

SCHEDULE 1 CONDITIONS OF CONSENT**1) Stormwater Management - Legal Point of Discharge**

This consent does not operate until Council is satisfied that stormwater drainage easement and associated stormwater drainage infrastructures downstream located at the adjoining property situated in the south west corner of the development site have been verified to legally drain the development.

To satisfy Council of the above, the following must be submitted to Council:

- a) A copy of the registered easement documentation including title search demonstrating that the subject property benefits from the easement to drain water over downstream properties.
- b) The existing drainage easement over the subject properties to be extinguished. A copy of the registered documentation to be provided to Council.
- c) Undertake a CCTV inspection and prepare a report to address the structural integrity and capacity of the existing pipe within the existing 3.0m wide drainage easement.

Evidence of compliance with the above condition(s), sufficient to satisfy the Council as to those matters, must be provided within **24 months** of this notice. If satisfactory evidence is produced in accordance with this requirement, the Council will give notice to the applicant of the date from which the consent operates.

SCHEDULE 2 CONDITIONS OF CONSENT**Parameters of consent****1. Development is to be in accordance with approved plans**

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

Plan No.	Description	Prepared by	Dated/Issue:
A-00-01	Cover Sheet	Richards & Spencer	14.10.2021 DA - Revised Issue 3
A-00-11	Context Plan – Existing	Richards & Spencer	05.05.2021 – DA - Issue 1
A-00-12	Context Plan - Demo	Richards & Spencer	05.05.2021 DA – Issue 2
A-00-13	Context Plan – Proposed	Richards & Spencer	14.10.2021 DA Revised Issue 3
A-00-21	Site Plan – Existing	Richards & Spencer	05.05.2021 DA - Issue 1

A-00-22	Site Plan – Demo	Richards & Spencer	05.05.2121 DA – Issue 2
A-00-23	Site Plan – Proposed	Richards & Spencer	14.10.2021 DA - Revised Issue 3
A-11-01	Plan Basement	Richards & Spencer	14.10.2021 DA - Revised Issue 10
A-12-01	Plan – Ground	Richards & Spencer	14.10.2021 DA - Revised Issue 12
A-13-01	Plan – Level 1	Richards & Spencer	14.10.2021 DA - Revised Issue 11
A-14-01	Plan – Level 2	Richards & Spencer	14.10.2021 DA - Revised Issue 11
A-15-01	Plan – Level 3	Richards & Spencer	14.10.2021 DA - Revised Issue 9
A-16-01	Plan – Roof	Richards & Spencer	14.10.2021 DA - Revised Issue 4
A-20-01	External Elevations	Richards & Spencer	14.10.2021 DA - Revised Issue 4
A-20-02	External Elevations	Richards & Spencer	14.10.2021 – DA - Revised Issue 4
A-30-01	Section East West	Richards & Spencer	14.10.2021 DA - Revised Issue 10
A-30-02	Section North South	Richards & Spencer	14.10.2021 DA - Revised Issue 9
A-71-01	Plan – Apartment Typical	Richards & Spencer	14.10.2021 DA - Revised Issue 4
A-71-02	Plan – Apartment Typical	Richards & Spencer	14.10.2021 DA Revised Issue 1
16/2021_ass	Acid Sulfate Soil Investigation & Management Report	Tim Fitzroy & Associates	7 May 2021
PG-5593	Geotechnical Report: Proposed Mixed Use	Pacific Geotech	May 2021

	Development		
HMC2021.098	Dewatering Management Plan (Final Version)	HMC Environmental Consulting	7 May 2021
16/2020_psi	Preliminary Site Contamination Report	Tim Fitzroy & Associates	9 May 2021
-	Construction Dewatering Management Plan	-	-
16/2020_nia	Noise Impact Assessment	Tim Fitzroy & Associates	7 May 2021
G20074	Report on 116-118 Jonson Street Hydrogeological Assessment	AGE Pty Ltd	May 2021
Version 2	Sustainability Strategy: 116 – 118 Jonson St, Byron Bay	Integral	3 May 2021

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

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

2. Integrated Approvals from other Authorities.

This development consent includes an Integrated development approval under Sections 4.46 and 4.47 of the Environmental Planning and Assessment Act 1979, being an Aquifer Interference under the Water Management Act 2000, subject to the conditions listed under the “General Terms of Integrated Development Approval” in Schedule 5 of this consent, and the conditions of approval as listed under the Bushfire Safety Authority pursuant to the Rural Fires Act 1997 in Schedule 4 of this consent.

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

3. Design excellence sustainable design principles

- a. The Development is to meet the WELL Silver rating as a minimum in addition to the performance requirements under the National construction code (NCC).
- b. An energy efficiency report including conceptual energy and water balance modelling from a suitably qualified consultant is to be submitted for the approval of Director Sustainable Environment and Economy prior to issue any construction certificate to demonstrate that the Sustainability Strategy can be certified at various stages. This includes the following commitments:
 - 100% renewable power including an allowance to EV charging
 - purchase of Accredited GreenPower.
 - the thermal bridges in construction and the use of best practice benchmarks for glazing and wall constructions such as: *Rt3.2 walls, Rt5-6 roof, double-glazing, low-E glass and thermally broken framing.*
 - specify products according to certain benchmarks for volatile organic compounds (VOCs) and formaldehyde levels that are contained in interior

- paints, composite wood, adhesives and sealants, etc.
- carpark will include EV charging infrastructure powered by renewable energy from photovoltaic installation on the building's roof.^[1]_[SEP]
- stormwater management system on-site that captures surface water for re-use in irrigation and heat rejection (commercial areas).^[1]_[SEP]
- water efficient fixtures and fittings WELS certification are specified for all water fixtures that will be procured for the building.

