qualified professional and contain details of measures to be undertaken to ensure that demolition and/or construction works for the whole development do not result in any on and off-site impacts that could interfere with neighbourhood amenity by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. All works must be in accordance with NSW WorkCover Authority.

13. Biodiversity Conservation Management Plan

A Biodiversity Conservation Management Plan (BCMP) must be prepared by a qualified ecologist with experience in biodiversity conservation in the northern rivers. The BCMP must detail protection and compensation measures to protect and improve the biodiversity values of areas proximate to the development area.

The BCMP must be in accordance with the *Guidelines for preparing Vegetation Management Plans (VMP) or Biodiversity Conservation Management Plans (BCMP)* available on Council's website. The BCMP must include, but may not be limited to:

- A review of the landscape context of the site to inform the proposed ecological restoration methodology. This should include an assessment of the distribution of native vegetation communities, threatened species and ecological communities known or likely to occur, and habitat connectivity across the broader landscape.
 - An assessment of the existing ecological condition and values of areas proximate to the development area to inform the proposed biodiversity conservation actions.
 - Management actions for threatened species recorded or known to occur within and adjacent to the development area, including:
 - Installation of artificial nesting structures for coastal raptor species.
 - Installation of nest/den/roost boxes for hollow-dependent birds, small scansorial and arboreal mammals and micro-chiropteran bats
 - A landscape plan that describes the location and species of locally native plantings to be established and function as a screen around the development footprint.
 - A list of performance indicators for each year of the program to provide a means of measuring the progress of conservation actions.
 - Details of reporting and monitoring to be carried out.
- 1) Note: the BCMP should require publication of reports on Council's website together with any response from the facility's operator within seven (7) days of receipt of the reports and any operator responses.

14. Mitchell's Rainforest Snail Management Plan

A Mitchell's Rainforest Snail Management Plan (MRSMP) must be prepared by a qualified ecologist. The MRSMP must detail measures to mitigate impacts on the Mitchell's rainforest snail during construction. The MRSMP must include, but may not be limited to:

- A pre-construction search and relocation effort of the development area, with any Mitchell's rainforest snails found being relocated to a nearby habitat area.
- Collection of any logs, woody debris, and leaf litter from the development site and relocation to a nearby habitat area.

15. Trees to be retained and protected

The trees adjacent to the development footprint are to be protected and retained. A suitable defined barrier is to be provided to protect these for the duration of the construction period. This barrier is to remain in place until final perimeter fencing is constructed.

Activities that are excluded within the TPZ (as per section 4.2 of AS4970-2009) include machine excavation, placing of fill, parking of vehicles and plant, and storage of material. If these activities are required within the TPZ they may only occur under the supervision of the project arborist (minimum AQF level 5 qualified arborist).

Where pruning is required to give clearance for the construction of the car park area, the pruning must be carried out only to the minimum amount necessary by an arborist qualified to a minimum of AQF 3 in Arboriculture and in accordance with the requirements of AS 4373-2007 *Pruning of amenity trees*.

16. Retained Trees

All trees to be retained in accordance with this development consent must be illustrated on any and all relevant Construction Plans, along with their Tree Protection Zones formulated in accordance with AS 4970-2009 – *Protection of Trees on Development Sites*.

17. Construction site management plan

Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:

- location and materials for protective fencing and hoardings to the perimeter on the site
- provisions for public safety
- pedestrian and vehicular site access points and construction activity zones
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures
- location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

18. 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.

19. Geotechnical Report required – Engineering Works

A certificate from a professional Engineer experienced in soil mechanics is to be provided to the Principal Certifying Authority, certifying that:

- a) the design of the civil engineering works, including retaining walls and/or cut & fill batters, has been assessed as structurally adequate,
- b) the civil engineering works will not be affected by landslip or subsidence either above or below the works; and
- c) adequate drainage has been provided.

20. 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.

21. Geotechnical Report required – Soil Classification

A soil report is to be provided to the Principal Certifying Authority from a professional Engineer experienced in Geotechnical Science as to the classification of the soil type on the site, consistent with the requirements of AS2870.

22. 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".

23. On-site stormwater detention (OSD) and Stormwater Quality Improvement Devices (SQIDs) required

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. All stormwater drainage for the development must be conveyed via an on-site stormwater detention system by gravity in accordance with the approved plans

The following must be included/provided to support the detailed internal stormwater drainage design:-

- a) Measures such as a concrete swale at the front of the retaining wall must be designed and constructed to capture the surface flows generated by the hardstand area surrounding the main building flowing towards the retaining wall and connect into the proposed stormwater line 5.
- b) The untreated hardstand directly connecting stormwater line 5 and the untreated gravel hardstand surrounding the main building also connecting into stormwater line 5 must be treated with a GPT with nutrient removal.
- c) minimum OSD volume of 300m³ with a maximum PSD of 207 litres per second.
- d) Sand Filter and GPT in accordance with the approved plans.

- e) Provision must be made to provide supporting details to demonstrate that the proposed Stormwater Quality Improvement Devices such as sand filter and GPT's proposed and/or required in the development meets the nutrient removal efficiencies specified in the DCP2014 for Council's approval.

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.

