

SCHEDULE 1 – CONDITIONS OF CONSENT

Parameters of consent

1. **Development is to be in accordance with approved plans**

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

Plan No.	Description	Prepared by	Dated:
3544/D/001 E	Proposed Subdivision Plan Stage 1 - Subdivision	Geolink	19/10/2022
3544/D/002 E	Proposed Subdivision Plan Stage 1 – Services to Lots 1 and 2	Geolink	19/10/2022
3544/D/004 E	Proposed Subdivision Plan Stage 2 – Roadworks	Geolink	19/10/2022
220094-12-CC-CI-01 B	Bayshore Drive Roundabout Road 12 Precinct Civil Works Layout Plan	Newton Denny Chapelle	7/7/2022

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. **Delivery of Stage 2 – Construction Works**

Stage 2 Construction works must be completed in accordance with the approved detailed design of the roundabout and associated works within 24 months of the issue of the Subdivision Certificate. No further development (being construction work approved by way of Construction Certificate, Complying Development Certificate, or Subdivision Works Certificate to occur on Lots 1 or 2 until such time as the Roundabout is constructed.

The following conditions are to be complied with prior to issue of a Subdivision Works Certificate

3. **Engineering Construction Plans**

Engineering construction plans and specifications must accompany the Subdivision Works Certificate application demonstrating compliance with Council's standards for the required engineering works.

Each set of drawings must be accompanied by a Certification Report which must be signed by a

suitably qualified Civil Engineer or Registered Surveyor. The Certification Report will comprise the certificate and check lists set out in Annexure DQS-A of the [Northern Rivers Local Government Development & Design Manuals](#).

The information shown on the drawings must be logically collected on discrete sheets generally in accordance with Annexure DQS-B and the Sample Drawings of the Northern Rivers Local Government Development & Designs. The drawings are to provide for the following works :

- a) **Roundabout in Bayshore Drive**
The design must meet the minimum requirement in Austroads Guide to Road Design.
- b) **Kerb & Gutter, Road Shoulder Construction**
Upright kerb and gutter, road shoulder and associated drainage construction, footpath formation including any necessary relocation of services across the frontage of the subdivision.
- c) **Full Width Road Construction**
Full width road and drainage construction for all proposed roads on the approved plan.
- d) **Cul-de-sac head in Lot 12**
 - Upright kerb and gutter
 - Minimum 3.5m verge
 - Pavement in accordance with Austroads Guide to Pavement Technology
 - Manoeuvring to cater for a 12.5m radius of a Single Unit Bus. Manoeuvring must not mount the kerb & gutter.
- e) **Footpath Construction**
A min 1.2 metre wide concrete footpath across the frontage of the subdivision and linkage to existing network.
- f) **Shared path Construction**
A 2.0 metre wide concrete shared path on southern side of proposed road 12 and western side of Bayshore Drive across the frontage of the subdivision and linkage to existing network
- g) **Service Conduits**
Service conduits to each of the proposed new allotments laid in strict accordance with the service authorities' requirements.
- h) **Streetlighting**
Bayshore roundabout & Road 12 including the cul-de-sac in accordance with AS1158.
- i) **Street Name Signs**
Street name signs and posts to all proposed new roads.
- j) **Stormwater Drainage**
Stormwater is to be collected and discharged in accordance with Council's standards, currently [Northern Rivers Local Government Development Design & Construction Manuals](#). A full and detailed stormwater management plan for the site must be provided for Council's records at the time of lodging detailed engineering plans for Subdivision Works Certificate approval. The drawings and management plan must be accompanied by a Design Submission Checklist as set out in APPENDIX C of the Northern Rivers Local Government Handbook of Stormwater Drainage Design, which must be signed by a suitably qualified Civil Engineer or Registered Surveyor. The drawings and management plan are to include, but not be limited to, the following items:
 - i) Catchment plan (included in the drawing set);
 - ii) Hydrological and hydraulic calculations based on the methods outlined in the Queensland Urban Design Manual (QUDM) and Australian Rainfall & Runoff (AR&R) 1987. A summary of the calculations must be included on the drawings consistent with the Sample Drawings of the Northern Rivers Local Government Development & Design Manuals.
 - iii) Stormwater detention/retention, designed so that the peak flow from the proposed development for the 5, 10, 20, 50 and 100 year ARI events, for durations from 5 minutes to 3 hours, does not exceed the existing peak flow from the site i.e. post-