The applicant is to consult with Council prior to issue of any construction certificate about the modelling and assurance systems to be relied upon for final design stages through to construction and occupation. Details in the approved report to be incorporated into the design and construction plans for the Construction Certificate for approval by the Principal Certifying Authority.

4. Radiation Survey

The applicant shall undertake gamma radiation survey monitoring of soil, following demolition and removal of existing buildings and hardstand areas is completed. The gamma radiation survey must monitor surface soil radiological condition and include soil exposed by deep excavations for the proposed development of basement car parking and building construction.

To ensure that radiological materials that may be exposed pose no public health risk, the gamma radiation survey must test and report to Council any areas, or volumes of soil found to indicate significant enhancement over natural background radiation levels. Council must be notified of any circumstances where exposed radioactive materials are likely to pose a significant risk of harm, both during construction and for the completed development.

Monitoring shall be performed by a duly qualified person preferably holding membership of the Australasian Radiation Protection Society, that being the professional body for radiation safety experts.

A radiological assessment report must be provided to Council prior to the issuing of the construction certificate for the development.

5. Protection of Transport for NSW Infrastructure and Rail Operations

General Conditions

1. Access to and performance of vegetation management activities on part of rail land forming part of Lot 4729 DP 2338104 is strictly prohibited until such time as it obtains approval from TfNSW in writing;
2. Prior to commencement of works, the applicant must provide JHR with a Risk Assessment/Management Plan and detailed Safe Work Method Statements for its review and comment to ensure there will not be any adverse impacts on the rail corridor during demolition and construction;
3. In the event of use of cranes and equipment in the air space over the rail corridor, the applicant must submit an application to JHR for approval of Transport Asset Holding Entity of New South Wales (TAHE) prior to any use of cranes and equipment in the air space over the rail corridor. Should such equipment be required to be used in the air space over the rail corridor at any time, the applicant must submit an application to JHR for its endorsement

and TAHE's approval in advance. The applicant is advised to contact JHR's Third party works team via CRN.3rdpartyworks@jhg.com.au for more information in this regard; and

4. The use of cranes and equipment must be in accordance with the AS 2550 series of Australian Standards, Cranes, Hoist and Winches, including AS2550 15-1994 Cranes - Safe Use - Concrete Placing Equipment.

Prior to the issue of a Construction Certificate

1. Prior to issue of any construction certificate involving works of penetration of ground to a depth of at least 2m below ground level (existing) on land in, above or adjacent to (within 25m measured horizontally) the relevant rail corridor, the applicant shall consult with JHR and TfNSW and provide the relevant documentation to JHR and TfNSW as required from time to time and obtain written endorsement from JHR and TfNSW for the relevant construction stage. A summary report for the relevant construction stage shall also be provided to TfNSW to demonstrate that the submitted documentation has satisfied the relevant conditions.

2. The Principal Certifying Authority (PCA) must not issue the relevant construction certificate until such time as it receives written confirmation from TfNSW that the relevant conditions have been complied with.

3. Prior to issue of a construction certificate, the applicant must provide with TfNSW for its review and endorsement the following:

- Final geotechnical and structural report drawings. Geotechnical reports should include any potential impacts on the rail corridor;
- Details on the design of the retaining wall;
- Final construction methodology for any staging of the works including but not limited to the excavation and retaining wall, with construction details pertaining to structural
- support during excavation or ground penetration;
- Detailed survey plan.

4. Prior to the issue of the relevant construction certificate, the applicant must provide a detailed assessment for track settlement to JHR and TfNSW for their approval, should the rail corridor become operational before construction.

5. Prior to the issue of the relevant construction certificate, the applicant must undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have an impact on rail services and signalling. In the event rail services are identified within the subject development site or within close proximity to the development site, the applicant must discuss with TfNSW as to whether these services could be affected by the works proposed or if they are to be relocated or incorporated into the site.

6. Bushfire Conditions

Plans submitted with the construction certificate to comply with the general terms of approval as issued under Section 100B of the Rural Fires Act 1997. Details to be submitted with the construction certificate for approval.

7. Noise and Vibration Management Plan required

A Noise and Vibration Management Plan must be submitted to Council for approval prior to the issue of the construction certificate for building works. The Noise and Vibration Plan must be prepared by a duly qualified professional and detail the

methods that will be implemented for the whole project to minimise construction noise and vibration. Information should include:

- a) Identification of the specific activities likely to generate noise or vibration impacts.
- b) Identification of nearby residences and other sensitive land uses.
- c) Identification of all potentially affected sensitive receivers.
- d) Assessment of expected noise and vibration from the construction activities.
construction activities that are likely to affect their amenity or cause structural damage through vibration.
- e) Detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts.
- f) Noise and vibration monitoring, reporting and response procedures.
- g) Strategies to promptly deal with and address noise complaints.
Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction.
- h) Details of performance evaluating procedures (for example, noise monitoring or checking work practices and equipment).
- i) Procedures for notifying nearby residents of forthcoming works that are likely to produce noise impacts.
- j) Reference to relevant consent conditions.
- k) Name and qualifications of person who prepared the report.
- l) Nomination of an appropriate *responsible person* with appropriate qualifications and experience to implement and manage noise and vibration matters arising from the construction phase of the development. The *responsible person* must be available to receive neighbourhood inquiries and complaints at any time while work is proceeding and must record monitoring levels and response actions when exceedances or complaints occur.
- m) Contingency plans to be implemented in the event of non-compliance and/or complaints.