24. **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:

Road/Pavement Widening	<p>Kerb and gutter, road pavement and associated drainage construction, footpath formation including any necessary relocation of services at the south-western corner of the Bayshore Drive/Wallum Place intersection as identified in VARGA Traffic Planning – SEARS 1471 Traffic and Parking Assessment Report dated 17 June 2021 with ref 21007 and VARGA Traffic Planning drawing Road Upgrade – Proposed kerb radii realignment dated 12.3.2021.</p> <p>Works in the road reserve in accordance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".</p>
Driveway (Wallum Place)	<p>A driveway upgrade generally in accordance with the following drawings</p> <ul style="list-style-type: none"> a) MPC Consulting Engineers drawing 190178-C02, b) Type 2 of TfNSW model drawing dated 19/05/2020 and c) Council's standard "Northern Rivers Local Government Development Design & Construction Manuals
Weighbridge (Wallum Place)	<p>The proposed weighbridge in Wallum Place as shown on MPC Consulting Engineers drawing 190178-C02 must be deleted and relocated inside the Council operational land.</p>

25. **Traffic Guidance Scheme (TGS)**

Prior to issue of the construction certificate, consent from Council must be obtained for a Traffic Guidance Scheme (TGS) pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction. The TGS is to be designed in accordance with the requirements of the current version of the Transport for NSW *Traffic Control at Work Sites Technical Manual*.

The plan shall incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The TGS must be prepared by a suitably qualified Transport for NSW accredited person.

26. 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:

i. Internal Vehicle Circulation & STP Parking

- a) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, or other similar treatment;
- b) 6 x 60° parking bay in accordance with AS2890.1:2004
- c) Minimum aisle width of 4.9m, please note the current aisle width is only 3.8m, therefore widening at this section of the internal vehicle circulation is required
- d) longitudinal section from the road centreline to the car space(s);
- e) cross sections every 15 metres;
- f) drainage details;
- g) turning paths of 19m AV vehicle; and
- h) line marking and signage.

ii. Internal Vehicle Circulation & Carparking Plan

- a) Generally in accordance with MPC Consulting Engineers drawing 190178-C07
- b) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, or other similar treatment;
- c) site conditions affecting the access;
- d) existing and design levels;
- e) longitudinal section from the road centreline to the car space(s);
- f) cross sections every 15 metres;
- g) drainage details;
- h) turning paths; and
- i) line marking and signage.

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".

27. Bond required to guarantee against damage to public land

A bond of \$5000 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development. 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.

28. Fibre-ready Facilities and Telecommunications Infrastructure

Prior to the issue of the Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (i) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- (ii) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

29. Vegetation Removal

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

30. Safety

Compliance with all requirements of Fire and Rescue NSW with respect to proposed fire and life safety measures.

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

31. 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.

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

32. Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. 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.

Exceptions may be granted via Public Health Orders

33. 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.

34. Acid Sulfate and Excavated Soils

Stockpiles and bunded soils and water management areas must be within the existing sewage treatment plant compound. They are not to be placed outside the approved development envelope.

35. Protection of Native Trees

All trees nominated to be retained by notation or condition as a requirement of the development consent shall be maintained and protected during demolition, excavation and construction on the site in accordance with *AS 4970-2009 – Protection of Trees on Development Sites*.

36. 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.

37. Stormwater drainage work

Stormwater drainage for the development must be constructed in accordance with the approved plans and specification by a suitably qualified person.

38. 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.

39. 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.

40. Traffic:

Construction traffic must be limited to existing sealed roads. Traffic is not permitted throughout the constructed wetland or biodiversity conservation areas.

41. Excavated natural materials and demolition waste disposal

Any and all excavated natural materials and demolition and builders waste transported from the site must be accompanied (a copy kept with the transporter) by a NSW Protection of The Environment Operations Act s143 Notice. Template s143 Notices are available at <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/wasteregulation/160095-notices143-form.docx>

42. 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 EPA Waste Classification Guidelines (2014) <https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines>

43. 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. No waste water, treated waste water is to be discharged to areas outside the existing sewage treatment plant compound.

44. Aboriginal Cultural Heritage

The proposal is to be undertaken in accordance with the recommendations of the '*Byron Bioenergy Facility EIS – Aboriginal Cultural Heritage Assessment*' dated 21 May 2021', which are:

Recommendation 1: Aboriginal Object Find Procedure

If suspected Aboriginal material has been uncovered because of development activities within the Project Area:

- work in the surrounding area is to stop immediately;
- a temporary fence is to be erected around the site, with a buffer zone of at least 10 metres around the known edge of the site;

- an appropriately qualified archaeological consultant is to be engaged to identify the material;
- if the material is found to be of Aboriginal origin, the Bundjalung of Byron bay Aboriginal Corporation is to be consulted in a manner as outlined in the Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010); and
- should the works be deemed to have harmed the Aboriginal objects the Heritage NSW should be notified immediately via the EPA Enviro Hotline.

Given the proximity of the Project Area to known sites of cultural value it is recommended that a cultural induction is provided to contractors to support the implementation of the Aboriginal Object Find Procedure.

Recommendation 2: Aboriginal Human Remains

Although it is unlikely that Human Remains will be located at any stage during earthworks within the Project Area, should this event arise it is recommended that all works must halt in the immediate area to prevent any further impacts to the remains. The Site should be cordoned off and the remains themselves should be left untouched. The nearest police station (Byron Bay), the Bundjalung of Byron Bay Aboriginal Corporation and the Heritage NSW Regional Office (Coffs Harbour) are all to be notified as soon as possible. If the remains are found to be of Aboriginal origin and the police do not wish to investigate the Site for criminal activities, the Aboriginal community and Heritage NSW should be consulted as to how the remains should be dealt with. Work may only resume after agreement is reached between all notified parties, provided it is in accordance with all parties' statutory obligations.

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

45. 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 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, 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.

46. Roadworks, Driveway, Internal Access and parking areas to be completed.

Roadworks, driveway, internal access and parking areas are to be constructed in accordance with the engineering plans required by this consent and the Roads Act consent. Certification that the driveway has been constructed in accordance with the engineering plans and Work-As-Executed (WAE), prepared by a suitably qualified engineer, together with a final completion letter from Council for the Roads Act works, must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

47. On-site Stormwater Detention (OSD) and Stormwater Quality Improvement Devices (SQIDs) – Certification of works

All stormwater drainage works, including OSD & SQIDs, for the development must be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate. Certificate/s of Compliance and Work-As-Executed (WAE) plans for the stormwater works must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

The certificate/s and WAE plans are to be prepared by a suitably qualified engineer and must be in accordance with Council's Comprehensive Guidelines for Stormwater Management.