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- development flows must not exceed pre-development flows.
- iv) Stormwater management structures/facilities that have minimum impact on Council's maintenance program. All maintenance activities must be specified in a maintenance plan (and associated maintenance inspection forms) to be developed as part of the design procedure and included in the stormwater management plan.

k) Stormwater Quality

Stormwater quality must be suitable for discharge in accordance with Council's standards, currently [Chapter B3 Services of Development Control Plan 2014](#) and [Northern Rivers Local Government Development Design & Construction Manuals](#). The proposed water quality management devices and treatment train must have minimum impact on Council's maintenance program. All maintenance activities must be specified in a maintenance plan (and associated maintenance inspection forms) to be developed as part of the design procedure and submitted with the Subdivision Works Certificate documentation.

Note:

The fully detailed design of road, stormwater, footpath, shared path, pedestrian crossing, bus bays and services including streetlighting must be submitted for approval as part of Stage 1. The delivery of the construction in accordance with the Staging of Construction Works.

4. Staging of Construction Works

Stage 1

- Tafe Access (Chainage 0.000 to Chainage 35.025). Refer to Newton Denny Chapelle drawing 220094-12-CC-CI-01 A
- Shared Path including Pedestrian Crossing in Bayshore Drive. Refer to Newton Denny Chapelle drawing 220094-12-CC-CI-01 B
- Internal Road 12 Roadworks including Drainage, Services Infrastructure & associated relocation of existing services and Streetlighting. Refer to Geolink drawing 3544/D/004 C.

Stage 2

- Separate application of Section 138 of the Roads Act of 1993
- Roundabout in Bayshore Drive. Refer to Geolink drawing 3544/D/004 C.
- Associated footpath, pedestrian crossing, refuge island and other pedestrian facilities extended to connect onto the existing pedestrian network infrastructure. Refer to Geolink drawing 3544/D/004 C.
- Drainage, Streetlighting and associated relocation of services

5. Erosion and Sedimentation Control Plan

The plans and specifications to accompany the Subdivision Works Certificate application are to include a sediment and erosion control plan to indicate the measures to be employed to control erosion and loss of sediment from the site. The sediment and erosion control plan is to be designed in accordance with the requirements of the *NSW Department of Housing Manual (1989), Managing Urban Stormwater, Soils and Construction*.

A suitably experienced person must prepare the sediment and erosion control plan. Suitably experienced people include those certified by:

The Institution of Engineers, Australia, for engineering and hydrology matters.

The International Erosion Control Association for soil conservation matters.

The Australian Society of Soil Science for collection or analysis of soil data.

The plan must incorporate (without being limited to) information on general site management,

material handling practices, soil stabilisation, water control, sediment control, wind erosion control and access measures.

6. Long Service Levy to be paid

In accordance with Section 6.14 of the Environmental Planning and Assessment Act 1979 (as amended), a Subdivision Works Certificate 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.

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

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

7. Street Name Application to be lodged

Street / road names for the subdivision must be submitted for Council approval prior to issue of the Subdivision Works Certificate. An application for approval of a street name must be in writing (letter or email) and is to include:

- at least 2 names for each proposed road in preferential order;
- the location and extent of the road;
- background/history of the selected name;
- details on why the selected name is considered to be appropriate;
- details on how the selected name conforms with Council's Street Name Policy and the NSW Address Policy;
- a locality plan;
- a layout plan showing proposed road/s and selected name/s suitable for publishing in the local newspaper; and
- payment of fees in accordance with Council's adopted schedule of fees and charges.

8. Fibre-ready Facilities and Telecommunications Infrastructure

Prior to the issue of the Subdivision Works Certificate, 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).

9. Habitat compensation works required by development consent 10.2015.177.1 to be substantially completed

Certification from a suitably qualified ecologist to be submitted to Council prior to the issue of the Subdivision Works Certificate. certifying that Plantings and/or restoration works required as compensation for the clearing of native vegetation approved by development consent 10.2015.177.1 are to be substantially implemented in accordance with the approved plan titled

'Vegetation Management Plan – Lot 12 DP11189646 – Bayshore Drive, Byron Bay' prepared by Blackwood Ecological Services and dated 28/07/2015

Note: for the purposes of this condition, 'substantially implemented' means that all primary weed control and planting works required by the approved plan referenced above have been completed.