Advisory note: Refer to DECC's 'Interim Construction Noise Guideline' (2009) for more information (see <http://www.environment.nsw.gov.au/noise/constructnoise.htm>)

8. Structural Report

A report prepared by a professional engineer detailing the proposed methods of excavation, shoring or pile construction, and what measures are to be implemented to prevent damage from occurring to adjoining or nearby premises as a result of the proposed excavation works. (NOTE: Any practices or procedures specified to avoid damage to adjoining or nearby premises are to be incorporated into the plans and specifications for the Construction Certificate).

Any underpinning into neighbouring properties or adjoining road reserves is not supported.

9. Geotechnical Report required – Engineering / Building 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;

- c) design details to demonstrate that the earthworks will not adversely affect groundwater levels, flows, characteristics or quality; and
- d) adequate drainage has been provided.

The certificate must be prepared in accordance with AS 1726.

10. Dilapidation Report

Prior to the issue of the construction certificate, a pre-construction Dilapidation Report is to be submitted to Council detailing the current condition of all adjoining buildings, infrastructure and roads.

A second Dilapidation Report must be submitted to Council, prior to occupation of the building (whole or partial), to ascertain if any structural damage has occurred to any adjoining building, infrastructure or roads.

11. Environmental Management Plan

An Environmental Management Plan (EMP) must be submitted to Council / Certifier for approval prior to issue of a Construction Certificate for any demolition or 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 or construction works do not result in any off-site impacts that could interfere with neighbourhood amenity by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise.

The plan to have regard to and include details and recommendations from the submitted Noise Impact Assessment prepared by Tim Fitzroy & Associates Ref: 16/2021 dated 7 May 2021, and Councils DCP Chapter 4.2.10 (4). The MP must be prepared by a suitably qualified person and approved by Council prior to the issue to a construction certificate for building works.

All works must be in accordance with NSW WorkCover Authority.

12.

Unexpected Findings Protocol - Contamination & Remediation

An Unexpected Findings Protocol (UFP) shall be prepared and submitted to Council for approval prior to the issue of Construction Certificate. The UFP shall be prepared by a suitable qualified person experienced in matters relating to Contamination of Land and Remediation.

13.

Construction Dewatering Management Plan

The application for the Construction Certificate must include a Construction Dewatering Management Plan that details

the methodology for site specific dewatering operations. The CDMP must be prepared by a duly qualified professional with reference to Dewatering Management Plan Ref: HMC2021.098 dated 7 May 2021 prepared by HMC Environmental Consulting. The CDMP must be approved by Council prior to the issue to a construction certificate for building works.

14.

Additional soil sampling and testing – post demolition

Additional soils sampling and testing must be undertaken in accordance with Section 8 of Acid Sulfate Soil Assessment & Management Report prepared by Tim Fitzroy & Associates dated 7 May 2021. The result of the investigation must be used to determine the best method of treating acid sulfate soils. Investigations must occur following completion of demolition works and be undertaken by a suitably qualified professional in accordance with AASSMAC, 1998.

Additional soils sampling and testing must be undertaken in accordance with Preliminary Site Contamination Report prepared by Tim Fitzroy & Associates dated 9 May 2021. The result of the investigation must be used to determine whether a Remedial Action Plan is necessary. If a RAP is required, it must be approved by Council prior to the issue of a construction certificate for building works. A Validation Report must be provided to council prior to issue of a final occupation certificate.

15.

Details of acoustic treatments for building construction to be submitted for approval

The application for a Construction Certificate is to include plans and specifications that demonstrate the inclusion of acoustic treatments for building construction recommended in Noise Impact Assessment prepared by Tim Fitzroy & Associates Ref: 16/2021 dated 7 May 2021. Such plans and specifications must be approved as part of the Construction Certificate for building works.

16.

Details of roof top air-conditioning plant to be submitted for approval

The application for a Construction Certificate is to include plans and specifications for air conditioning plant that demonstrate the inclusion of acoustic treatments for building construction as recommended in Noise Impact Assessment prepared by Tim Fitzroy & Associates Ref: 16/2021 dated 7 May 2021. Such plans and specifications must be approved as part of the Construction Certificate for building works.

17.

Garbage storage area to be provided

The application for a Construction Certificate is to include plans and specifications that detail the proposed waste material store area. The proposed garbage store area is to be designed and constructed to provide sufficient capacity for the range of waste storage containers required for all the waste management activities conducted in association with the development.

Adequate ventilation, lighting, fire response and access are to be provided to ensure safe and healthy conditions can be maintained for the protection of workplace health and safety. Facilities for waste bin cleaning are also required.

Provision is to be made for waste collection vehicle movement and lifting height requirements for all types of waste storage bins.

Such plans and specifications must be approved prior to the issuing of the Construction Certificate.

18.

Land to be consolidated

Prior to the issue of a Construction Certificate, evidence satisfactory to the Certifying Authority is to be provided demonstrating that arrangements have been made for all separate parcels to be consolidated into one allotment and registered with NSW Land Registry Services.

19.

Compliance required with Building in the Vicinity of Underground Infrastructure Policy

All developments must comply with Policy: Building in the Vicinity of Underground Infrastructure 2020.

The use of displacement and screw pile construction methods will require approval by Council.

The development must comply with Clause 7.2. Approval restrictions for provision of protection measures.

20.

Easement required over pipelines

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

A restriction (easement) shall be placed on the title of the land pursuant to Section 88 of the Conveyancing Act and Council requirements. A Specimen Agreement for this purpose is contained at Appendix B of Policy: Building in the Vicinity of Underground Infrastructure 2020

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

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

21.

Trade Waste - Section 68 Part C approval required

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

Commercial, business, trade and industrial activities discharging or proposing to discharge to the sewer are required to notify Council and complete the Trade Waste

Registration Form available at the Mullumbimby Office and from Council's website at:

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

Trade Waste approval is required prior to gaining Section 68 Part B approval to carry out water supply work and sewerage work.