- 48. Operational Environmental and Emergency Response Management Plan**
An operational environmental and emergency response management plan must be developed and submitted to council and relevant external agencies for approval prior to occupation and operation commencing.

The plan must consider all the risks and mitigation strategies discussed within the Preliminary Hazard Analysis and Environmental Risk Assessment and other mitigation strategies within other reference documents, for example noise, air, light, odour, solid and liquid waste management, and traffic assessments.

The plan must include site plans, a site induction and training register that details the name and date that personnel have been inducted and trained and details of signage where required.

The following conditions are to be complied with at all times

- 49. 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 Councils' 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.
 - e. Goods deliveries shall be restricted to daytime operating hours.
- 50. Hours of Operation**
Hours of operation are limited to 7am to 5pm Monday to Friday and 8am to 1pm on Saturdays with no work on Sundays or public holidays.
- 51. Truck movements**
The number of trucks serving the facility is limited to eight inward trips per day (giving 16 movements in total) measured as a daily average using total truck movements recorded in each calendar month.
- 52. Biodiversity conservation management works**
Biodiversity conservation actions must be undertaken and continued in accordance with the approved Biodiversity Conservation Management Plan (BCMP), during which time monitoring reports must be submitted to Council.
- 53. Emergency access road - signage to be installed**
Clear and obvious signage is to be installed on the gate and along the existing gravel access road east of the sewage treatment plant facility and west of the constructed wetlands declaring that they are only to be used for emergency and maintenance access purposes.
- 54. 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.

- 55. Loading and unloading not to occur on the street**
The loading and unloading bay must be available at all times for the loading and unloading of goods for the development. All loading and unloading is to take place within the curtilage of the premises.
- 56. Traffic:**
Construction traffic must be limited to existing roads. Traffic is not permitted throughout the constructed wetland or biodiversity conservation areas.
- 57. Lighting.**
No night time light is permitted save for motion detected security lighting and as otherwise required by the Building Code of Australia.
- 58. Trade Waste**
All trade waste pre-treatment devices shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- 59. Waste Water management:**
All waste water is to be collected and treated where necessary for pumping or transport to a licensed waste water processing facility.
- 60. 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.
- 61. 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.
- 62. Work and storage – inside building**
All material handling, stockpiling and processing must be undertaken inside and not external to the site buildings.

SCHEDULE 2. PRESCRIBED CONDITIONS

The prescribed conditions in accordance with 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 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. INTEGRATED DEVELOPMENT GENERAL TERMS OF APPROVAL

Protection of the Environment Operations Act 1997

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Administrative conditions

A1. Information supplied to the EPA

A1.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

- the development application IDA 10.2021.364.1 submitted to Regional Planning Panel on 6 July 2021;
- environmental impact statement *Byron Bioenergy Facility Environment Impact Assessment*, 45 Wallum Place, Byron Bay, prepared by Jackson Environment & Planning Pty Ltd, dated 22 June 2021 relating to the development; and
- all additional documents supplied to the EPA in relation to the development, including:
 - *Air Quality Assessment - Proposed Bioenergy Facility, Byron Bay*, prepared by Skala Australia Pty Ltd, dated 26 April 2021;
 - *Noise & Vibration Impact Assessment - Byron Bay Bioenergy Facility (BEF)*, 45 Wallum Place, Byron Bay, NSW, prepared by Waves Consulting, dated 18 June 2021
 - *Waste Minimisation and Management Plan, Byron Shire Council, Byron Bioenergy Facility*, Prepared by Jackson Environment & Planning Pty Ltd, dated 15 June 2021
 - *Planning Secretary's Environmental Assessment Requirements (SEAR 1471)*, prepared by DPIE, dated 3 August 2021

A2. Fit and Proper Person

A2.1 The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the *Protection of the Environment Operations Act 1997*, having regard to the matters in s.83 of that Act.

Limit conditions

L1. Pollution of waters

L1.1 Except as may be expressly provided by a licence under the *Protection of the Environment Operations Act 1997* in relation of the development, section 120 of the *Protection of the Environment Operations Act 1997* must be complied with in and in connection with the carrying out of the development.

L2. Waste

L2.1 The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises, except the wastes expressly referred to in the column titled "Waste" and in meeting the definition, if any, in the column titled "Description" in the table below.

Any waste received at the premises must only be for the activities referred to in relation to that waste in the column titled "Activity" in the table below.

Any waste received at the premises is subject to those limits or conditions, if any, referred to in relation to that waste contained in the column titled "Other Limits" in the table below.

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This condition does not limit any other conditions in this licence.

Code	Waste	Description	Activity	Other limits
NA	General solid waste (non-putrescible)	As described in Schedule 1 of the POEO Act, as in force from time to time	Energy recovery from general waste	28,000 T of waste per annum
NA	General solid waste (putrescible)	As described in Schedule 1 of the POEO Act, as in force from time to time	Energy recovery from general waste	28,000 T of waste per annum

Note: For the purpose of clarifying condition L2.1, the maximum total limit of waste consisting of all or any of "General solid waste (non-putrescible)" and "General solid waste (putrescible)" that can be used for energy recovery is 28,000 T per annum of waste for recovery.

L2.2 This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the *Protection of the Environment Operations Act 1997*.

Note: Condition L2.2 is included to ensure that a premises based activity is not used as a waste facility (unless that scheduled activity is permitted by another condition).