10. Vegetation Management Plan

A Vegetation Management Plan (VMP) must be prepared and submitted to Council for approval. The VMP must detail ecological restoration, management and protection measures over a minimum period of 5 years within the parts of the site containing native coastal floodplain vegetation communities and, for native vegetation in the west of the site, including a 25 metre buffer from the edge of the vegetation into Proposed Lot 1.

- a. Illustrate on maps of a suitable scale (1:200 or better) the extent of areas subject to ecological restoration, management, and protection.
- b. Ensure that locations for ecological restoration, management and protection are additional to, and do not overlap with, any ecological restoration works required by previous development consents for the property.
- c. Include details of plantings within the bioretention basin and environmental mitigation measures associated with stormwater management works in accordance with the amended and approved Acid Frog Management Plan.
- d. Detail an ecological restoration methodology that aims to enhance and supplement the existing biodiversity values of the site and broader landscape, including by increasing habitat area and connectivity for threatened species and ecological communities known or likely to occur in the locality.
- e. Include an implementation schedule that details the timing of management actions over the course of the restoration program. This must include a definition of "primary works" as being the first treatment of weeds onsite and the first stage of planting for year 1 and then ongoing yearly targets or key performance Indicators.
- f. Include a list of performance indicators for each year of the program to provide a means of measuring the progress of restoration and management works.
- g. Include details of reporting and monitoring to be carried out, including the frequency of monitoring reports and the location of photo points.
- h. Specify that planting and/or restoration works will commence immediately upon approval of the Management Plan.
- i. Incorporate the ongoing monitoring of the previous VMP approved under 10.2015.177.1 into this new VMP.

11. Acid frog management plan to be amended

The approved plan titled '*Acid Frog Management Plan – Lot 12 Bayshore Drive (Stage 1)*' prepared by GeoLINK Consulting Pty Ltd and dated 10/02/2022 is to be amended by a qualified ecologist with experience working with threatened frogs. The plan is to be approved by Council's ecologist and include the following:

- a) All acid frog and water quality monitoring data collected to date in accordance with the approved plan.
- b) a detailed description of how stormwater management associated with the present subdivision development will avoid changes in hydrology and water quality/chemistry of the receiving wetland in the context of acid frog habitat requirements;
- c) measures to reduce the impacts on acid frog habitat during the construction phase;
- d) Yearly performance indicators and adaptive management strategies to ensure that acid frog populations are conserved and contingency actions in the event that adverse impacts

are detected for the first five years of the plan.

12. Stormwater management to avoid impacts to acid frog habitat

The detailed stormwater management plan must incorporate measures to avoid changes in hydrology and water quality/chemistry of the receiving wetland in the context of acid frog habitat requirements.

13. Acid sulfate soil assessment

Works involving excavations beyond one (1) metre of the natural ground surface must not commence until an acid sulfate soil assessment has been undertaken and the results submitted to Council for approval, together with details of any measures needed for the management of these soils. This assessment must be in accordance with the Acid Sulfate Soil Manual (NSW ASSMAC 1998).

For the purposes of this condition, **works** means:

- (a) any landform alteration that may result in the disturbance of more than one tonne of soil (including the carrying out of land levelling, the construction of drains (and the maintenance, widening, deepening or extension of existing drains) and the construction of foundations), and
- (b) any works that may lower ground water levels.

14. Water and Sewerage - Section 68 approval required

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

Sewerage and water mains are to be extended to service all residential allotments in the subdivision. All Council gravity sewerage mains are to be a minimum 150 mm diameter and water mains are a minimum 150mm diameter.

Water supply and sewerage works are to comply with Council's latest Standards and Policies including but not limited to:

- Development Design and Construction Manuals, Northern Rivers Local Government, 2009;
- Development Servicing Plan for Water Supply Services, Byron Shire Council, 2011;
- Development Servicing Plan for Sewerage Services, Byron Shire Council, 2011;
- Fire Flow Design Guidelines, Water Directorate, 2011;
- Water and Sewer Equivalent Tenement Policy (13/005), Byron Shire Council, 2013;
- Pressure Sewerage Policy (12/014), Byron Shire Council, 2012.
- Private Sewer Pump Station Policy (12/015), Byron Shire Council, 2012.