22.

Water and Sewerage - Section 68 approval required

An approval under Section 68 of the Local Government Act 1993 must be obtained to carry out water supply work and sewerage work.

An **Approval** under Section 68 Part B of the Local Government Act 1993 to carry out sewerage work must be obtained where the pool backwash is to be connected to the sewer via a new overflow relief gully.

Water metering to be in accordance with Byron Shire Council's water metering requirements. See:
<https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications>

Any new water service and meter will be at applicants cost.

23.

Certificate of Compliance – Water Management Act 2000

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

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

Charge to this Council.

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

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Utilities on 02 6626 7000. Applicable charges can also be found on Council's website:
<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>

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

Payment by Personal or Company Cheque will not be Accepted

24.

Section 7.12 Levy to be paid

The levy will be calculated as follows:

Levy payable = %C x \$C

- **%C** is the levy rate applicable as set out in the latest Ministerial Direction issued under section 7.17.
- **\$C** is the proposed cost of carrying out the development.

The rate of **%C** is:

Proposed cost of the development	
Up to \$100,000	
\$100,001–\$200,000	
More than \$200,000	

The cost of development must be calculated in accordance with clause 25J of the Regulation. The Cost Summary Report (copy attached) as set out in schedule 2 of the Section 7.12 contributions plan must be submitted to Council with the payment. The cost summary report must be prepared by a quantity surveyor. Copies of Cost Summary Report are available at Council's main office or may be downloaded from Council's website.

Note: A monetary contribution that is required to be paid under this consent must be paid before the issue of the first occupation certificate in respect of any building to which this consent relates, except if no construction certificate in respect of the erection of any building to which the consent relates has been issued before or on 25 September 2022, the monetary contribution must be paid before the issue of the construction certificate after that date for any such building.

25.

Provision of public art

Prior to the issue of a construction certificate a planning agreement for the payment of a developer contribution for public art in the general form of the offer made by the applicant (E2021/130405) shall be executed by both parties.

26.

Design and Layout Plans - Food Premises

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

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

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

Advisory note:

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

27.

On-site stormwater detention and stormwater quality improvement devices required

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

- The peak flow from the proposed development for the 5, 10, 20, 50 and 100 year ARI events, for all durations from 5 mins to 3 hours, must not exceed the existing peak flow from the site i.e. post development flow must not exceed pre-development flow in accordance with the NRLG Development and Design Manual and handbook of Stormwater Drainage Design.
- The Stormwater Quality Improvement Devices system must be designed to meet the requirements of Chapter B3 of the DCP and Northern Rivers Local Government Guidelines. The design must be supported with a

MUSIC model including verifiable data to support the removal efficiencies claimed by the utilisation of the proprietary product

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.

28.

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.

29. Consent required for works within the road reserve

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

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

Driveway (commercial areas)	A minimum width of 8.0m driveway in accordance with Council's standard "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings". The footpath crossing must be designed to provide a cross fall of 1 % or 1:100 (maximum 2.5% or 1 in 40) for a width of at least 2.4 metres to provide for pedestrians with access disabilities. All existing driveways must be removed and replaced to match the existing
Footpath	A minimum 4.0m wide (minimum) footpath/cycleway for the full Jonson St frontage of the site at a crossfall of 1 % or 1:100 (maximum 2.5% or 1 in 40) and associated accessible ramp in accordance with AS 2890 and Councils standards.
Street landscaping	Details of any landscaping in or over the road reserve.
Off Street Parking	The exiting off-street parking in-front of the development must be reconstructed in accordance with the approved plan. A minimum of 6 spaces must be provided including 2 accessible parking spaces.

30. **Public Safety Management Plan required**

Prior to issue of the construction certificate, consent from Council must be obtained for a Public Safety Management Plan for those works within the road reserve pursuant to Section 138 of the Roads Act 1993. This public safety management plan is to include provision for (but not be limited to):

- a) a pedestrian barrier, alternative footpaths and ramps as necessary;
- b) an awning sufficient to prevent any substance from, or in connection with, the work falling into the road reserve;
- c) lighting of the alternative footpath between sunset and sunrise;
- d) the loading and unloading of building materials;
- e) parking space for tradesman's vehicles, where such vehicles must be located near the site due to tools and equipment contain within the vehicle;
- f) Removal of any such hoarding, fence or awning as soon as the particular work has been completed.

The temporary use of Council land/road reserve to enable construction work is subject to fees in accordance with Council's adopted fees and charges. The use fee must be paid upfront prior to use and will generally be required to be paid prior to issue of the Council's consent for such use. **Applicants should avail themselves of Councils adopted fees and charges when preparing the management plan to limit construction costs.**

31. Traffic Management Plan

Prior to issue of the construction certificate, consent from Council must be obtained for a Traffic Management Plan (TMP) 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 of the development. The TMP 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 report must 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 TMP and associated traffic guidance scheme/s must be prepared by a suitably qualified Transport for NSW accredited person

32. 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 maneuvering details in accordance with the plans approved by this consent.