L2.3 A combined maximum of 28,000T per annum of the following materials can be received and treated at the facility:

- Food and garden waste
- Food waste commercial
- Fats oil and grease (dewatered)
- Garden waste
- Dewatered biosolids
- Wood waste
- Paper or Cardboard

L3. Noise limits

L3.1 Noise from the premises must not exceed the noise limits at the times and locations in the table below:

Location	Noise Limits in dB(A)			
	Day	Evening	Night	Night
	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)	L _{AFmax}
9 Easy Street, Byron Bay, 2481 (SP101239)	42	35	35	52
All other residential receivers	40	35	35	52

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L3.2 For the purposes of condition L3.1:

- a) Day means the period from 7am to 6pm Monday to Saturday and the period from 8am to 6pm Sunday and public holidays.
- b) Evening means the period from 6pm to 10pm.
- c) Night means the period from 10pm to 7am Monday to Saturday and the period from 10pm to 8am Sunday and public holidays.

L3.3 Meteorological conditions

- a) The noise limits set out in condition L3.1 apply under the following meteorological conditions:

Assessment Period	Meteorological Conditions
Day	Stability Categories A, B, C and D with wind speeds up to and including 3m/s at 10m above ground level.
Evening	Stability Categories A, B, C and D with wind speeds up to and including 3m/s at 10m above ground level.
Night	Stability Categories A, B, C and D with wind speeds up to and including 3m/s at 10m above ground level; or Stability category E and F with wind speeds up to and including 2m/s at 10m above ground level.

- b) For those meteorological conditions not referred to in condition L3.3(a), the noise limits that apply are the noise limits in condition L3.1 plus 5dB.

L3.4 For the purposes of condition L3.3:

- a) The meteorological conditions are to be determined from meteorological data obtained from the meteorological weather station identified by the proponent when application for environment protection licence is submitted to the EPA.
- b) Stability category shall be determined using the following method from Fact Sheet D of the *Noise Policy for Industry* (NSW EPA, 2017):
 - i. Use of sigma-theta data (section D1.4).

L3.5 To assess compliance:

- a) with the LAeq(15 minutes) or the L_Amax noise limits in condition L3.1 and L3.3, the noise measurement equipment must be located:
 - (i) approximately on the property boundary, where any residence is situated 30 metres or less from the property boundary closest to premises; or where applicable,
 - (ii) in an area within 30 metres of a residence façade, but not closer than 3 metres where any residence on the property is situated more than 30 metres from the property boundary closest to the premises; or, where applicable,

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- (iii) in an area within 50 metres of the boundary of a National Park or Nature Reserve,
- (iv) at any other location identified in condition L3.1
- b) with the LAeq(15 minutes) or the LAmax noise limits in condition L3.1 and L3.3, the noise measurement equipment must be located:
 - (i) at the reasonably most affected point at a location where there is no residence at the location; or,
 - (ii) at the reasonably most affected point within an area at a location prescribed by condition L3.5 (a).

L3.6 A non-compliance of conditions L3.1 and L3.3 will still occur where noise generated from the premises is measured in excess of the noise limit at a point other than the reasonably most affected point at the locations referred to in condition L3.5 (a) or L3.5 (b).

NOTE to L3.5 and L3.6: *The reasonably most affected point is a point at a location or within an area at a location experiencing or expected to experience the highest sound pressure level from the premises.*

L3.7 For the purpose of determining the noise generated from the premises, the modifying factor corrections in Table C1 in Fact Sheet C of the *Noise Policy for Industry* (NSW EPA, 2017) may be applied, if appropriate, to the noise measurements by the noise monitoring equipment.

L3.8 Noise measurements must not be undertaken where rain or wind speed at microphone level will affect the acquisition of valid measurements.

L4. Hours of operation

L4.1 All construction work at the premises must be conducted between 7am and 6pm Monday to Friday and between 8am and 1pm Saturdays and at no time on Sundays and public holidays.

L4.2 Activities at the premises, other than construction work, may only be carried out at the times specified in the table below.

Activity	Permitted hours of operation
Heavy vehicle movements (inbound and outbound)	Monday to Friday 7am to 5pm; and Saturdays 8am to 1pm.
Light vehicle movements (inbound and outbound)	24 hours 7 days a week.
Materials handling, stockpiling and processing	Monday to Friday 7am to 5pm; and Saturdays 8am to 1pm.
Use of mobile plant	Monday to Friday 7am to 5pm; and Saturdays 8am to 1pm.
Mechanical services and power generation	24 hours 7 days a week.

L4.3 This condition does not apply to the delivery of material outside the hours of operation permitted by condition L4.1 or L4.2, if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.

L4.4 The hours of operation specified in conditions L4.1 and L4.2 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

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L5. Construction noise

L5.1 All reasonable and feasible mitigation must be implemented to control construction noise to seek to achieve the noise management levels in the *Noise Policy for Industry* (NSW EPA, 2017) .

Operating conditions

01. Activities must be carried out in a competent manner

01.5 The flare must be designed to achieve a minimum combustion temperature of 760 deg C, and a minimum residence time of 0.6 seconds.

01.6 The final design of the combined heat and power plant discharge stack must include a sampling plane compliant with Australian Standard AS4323.1 *Stationary source emissions - Selection of sampling positions* (1995).

01.7 All material unloading, storage, processing and loading must be undertaken within an enclosed building that is operated under negative pressure.

01.8 All air collected from the receival hall, digesters and composting tunnels must be directed to the biofilter or combusted in the flare and/or the CHP unit.

Note: The POEO Act states that no offensive odour may be emitted from particular premises unless potentially offensive odours are identified in the licence and the odours are emitted in accordance with conditions specifically directed at minimising the odours are permitted.