The access, parking and maneuvering for the site is to comply with the requirements of AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking and AS 2890.2 – 2010 - Parking facilities, Part 2: Off-street commercial vehicle facilities. Plans are to include, but not be limited to, the following items:

- a) Basement parking module must be designed to meet the specification and special requirements specified in Chapter B4.2.6 of DCP2014
- b) The roller shutter door must be relocated or removed to achieve the minimum queueing requirement of 24m from the front property boundary
- c) Grade transition must be in accordance with approved Sketch 1
- d) 2 SRV loading Bays must meet the requirements specified in clause 4.3 of AS2890.2
- e) Circulation roadway for SRV & Custom RVC must demonstrate compliance to clause 5.4(c) of AS2890.2
- f) Column locations must meet the requirements of clause 5.2 of AS2890.1:2004
- g) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- h) site conditions affecting the access;
- i) existing and design levels;
- j) 111 car parking spaces plus 8 accessible car spaces
- k) Provision of power supply at the rate one double power point every two spaces throughout the basement for slow charging of electric vehicles for guests residing at the serviced apartments
- l) longitudinal section from the road centreline to the car space(s);
- m) cross sections every 15 metres;
- n) drainage details;
- o) turning paths (clearances must not encroach in accordance with AS2890.2); and
- p) 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".

33. Flood Planning level

The flood planning level for this development is 3.22m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate a minimum habitable floor level that is at, or up to 0.3m above, the flood planning level unless a greater floor level has been shown on the plans approved by the development consent.

The plans and specifications to accompany the construction certificate application are to also indicate **the use of flood compatible materials and services below the flood planning level in accordance with the requirements of Council's Development Control Plan 2014 – Chapter C2 – Areas Affected by Flood.**

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

34. S.88E Public Positive Covenant to be placed on title – Refuse Collection

Documentary evidence is to be provided to the Principal Certifying Authority that a public positive covenant, pursuant to the provisions of S.88E of the Conveyancing Act, 1919, has been placed on the title to the land, the subject of this consent, stating:-

The development granted via development consent number 10.2021.291.1 must only be serviced by utilising a maximum size refuse collection vehicle (RCV) with the following specification

- *Maximum Gross Vehicle Weight of 14 tonnes*
- *Maximum length of 7.5m*
- *Maximum height of 2.8m*
- *Designed to removed refuse at the rear of the truck*

Such waste must be collected from the basement car park at all times.

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

35. Waste Management Plan

A waste management plan must be prepared and submitted to council for Approval demonstrating that waste can be collected from the basement car park at all times. The plan to include details of the refuse vehicle with the following maximum specifications and other details

- Maximum Gross Vehicle Weight of 14 tonnes
- Maximum length of 7.5m
- Maximum height of 2.8m
- Designed to removed refuse at the rear of the truck
- Collection of refuse must be undertaken in the basement carpark only
- Collection of refuse must not be undertaken during normal business hour (no later than 8AM)

- Documentary evidence of the Certified Agreement with Solo Resource Recovery in Chinderah or other Certified Waste Service Provider operating in Byron Shire detailing the management of refuse collection including the approved RCV.

Details of the Approved Waste Management Plan to be incorporated into to the final design of the basement car park for the construction certificate for approval to ensure that the refuse Collection vehicle can enter and leave the basement in a forward direction and collect the waste from the basement at all times.

36. Detailed landscaping plan required

The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9 of Development Control Plan 2014. Species identified in Chapter B9 of Development Control Plan 2014 are to be planted wherever possible. T

The plan must not include species that represent translocation of native plants outside their geographic range, potential or known environmental weeds or species with potential for genetic pollution. The landscaping plan must indicate:

- a) proposed location for planted shrubs and trees;
- b) botanical name of shrubs and trees to be planted;
- c) mature height of trees to be planted;
- d) location of grassed and paved areas;
- e) location of trees identified for retention in the development application plans; and
- f) the landscape maintenance regime for the landscape areas and green walls for a period of 5 years after the final occupation certificate.

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

37. Public Domain Treatment to Jonson Street

The development is to incorporate a pergola or arbour type structure across the frontage of the development to cover the footpath in Jonson Street. The structure can be one element or a series of separate structures. The structure in the road reserve must be attached to the building to provide a shaded environment for pedestrians and the eastern façade of the development at street level.

The structure to have:

- a. a minimum height of 2.8 metres above the footpath and a maximum height of 4 metres
- b. To provide a minimum width of 4.0 metres across the footpath
- c. Any support elements and posts erected on the footpath to be setback a minimum of 600 mm from the kerb
- d. Provide openings for the shop fronts and to access the street at a maximum of 6.0 metre intervals.
- e. Wires to train vegetation and vines to grow over it
- f. Landscape bays for the planting to grow from.
- g. Species details of the vegetation to grown on the structure. (deciduous and

fruiting species are not permitted)

The plans and specifications must be approved as part of the Construction Certificate for the building and must meet the relevant provisions of the Building Code of Australia. Prior to issue of the Construction Certificate, an approval must also be obtained under Section 138 of the Roads Act 1993.

38. Long Service Levy to be paid

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

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

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

39. Bond required to guarantee against damage to public land

A bond of \$10,000 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development. 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.

40. Access and facilities for disabled

The application for a Construction Certificate is to include plans and specifications that indicate access and facilities for persons with access disabilities to and within the development in accordance with AS 1428.1 - Design for Access and Mobility and Part D3 of the Building Code of Australia.

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

41. 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:

- a) 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
- b) 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).

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

42. Traffic Management Plan

The approved traffic management plan is to be implemented.

43. Public safety requirements

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. The public liability insurance cover, for a minimum of \$20 million, is to be maintained for the duration of the construction of the development. Council is to be nominated as an interested party on the policy. Council is not held responsible for any negligence caused by the undertaking of the works.

44. Acid Sulphate Soils

Acid sulfate soil controls are to be in place in accordance with any approved Acid Sulfate Soil Assessment & Management Report required in accordance with conditions of this consent

45. Approved Environmental Plans must be implemented

All controls and measures must be maintained in accordance with approved plans and reports. The applicant is required to ensure that the construction management and all construction staff are made aware of their responsibility to abide by the approved plans.