03. Odour

03.3 The Proponent shall prepare, implement and maintain in consultation with a recognised odour control specialist, an Air Quality and Odour Management Plan describing measures to minimise odour impacts associated with the operation. The Plan shall include, but not necessarily be limited to:

- i) objectives and targets.
- ii) key performance indicators.
- iii) identification of all sources of odour associated with the operation.
- iv) a detailed description of the odour mitigation methods and management practices to ensure offensive odour impacts do not occur off-site. Mitigation and management measures identified in Section 9 of the *Air Quality Assessment – Proposed Bioenergy Facility, Byron Bay, prepared by Trinity Consultants Australia, dated 26 April 2021*.
- v) a detailed description of the methods used for monitoring the effectiveness of the odour mitigation methods and management practices for all sources of odour associated with the operation, including the biofilter.
- vi) location, frequency and duration of monitoring.

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- vii) details of proposed contingency measures should odour impacts occur.
- viii) a communications strategy for handling potential odour complaints that includes recording, investigating, reporting and actioning.
- ix) system and performance review for continuous improvement
- x) an odour complaints register must document investigations undertaken to identify the cause(s) of odour and action(s) to rectify the complaints.

04. Dust

04.1 Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

04.2 Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

05. Stormwater/sediment control - Construction phase

05.1 A Construction Soil and Water Management Plan (CSWMP) must be prepared and implemented. The plan must describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during construction activities. The CSWMP should be prepared in accordance with the requirements for such plans outlined in Managing Urban Stormwater: Soils and Construction (available from the Department of Housing).

05.2 The Construction Soil and Water Management Plan should include a water quality monitoring program for any surface water discharges. Water quality monitoring should include all potential pollutants of concern until it can be demonstrated that any surface water discharges do not contain contaminants or contaminants are only present at trivial levels.

05.3 The Construction Soil and Water Management Plan should include a Trigger Action Response Protocol (TARP) linked to the water quality monitoring program. The TARP should include a set of contingency responses for any pollutant levels that exceed specified maximum levels based on the ANZG (2018) default guideline values for high conservation/ecological value ecosystems. The TARP should set out the contingencies to be implemented which could include, but are not limited to:

- a. options to avoid contaminated stormwater discharges e.g. diverting contaminated stormwater to sewer (the adjacent Byron Bay Sewage Treatment Plan) or offsite disposal at a licensed facility
- b. full capture and reuse where safe and practical to do so
- c. additional or improved contaminated water treatment.

05.4 Prior to the commencement of construction, the applicant must demonstrate that the acid sulfate treatment pad liner will achieve a minimum hydraulic conductivity of 1×10^{-8} millimetres/second or less with a constructed clay liner of at least 0.5 metres or a geosynthetic liner providing the equivalent or better protection.

05.5 If construction stage stormwater discharges are unavoidable, a water pollution impact assessment commensurate with the potential risk and consistent with the national Water Quality Guidelines will be required to inform licensing consistent with Section 45 of the *Protection of Environment Operations Act 1997*. The Assessment must at a minimum:

- a. predict the expected frequency and volume of discharges

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- b. characterise the quality of any discharges in terms of the concentrations of all pollutants present at non-trivial levels
- c. assess the potential impacts of the proposed discharges on the environmental values of the receiving waterways consistent with the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality* (ANZG, 2018) for high conservation/ecological value ecosystems
- d. demonstrate that all practical and reasonable measures to avoid or minimise water pollution are considered and implemented
- e. propose appropriate discharge criteria based on the potential water quality impacts and the practical measures available to minimise pollution.

06. Stormwater/sediment control - Operation phase

06.1 A Stormwater Management Scheme must be prepared for the development and must be implemented. Implementation of the Scheme must mitigate the impacts of stormwater run-off from and within the premises following the completion of construction activities. The Scheme should be consistent with the Stormwater Management Plan for the catchment. Where a Stormwater Management Plan has not yet been prepared the Scheme should be consistent with the guidance contained in *Managing Urban Stormwater: Council Handbook* (available from the EPA).

06.2 The Applicant should consider all practical and reasonable management measures to avoid and minimise discharges, including but not limited to:

- a. enhanced erosion and sediment controls (e.g. enhanced at-source controls to prevent or minimise pollutants entering runoff)
- b. reuse of stormwater runoff where it is safe and practical to do so
- c. options to avoid contaminated stormwater discharges (e.g. disposal to sewer at the adjacent Byron Bay Sewage Treatment Plant or offsite disposal at a licensed facility).

Monitoring conditions

M1. Monitoring records

M1.1 The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

M1.2 All records required to be kept by the licence must be:

- in a legible form, or in a form that can readily be reduced to a legible form;
- kept for at least 4 years after the monitoring or event to which they relate took place; and
- produced in a legible form to any authorised officer of the EPA who asks to see them.

M1.3 The following records must be kept in respect of any samples required to be collected: the date(s) on which the sample was taken;

- the time(s) at which the sample was collected;

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- the point at which the sample was taken; and
- the name of the person who collected the sample.

M2. Requirement to monitor noise

M2.1 Attended noise monitoring must be undertaken in accordance with Condition L3.5 and must:

- a) occur at each location specified in Condition L3.1;
- b) occur annually in a reporting period;
- c) occur when the premises is operating in manner representative of its approved use;
- d) occur during each day, evening and night period as defined in the *Noise Policy for Industry* for a minimum of:
 - 1.5 hours during the day;
 - 30 minutes during the evening; and
 - 1 hour during the night.
- e) occur for two consecutive operating days.

M3. Testing methods - concentration limits

(Licences with air monitoring requirements)

M3.1 Monitoring for the concentration of a pollutant emitted to the air required to be conducted by the EPA's general terms of approval, or a licence under the *Protection of the Environment Operations Act 1997*, in relation to the development or in order to comply with a relevant local calculation protocol must be done in accordance with:

- any methodology which is required by or under the POEO Act 1997 to be used for the testing of the concentration of the pollutant; or
- if no such requirement is imposed by or under the POEO Act 1997, any methodology which the general terms of approval or a condition of the licence or the protocol (as the case may be) requires to be used for that testing; or
- if no such requirement is imposed by or under the POEO Act 1997 or by the general terms of approval or a condition of the licence or the protocol (as the case may be), any methodology approved in writing by the EPA for the purposes of that testing prior to the testing taking place.