46. Vibration Management Plan required

The Principal Certifying Authority to ensure compliance with the Noise and Vibration Management Plan at all times during construction

47. Erosion and sediment measures

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.

48. Disconnection of existing water and sewer prior to demolition

Existing water and sewer services must be located on site and be properly capped at the main by a licenced plumber. All water and sewer disconnections must be inspected by the Byron Shire Council inspectors prior to backfilling.

If a property is demolished and no longer needs water supply and/or a sewerage service, a licensed plumber must disconnect the service at the main (also known as 'capping the service'). The plumber must also return the water meter to Council's inspector at the time of inspection.

If your development involves consolidating lots and you don't need all the existing services, you must correctly disconnect them. This ensures that you aren't billed for unused services and helps avoid future hidden leaks.

Your Plumber must obtain a **Plumbing Permit** at least **two (2) working days prior to commencing work**. Please forward an Application for a Plumbing Permit to your plumber to complete and to return to Council prior to commencement of disconnection works. Refer to http://www.byron.nsw.gov.au/files/Forms/Plumbing_Drainage_Permit.pdf.

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

49. Construction times

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

- a) Monday to Friday, from 7 am to 6 pm.
- b) Saturday, from 8 am to 3 pm.

No construction work to take place on Sundays and Public Holidays.

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

50. 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.

51. 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.

52. Stormwater drainage work

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

53. Acid Sulfate Soils Management

Acid sulfate soils must be managed and disposed of in accordance with the approved Acid Sulfate Soil Management Plan.

54. Dewatering and depth of Excavations

Dewatering of excavations must be conducted in accordance with the approved dewatering plan. 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.

Excavations and dewatering beyond the final approved basement floor and services are not permitted without prior approval from Council.

55. Point of discharge for dewatering

Dewatering operations must strictly be in accordance with the Construction Dewatering Management Plan approved by Council and conditions imposed by this consent.

Prior to commencing dewatering operations all relevant Section 68 approvals must be obtained subsequent to the date of this consent.

56. Unexpected Findings Protocol - Contamination & Remediation

Construction works must be carried out in accordance with the approved Unexpected Findings Protocol (UFP).

57. Certification – Structural Engineer

Upon completion of the basement and before the commencement of any other building works the applicant must provide documentation from a registered structural engineer to certify that the basement has been made watertight to prevent any ingress of groundwater.

58. 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.

59. 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.

60. Prevention of water pollution

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

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

condition.

61. Removal of asbestos

All asbestos wastes associated with removal of the existing dwelling to be disposed of in accordance with the requirements of the WorkCover Authority. The applicant/owner is to produce documentary evidence that this condition has been met.

62. Demolition, construction and building 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 Licensed Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with *NSW DECC Waste Classification Guidelines (2014)*
www.environment.nsw.gov.au/resources/waste/08202classifyingwaste.pdf

63. All excavated soils to be disposed of off-site

All excavated soils to be disposed of off-site and in accordance with NSW DECC *Waste Classification Guidelines (2014)* and approved environmental management plans.

64. 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>

65. Destination for all excavated materials during construction

The works contractor responsible for the construction and excavation of the basement must develop and maintain a register of materials that will be taken off-site for treatment, disposal, or any other purpose. The register must accurately record the destination and volume of every load of material (including clean soil, recyclable material, acid sulfate or potential acid sulfate soil, radiological waste, asbestos containing materials, sludge from dewatering treatment tanks, etc.). Individual vehicle registrations associated with off-site transport of materials and excavation waste to be recorded in the register.

Council must be provided with a copy of the completed register prior to the issuing of the Occupation Certificate.

Advisory note: No transporting of unclassified waste, hazardous materials or material contaminated by demolition waste is permitted to be delivered to unapproved private land within NSW. Heavy penalties apply under the Contaminated Land Management Act for any failure to manage site waste materials.

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

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

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

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

67. Design excellence sustainable design principles

The Occupation Certificate is not to be issued until Council is satisfied the development meets the approved WELL Silver Rating. Certification to be provided to Council and the principle certifying authority demonstrating that the development has been constructed and fitted out to satisfy the WELL Silver Rating.

68. Roadworks to be completed.

The roadworks are to be constructed in accordance with the approved plans and Roads Act consent.

69. Public Domain Treatment

The pergola arbour type structure to be completed and landscaped in accordance with the approved plans prior to the issue of the Occupation Certificate.

70. Basement carpark and Internal driveway in accordance approved plans

A basement carpark is to be constructed in accordance with the approved plans.

71. Waste Management

Solo Resource Recovery or other approved waste Management Contractor to certify that waste can be collected from the basement car park by their approved refuse collection vehicle prior to the issue of the Occupation Certificate. Details to be provided to Council and the PCA.

72. Validation Report required – Contaminated Land

A Validation Report must be provided to Council prior to issue of a Final Occupation Certificate. The report must be prepared by a duly qualified person experienced in land contamination and in accordance with statutory reporting requirements .

73. Floor Levels – Certification for Flooding

Prior to the issue of any Occupation Certificate, a certificate from a registered surveyor must be submitted to the Principal Certifying Authority confirming the height of habitable and non-habitable floors. An Occupation Certificate must not be issued unless the floor levels are at or above the relevant flood planning levels. A copy of the floor level certification from the registered surveyor must also be submitted to Council for the attention of Council's Drainage and Flood Engineer.

74. Easement required over pipelines

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

75. Stormwater Quality & Quantity – Certification of works

All stormwater drainage works, including on-site stormwater detention works, internal drainage system and stormwater quality improvement devices 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](#).

76. On-site Stormwater Detention – Certification of works

All stormwater drainage works, including on-site stormwater detention works, 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](#).

77. Trade Waste

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

78. Construction - Food Premises

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

Advisory note:

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

79. Exhaust System

On completion of the kitchen exhaust-hood installation, provide a certificate and system specifications detailing the air flow velocity readings to Council. The certificate should be completed by a suitably qualified professional and shall ensure that the installation satisfies AS1668.2 “Mechanical ventilation for acceptable indoor-air quality”

80. Airlock

An airlock shall be constructed between the toilet facilities and internal workspaces to prevent the transfer of contaminants into the food business and comply with the Building Code of Australia.

81. Bushfire conditions

Documentary evidence from a suitably qualified professional is to be submitted with the Occupation certificate application demonstrating that the bush fire conditions of

this Notice of Determination have been complied with.

The following conditions are to be complied with prior to commencement of operation of food premises

82. Notification – Food Business

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

83. Council Inspection required – Food Premises

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

Advisory note:

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

The following conditions are to be complied with at all times

84. Stormwater Maintenance

The stormwater collection and treatment devices must be inspected and maintained in accordance with the maintenance program contained in the approved Integrated Water Cycle and Soil Management Plan.

85. Pipelines Located In Underground Basement

Adequate and safe clearances are to be provided for maintenance staff from the normal operation of the access to and from the basement. Car spaces will be required to be orientated or located such that unimpeded access is available to the pipeline at all times

Council pipelines located within secured/locked complexes or basement car park, access by Council staff must be available at all times. Details are to be provided that satisfy Council's access requirements and are to be identified in Strata Management Statements or similar.

86. Permanent Post Construction Dewatering

Permanent post construction dewatering of groundwater is not permitted.

87. Hours of Operation

The opening hours of the following uses/ activities are:

Retail Shops and Café/ Restaurant

Monday to Saturday 7am to 12 midnight

Sundays and Public Holidays 8am to 10pm

Roof-top Recreation Facilities:

Monday to Sunday: 8:00am to 8:00pm

Should the development be Strata subdivided, the by-laws must include provisions specifying the hours of operation for the roof-top recreation facilities.

88. Use of Serviced Apartments

The apartments are not to be used as residential dwellings at any time. Should the development be Strata subdivided, the by-laws must include provisions specifying the above.

89. Use of roof-top recreation facilities

The rooftop and pool area has been approved for use of guests residing at the serviced apartments only and shall not be open to the general public at any time.

No amplified sound shall not be emitted from the rooftop pool area

90. Public Domain Treatment to Jonson Street

The pergola arbour type structure over the footpath must be maintained in a satisfactory state of repair by the owner/s of the building. Council may require the structure be periodically inspected and certified by a suitably qualified professional. The vegetation on the structure is to be maintenance by the owner of the property or the body corporate/ community association if the development is subdivided.

The owner/ Body corporate/ community association is to indemnify Council, in writing, against any action taken against it by persons injured or suffering loss by the use of the road reserve in association with the pergola / arbour type structure over the footpath. Council will not accept liability for damage to or loss of property from a road reserve. The owner must obtain and maintain for the life of the building a Certificate of Currency for Broadform Public Liability insurance, with a minimum of \$20,000,000, noting 'Byron Shire Council' as an interested party at all times.

91. Parking

A minimum 111 car parking spaces and 8 accessible parking spaces are to be provided and maintained, together with all necessary access driveways and turning areas, to the satisfaction of Council.

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

No car parking spaces are to be reserved (generally or specifically) for any tenant or customer.

92. Vehicles to enter and leave in a forward direction and loading unloading

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.

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.

93. Waste Management and Collection

All waste collection including recycling and green waste to be collected from the basement at all times. Should the development ever be subdivided appropriate

provision to be included in the relevant management statements (whether it is Strata or Community title) to reflect this.

94. No interference with amenity

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) The noise level emitted must comply with **condition 77** of this consent.
- b) All sources of noise and vibration must be effectively managed so as not to be intrusive or 'offensive' within the nearest residential properties.
- c) Any complaints to Council about 'offensive' noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.
- d) Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
- e) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- f) All waste storage and sewage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- g) Goods deliveries shall be restricted to daytime operating hours.

95. Noise levels

The development to operate in accordance with the Noise Management Plan as approved by Council and any conditions of consent to control operational noise. Cumulative internal noise levels must not exceed 70dB(A).

96. Roof top (pool and decks)

The roof top including pool and courtyard are for the use of residents and guests of the development. The general public are not permitted to use the roof top at any time.

97. Pool safety sign

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

98. Swimming pool discharge

Swimming pools must discharge or backwash to an overflow retention gully in accordance with AS/NZS 3500.2.2, Section 10.9 & Figure 10.2.

This work is exempt development in accordance with Councils Local Approvals Policy (2009), however, where it is not possible to discharge to an existing overflow retention gully, a new charged gully may be required. In such circumstances, an application under Section 68 of the Local Government Act is required.

99. Swimming pool pump location

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

100. Swimming pool health requirements

The swimming pool water is to be re-circulated, filtered and disinfected in accordance with the requirements of Council and NSW Health. The swimming pool water is to be

maintained at satisfactory levels of purity for bathing at all times

101. The Public Health Act 2010 and regulation

At all times, operation of the pool and associated facilities must in accordance with the *Public Health Act 2010 and Public Health Regulation 2012*.