Note: The Clean Air (Plant and Equipment) Regulation 1997 requires testing for certain purposes to be conducted in accordance with test methods contained in the publication "Approved Methods for the Sampling and Analysis of Air Pollutants in NSW".)

Reporting conditions

R1.1 The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the *Protection of the Environment Operations Act 1997* in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of

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licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.

R5. Noise monitoring report

R5.1 A noise compliance assessment report must be submitted to the EPA within 30 days of the completion of the annual monitoring. The assessment must be prepared by a competent person and include:

- a) an assessment of compliance with noise limits presented in Condition L3.1 and L3.3;
- b) include an assessment of modifying factors according to Fact Sheet C of the *Noise Policy for Industry*, and
- c) an outline of any management actions to address any exceedences of the limits contained in Condition L3.1 and L3.3.

Attachment – Conditions for EPA licence

Administrative conditions

Other activities

This licence applies to all other activities carried on at the premises, including:

- Composting
- Waste storage
- Waste processing (non-thermal treatment)

Operating conditions

O1. Activities must be carried out in a competent manner

O1.1 All plant and equipment installed and used at the premises

- a) must be maintained in a proper and efficient condition; and
- b) must be operated in a proper and efficient manner.

O1.2 Activities conducted on the premises must be undertaken in a manner that prevents or minimises the emission of air impurities from the premises.

O1.3 The development must be designed, constructed, operated and maintained in a manner that does not preclude the retrofit of air quality (including odour) emissions controls and management measures.

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O1.4 The flare must be operated in such a way that a flame is present at all times while air impurities are required to be treated.

O2. Maintenance of plant and equipment

O2.1 All plant and equipment installed at the premises or used in connection with the licensed activity:

- must be maintained in a proper and efficient condition; and
- must be operated in a proper and efficient manner.

O2.2 The premises must be maintained in a condition which prevents or minimises the emission of air impurities from the premises.

O2.3 The final design of the combined heat and power plant discharge stack must include a sampling plane compliant with *Australian Standard AS4323.1 Stationary source emissions - Selection of sampling positions (1995)*.

O3. Odour

O3.1 The proponent must not cause or permit the emission of offensive odour beyond the boundary of the premises.

Note: Section 129 of the Protection of the Environment Operations Act 1997 provides that the licensee must not cause or permit the emission of offensive odour beyond the boundary of the premises but provides a defence if the emission is identified in the relevant environment protection licence as a potentially offensive odour and the odour was emitted in accordance with the conditions of a licence directed at minimising odour.

O3.2 No condition of this licence identifies a potentially offensive odour for the purposes of Section 129 of the *Protection of the Environment Operations Act 1997*.

Monitoring and recording conditions

Recording of pollution complaints

M4. Recording of pollution complaints

M4.1 The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.

M4.2 The record must include details of the following:

- the date and time of the complaint;
- the method by which the complaint was made;
- any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
- the nature of the complaint;

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- the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and
- if no action was taken by the licensee, the reasons why no action was taken.

M4.3 The record of a complaint must be kept for at least 4 years after the complaint was made.

M4.4 The record must be produced to any authorised officer of the EPA who asks to see them.

M5. Telephone complaints line

M5.1 The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.

M5.2 The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.

M5.3 This condition does not apply until 3 months after this condition takes effect.

Reporting conditions

R2. Annual Return documents

R2.1 What documents must an Annual Return contain?

R2.1.1 The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:

- a) Statement of Compliance; and
- b) Monitoring and Complaints Summary.

A copy of the form in which the Annual Return must be supplied to the EPA accompanies this licence. Before the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

R2.2 Period covered by Annual Return

R2.2.1 An Annual Return must be prepared in respect of each reporting, except as provided below

Note: The term "reporting period" is defined in the dictionary at the end of this licence. Do not complete the Annual Return until after the end of the reporting period.

Where this licence is transferred from the licensee to a new licensee,

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- a) the transferring licensee must prepare an annual return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and
- b) the new licensee must prepare an annual return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.

Note: An application to transfer a licence must be made in the approved form for this purpose.

Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an annual return in respect of the period commencing on the first day of the reporting period and ending on

- i) in relation to the surrender of a licence - the date when notice in writing of approval of the surrender is given; or
- ii) in relation to the revocation of the licence – the date from which notice revoking the licence operates.

R2.3 Deadline for Annual Return

R2.3.1 The Annual Return for the reporting period must be supplied to the EPA by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the 'due date').

R2.4 Notification where actual load can not be calculated

(Licences with assessable pollutants)

R2.4.1 Where the licensee is unable to complete a part of the Annual Return by the due date because the licensee was unable to calculate the actual load of a pollutant due to circumstances beyond the licensee's control, the licensee must notify the EPA in writing as soon as practicable, and in any event not later than the due date.

The notification must specify:

- the assessable pollutants for which the actual load could not be calculated; and
- the relevant circumstances that were beyond the control of the licensee.

R2.5 Licensee must retain copy of Annual Return

R2.5.1 The licensee must retain a copy of the annual return supplied to the EPA for a period of at least 4 years after the annual return was due to be supplied to the EPA.

R2.6 Certifying of Statement of Compliance and Signing of Monitoring and Complaints Summary

R2.6.1 Within the Annual Return, the Statement of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:

- a. the licence holder; or
- b. by a person approved in writing by the EPA to sign on behalf of the licence holder.

General Terms of Approval - Issued



Notice No: 1613881

A person who has been given written approval to certify a Statement of Compliance under a licence issued under the Pollution Control Act 1970 is taken to be approved for the purpose of this condition until the date of first review this licence.

R3. Notification of environmental harm

R3.1 *Note: The licensee or its employees must notify the EPA of incidents causing or threatening material harm to the environment immediately after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act*

Notifications must be made by telephoning the EPA's Pollution Line service on 131 555.

The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

R4. Written report

R4.1 Where an authorised officer of the EPA suspects on reasonable grounds that:

- a. where this licence applies to premises, an event has occurred at the premises; or
- b. where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence,

and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.

The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.

The request may require a report which includes any or all of the following information:

- a. the cause, time and duration of the event;
- b. the type, volume and concentration of every pollutant discharged as a result of the event;
- c. the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event; and
- d. the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
- e. action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
- f. details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
- g. any other relevant matters.

The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

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Notice No: 1613881

General conditions

G1. Copy of licence kept at the premises or on the vehicle or mobile plant

G1.1 A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies.

The licence must be produced to any authorised officer of the EPA who asks to see it.

The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.

Special conditions

E1.1 The licensee must engage a suitably qualified person to undertake post-commissioning air emissions sampling to verify the emission performance of the Combined Heat and Power (CHP) unit.

E1.2 The post-commissioning sampling required under E1.1 must occur within 3 months of the commissioning of the plant and corresponding air pollution controls.

E1.3 Sampling at the CHP unit ventilation outlet must be performed for all pollutants specified in Column 1, using the methods listed in Column 3. All sampling and analysis must be undertaken in accordance with the *Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales*.

Table 1

Pollutant	Units of measure	Sampling Method
Sulfur Dioxide	Milligrams per cubic metre	TM-4
Ammonia*	Milligrams per cubic metre	ISO 21877*
Formaldehyde*	Milligrams per cubic metre	USEPA Method 323 or USEPA Method 318 or USEPA SW-846 Test Method 0011*
Nitrogen dioxide	Milligrams per cubic metre	TM-11
Volatile organic compounds	Milligrams per cubic metre	TM-34
Carbon Monoxide	Milligrams per cubic metre	TM-32
Temperature	degrees Celsius	TM-2
Velocity	metres per second	TM-2

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Moisture	Percent	TM-22
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* Where an alternative method is proposed to be used, this must be approved in writing by the EPA prior to its use.

E1.4 A minimum of two rounds of sampling must be undertaken to provide a suitable characterisation of emissions.

E1.5 Sampling must be conducted when plant/ process conditions are representative of emissions during representative periods of normal operation.

E1.6 An air emissions verification report (the Report) must be prepared and must contain, as a minimum, the following information:

- a) A description of the process operating conditions at the time of sampling, including:
 - a. description of the process (e.g. processing rates, materials produced, products used, activities)
 - b. process flow diagram showing all inputs and outputs
 - c. description of all air pollution control systems

Note: Supporting evidence must be included which confirms that the plant/ process was operating under normal, representative conditions at the time of sampling.

- b) A detailed description of the sampling location. Engineering drawings, schematics or photographs should be included to support the description.
- c) All information required to be reported under Section 4 of the *Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales*.
- d) Comparison of measured emissions against the concentrations listed in Table 2 below:

Table 2

Pollutant	Units of measure	100 percentile concentration standard	Reference conditions	Oxygen Correction*	Averaging period
Sulfur Dioxide	Milligrams per cubic metre	90	Dry, 273K, 101.3 kPa	3.0 %	1 hour
Ammonia	Milligrams per cubic metre	30	Dry, 273K, 101.3 kPa	3.0 %	1 hour
Formaldehyde	Milligrams per cubic metre	20	Dry, 273K, 101.3 kPa	3.0 %	1 hour
Nitrogen dioxide	Milligrams per cubic metre	450	Dry, 273K, 101.3 kPa	3.0 %	1 hour
Volatile organic compounds	Milligrams per cubic metre	40	Dry, 273K, 101.3 kPa	3.0 %	1 hour
Carbon Monoxide	Milligrams per cubic metre	125	Dry, 273K, 101.3 kPa	3.0 %	1 hour

- e) Where the comparison under d) identifies monitoring results greater than the 100th percentile concentration standard, the Report must identify additional mitigation measures to achieve the concentrations standards. A timeline for implementation of any additional mitigation measures identified must also be nominated within the Report.

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Notes: The EPA may utilise the information contained in the report submitted to include additional conditions in this EPL, including emissions limits and requirements for ongoing monitoring.

E1.7 The report must be provided to the EPA no later than 2 months after completion of the post commissioning monitoring.

Additions to Definition of Terms of the licence

- Noise Policy for Industry - the document entitled "*Noise Policy for Industry*" published by the NSW Environment Protection Authority in October 2017.
- Noise – 'sound pressure levels' for the purposes of conditions L3.1 to L3.8.
- LAeq (15 minute) - the value of the A-weighted sound pressure level of a continuous steady sound that, over a 15 minute time interval, has the same mean square sound pressure level as a sound under consideration with a level that varies with time (Australian Standard AS 1055:2018 *Acoustics: description and measurement of environmental noise*).
- LAFmax – the maximum sound pressure level of an event measured with a sound level meter satisfying Australian Standard AS IEC 61672.1-2013 *Electroacoustics - Sound level meters - Part 1: Specifications* set to 'A' frequency weighting and fast time weighting.