SCHEDULE 3 PRESCRIBED CONDITIONS

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

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

Clause 98A Erection of signs

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 4 GENERAL TERMS OF APPROVAL – NSW RURAL FIRE SERVICE



NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (CNR-23279) 10.2021.291.1
Our reference: DA20210610002349-Original-1

ATTENTION: Rob van Iersel

Date: Friday 30 July 2021

Dear Sir/Madam,

Integrated Development Application
s100B – SFPP – Infill – Other Tourist Accommodation
116 Jonson Street BYRON BAY NSW 2481, 1//DP258385, 2//DP258385

I refer to your correspondence dated 08/06/2021 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions:

Asset Protection Zones

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:

1. From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire property must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2 metres above the ground;
- tree canopies should be separated by 2 to 5 metres;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;

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



- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

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:

2. Construction must comply with Sections 3 and 7 (BAL 29) of Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or the relevant BAL 29 requirements of the 'NASH Standard - Steel Framed Construction in Bushfire Areas' (incorporating Amendment A - 2015), except that the eastern elevation may comply with Sections 3 and 6 (BAL 19) of Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or the relevant BAL 19 requirements of the 'NASH Standard - Steel Framed Construction in Bushfire Areas' (incorporating Amendment A - 2015). New construction must also comply with the relevant construction requirements for BAL 19 and BAL 29 (as applicable) in Section 7.5 of 'Planning for Bush Fire Protection 2019'.
3. The balconies and associated supports to the western elevation are to be constructed completely of concrete construction with balustrades and other fixed material to be non-combustible construction.
4. Fences and gates must comply with Section 7.6 of Planning for Bush Fire Protection 2019.

Water and Utility Services

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

5. The provision of water, electricity and gas must comply with Table 6.8c of Planning for Bush Fire Protection 2019.
6. A fire hydrant is to be specifically located either in the passageway at basement level leading to the rear property boundary or externally adjacent to the rear access door. The hydrant is to be capable of providing full coverage of the rear boundary and rear building façade.

Landscaping Assessment

The intent of measures is for landscaping to minimise the risk of bush fire attack. To achieve this, the following conditions shall apply:

7. Landscaping of the site is to be designed and managed in accordance with the NSW RFS publication 'Asset protection zone standards' and Appendix 4 of Planning for Bush Fire Protection 2019.

Emergency and Evacuation Planning Assessment

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

8. A Bush Fire Emergency Management and Evacuation Plan must be prepared and be consistent with the NSW RFS document 'A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan'. The plan must include, but not be limited to, the following:
 - contact details for the local Rural Fire Service and Fire & Rescue NSW;
 - procedures for co-ordinated evacuation of the site in consultation with local emergency services;
 - triggers are to be applied in the plan to ensure combustible material on the balconies and rooftop terrace are taken inside the building and away from external windows; and
 - the plan is to be specifically included and referenced on the Fire Safety Schedule.



A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information prior to occupation of the development.

For any queries regarding this correspondence, please contact Paul Creenaune on 1300 NSW RFS.

Yours sincerely,

Alan Bawden
Supervisor Development Assessment & Plan
Built & Natural Environment



BUSH FIRE SAFETY AUTHORITY

SFPP - Infill – Other Tourist Accommodation
116 Jonson Street BYRON BAY NSW 2481, 1//DP258385, 2//DP258385
RFS Reference: DA20210610002349-Original-1
Your Reference: (CNR-23279) 10.2021.291.1

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority confirms that, subject to the General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under s100b of the Rural Fires Act 1997.

Alan Bawden
Supervisor Development Assessment & Plan
Built & Natural Environment

Friday 30 July 2021

SCHEDULE 5 GENERAL TERMS OF APPROVAL – WATER MANAGEMENT ACT



General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS1138040
Issue date of GTA:	30 June 2021
Type of Approval:	Water Supply Work
Description:	80mm submersible pump
Location of work/activity:	116 Jonson Street Byron Bay
DA Number:	10.2021.291.1
LGA:	Byron Shire Council
Water Sharing Plan Area:	North Coast Fractured and Porous Rock Groundwater Sources 2016

The GTA issued by WaterNSW do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to WaterNSW for the relevant approval **after** development consent has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
Dewatering	
GT0115-00001	Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
GT0116-00001	Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity. Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
GT0117-00001	A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
GT0118-00001	If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of



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	the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
GT0119-00001	All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
GT0120-00001	The design and construction of the building must prevent: (a) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c) any elevated water table from rising to within 1.0 m below the natural ground surface.
GT0121-00001	Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.
GT0122-00001	Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)
GT0123-00001	(a) Prior to the issuing of the occupation certificate, and following the completion



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	of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.watnsw.com.au/customer-service/water-licensing/dewatering
GT0150-00001	The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual
GT0151-00001	Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
GT0152-00001	This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with 10.2021.291.1 as provided by Council:

- Pacific Geotech
- Consulting Geotechnical Engineers
- Geotechnical Report: Proposed Mixed Use Development
- 116-118 Jonson St
- Byron Bay
- AIDOP NO 5 PTY LIMITED ATF AIDOP NO 5 UNIT TRUST and AIDOP NO 6 PTY LIMITED ATF AIDOP NO 6 UNIT TRUST of Suite 4.07, Level 4, 55 Miller Street, PYRMONT NSW 2009 (client referred to as 'Podia')
- May 2021
- PG-5593

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:-

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

Occupation Certificate required:

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

Protection of the Environment Operations Act 1997:

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

Use of Council's road reserve, hoardings and the like during construction

The temporary use of Council land/road reserve to enable construction work is subject to fees in accordance with Council's adopted fees and charges. This includes the footpath, and car parking areas within the road reserve. The use fee must be paid upfront prior to use and will be required to be paid prior to issue of the Council's consent for such use.

Penalties apply for failure to comply with development consents

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

Water payments under the Water Management Act 2000

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

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

Water	6.3 ET
Bulk Water	6.3 ET
Sewer	10.15 ET

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

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

Plumbing Standards and requirements.

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