SCHEDULE 4. NSW RURAL FIRE SERVICE CONDITIONS



NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (CNR-36832) 10.2021.364.1
Our reference: DA20211005004293-CL55-1

ATTENTION: Kellie Shapland

Date: Wednesday 23 March 2022

Dear Sir/Madam,

Development Application

s4.14 – Other – Waste or resource management facility
45 WALLUM PLACE BYRON BAY 2481, 2//DP706286

I refer to your correspondence dated 16/03/2022 seeking advice regarding bush fire protection for the above Development Application in accordance with Clause 55(1) of the *Environmental Planning and Assessment Regulation 2000*.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

General Conditions

1. A Bush fire Emergency Management and Operations Plan shall be prepared that includes the following
 - 24/7 contact details of site operator;
 - internal road system;
 - location of fire fighting water supply outlets;
 - availability of fire-suppression equipment, access and water;
 - storage and maintenance of fuels and other flammable materials;
 - notification procedures for any fires (except gas flare);
 - management of gas flare on TOBAN fire weather days;
 - appropriate bush fire emergency management and evacuation planning.

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. A minimum 6 metre trafficable defensible space be maintained around the perimeter of the proposed site, as indicated in 'Proposed Site Plan' numbered 4312 SK1100, RevS, dated 22 December 2021. The trafficable component shall consist of a two-wheel drive, all-weather road surface capable of:
 - carry fully loaded firefighting vehicles (up to 23 tonnes);

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

- suitable access for a Category 1 fire appliance to within 4m of a fire fighting water supply;
- a minimum vertical clearance of 4m to any overhanging obstructions,;
- curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress; and
- the minimum distance between inner and outer curves is 6m.

Construction Standards

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

3. New construction of the habitable buildings (office, amenity, etc) shall comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 *Construction of buildings in bushfire-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*.
4. The Receival hall, Aerobic tunnels Anaerobic tunnels, Biofilter, Water tanks and ancillary structures walkways, awnings, etc) shall
 - Constructed predominantly of non-combustible materials; or
 - Section 3 (excluding section 3.5) and Section 9 (BAL FZ) of Australian Standard AS3959-2018 *Construction of buildings in bushfire-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*; and
 - No windows, doors or emergency exits are situated on the flame zone side of the building. The emergency exits are located via the receival hall on the eastern side of the structure.
5. Structure and shade materials in the inner protection area shall be non-combustible or have a Flammability Index of no greater than 5 when tested in accordance with Australian Standard "AS1530.2-1993 *Methods for Fire Tests on Building Materials, Components and Structures - Test for Flammability of Materials*".
6. A minimum 1.8 metre high radiant heat shield made of non-combustible materials shall be constructed along the site boundary (except to the STW boundary) adjacent to the hazard. All posts and rails shall be constructed of steel. The bottom of the fence is to be in direct contact with the finished ground level or plinth.
7. The biogas storage dome shall :
 - be certified by a suitably qualified engineer to withstand the modelled radiant heat exposure from a external (offsite) bush fire;
 - an engineered water sprinkler system shall be installed on the roof of the biogas storage dome. The sprinkler system shall be constructed from non-combustible components. The system shall be designed to create a curtain of water to cover/protect the entire dome;
 - a on-site static water supply in addition to the site firefighting supply, sufficient to run the sprinkler system for 30 minutes shall be installed, in a non-combustible tank or underground supply.
 - the system shall include an activation system by both automated and manual means from a safe location i.e. from the receival hall or areas of low bushfire threat.

Water and Utility Services



The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

8. Water, electricity and gas must comply with the following:

- Fire hydrant design, spacing, sizing and pressures must comply with AS2419.1. Fire hydrants must not be located within any road carriageway. Ring main systems must be used for urban subdivisions with perimeter roads..
- All aboveground water pipes external to the building must be metal including and up to any taps/outlets/fittings.
- Gas fittings to the habitable buildings must be installed and maintained as set out in the relevant standard and all pipes external to the building must be metal including and up to any taps/outlets/fittings. Polymer-sheathed flexible gas supply lines must not be used.

Landscaping Assessment

The intent of measures is for landscaping. To achieve this, the following conditions shall apply:

9. Landscaping shall comply with Appendix 4 of *Planning for Bush Fire Protection 2019*.

General Advice – Consent Authority to Note

To ensure on-going compliance with the recommended bush fire prevention measures, the consent authority should require an annual bush fire prevention audit from the site operator. Said audit will ensure the site has suitable on-going bush fire protection measures.

For any queries regarding this correspondence, please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely,

Timothy Carroll
Manager Planning & Environment Services
Built & Natural Environment

SCHEDULE 5. 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 1988.
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 relevant provisions of Development Control Plan 2010
The proposed development complies with Environmental Planning & Assessment Regulation 2021 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 6. 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:-

- appointed a Principal Certifying Authority (if the Council is not the PCA); and
- 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'.
- 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.

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>

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.

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) 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
- b) 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).

Reason for conditions

The conditions imposed have been included in response to development considerations and to ensure a high standard of development having regard to the effect upon the environment and the amenity of the neighborhood.

Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth) Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

Are you dissatisfied with conditions of consent?

If you are unhappy with conditions of consent discuss your concerns with the officer who dealt with your application. You may submit an application to Council to modify the consent under Section 4.55 of the Environmental Planning & Assessment Act, 1979.

You will need to provide reasons why the conditions should be changed or deleted. You may lodge a Section 4.55 application at any time after the notice of determination. If you are not happy with Council's decision on your request for modification, then you may appeal to the Land & Environment Court within six (6) months of the notification by Council.

Right of Review

You may request Council to review its decision under Section 8.2 of the Environmental Planning and Assessment Act, 1979. Such a request must be made within six (6) months of the date of the determination, or if there is an appeal to the Land and Environment Court, up to the time when the court hands down its decision. In reviewing its decision Council is able to consider alterations to the above plans, provided that the Development Application remains substantially the same as the one for which the consent was originally sought, and the changes are publicly notified.

Right of Appeal

If you are dissatisfied with this decision, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.

Signed on behalf of the Consent Authority

Yours faithfully



Mr C Larkin
Manager Sustainable Development

Dated: 1 June 2022