15. Landscape Plans – Compliance required with Building in the Vicinity of Underground Infrastructure Policy

The plans and specifications to accompany the subdivision works certificate application are to include a detailed landscape plan indicating the locations, names, mature heights of shrub and tree species to be planted, and the location of grassed and paved areas, refer to Appendix C of the Policy.

16. Site Waste Minimisation and Management Plan

Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. Prior to the issue of a Construction Certificate, a Site Waste

Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

A template is provided on Council's website to assist in providing this information
www.byron.nsw.gov.au/files/publication/swmmp-pro-forma.doc

17. 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.

The following conditions are to be complied with prior to commencement of subdivision works

18. Subdivision Work

Subdivision work in accordance with the development consent must not be commenced until a Subdivision Works Certificate has been issued, a principal certifying authority has been appointed and at least 2 days' written notice for the intention to commence works has been made, in accordance with the requirements of the Environmental Planning and Assessment Act and Regulations. The written notice for the intention to commence works must also include names and contact details of the certifying engineer and principal contractor.

Note. Subdivision work means any physical activity authorised to be carried out under the conditions of this development consent for the subdivision of land, including earthwork, road work, stormwater drainage work, landscaping work, tree/vegetation removal, erosion and sediment control, traffic control, etc.

19. Acid Sulfate Soils

Acid sulfate soil controls are to be in place in accordance with the approved Detailed Acid Sulfate Soils Management Plan (if required).

20. WorkCover Authority

All works must be undertaken in accordance with the requirements of the WorkCover Authority.

21. Site Construction Signs

Site construction signs are to be maintained at the frontage to the site until all works are completed.

22. Erosion and sediment measures

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

No soil or fill material is to be placed within the dripline of a tree so as to cause changes in surface level by more than 50mm from the existing level and such soil is not to be compacted. Such soil fill must not be finer than that being covered in situ, e.g. clay must not be placed over loam soil.

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

The following conditions are to be complied with during construction of subdivision works

23. 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).

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:

- c) Monday to Friday, from 7 am to 6 pm.
- d) Saturday, from 8 am to 1 pm.

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

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

24. Approved Plans to remain on site

A copy of the approved Subdivision Works Certificate including plans, details and specifications must remain at the site at all times during the construction of the subdivision.

25. Aboriginal Relics

While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - a. relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - b. is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

Two (2) Arakwal Traditional Owners are to be engaged as Cultural Site Monitors for the duration

of the works to oversee and assess the potential for Aboriginal Cultural Heritage.

26. **Acid Sulfate Soils Management**

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

27. **Unexpected Findings Protocol - Contamination & Remediation**

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

28. **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.

29. **All excavated soils to be disposed of off-site**

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

30. **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>.

31. **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 an 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>.

32. **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.

33. **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.

34. **Public safety requirements**

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. Council is not held responsible for any negligence caused by the undertaking of the works.

35. **Council Specification**

All works to be constructed to at least the minimum requirements of the “[Northern Rivers Local Government Design and Construction Manual](#)” and the following:

- Development Design and Construction Manuals, Northern Rivers Local Government, 2009;
- Development Servicing Plan for Water Supply Services, Byron Shire Council, 2011;
- Development Servicing Plan for Sewerage Services, Byron Shire Council, 2011;
- Fire Flow Design Guidelines, Water Directorate, 2011;
- Water and Sewer Equivalent Tenement Policy (13/005), Byron Shire Council, 2013;
- Pressure Sewerage Policy (12/014), Byron Shire Council, 2012.
- Private Sewer Pump Station Policy (12/015), Byron Shire Council, 2012.

The following conditions are to be complied with prior to issue of a Subdivision Certificate

36. Plan of Subdivision

The final plan of subdivision must be in accordance with the approved plan/s. A Deposited Plan Administration Sheet (original plus one (1) copy), two (2) copies of the plan of subdivision and any necessary section 88B instrument (original plus one (1) copy) are to be submitted with the application for a subdivision certificate.

An additional copy of the final plan of subdivision is to be submitted showing the location of all buildings and/or other permanent improvements including any fences, internal access driveways/roads, and where relevant effluent disposal areas and the 1 in 100 year flood and flood planning level extents on land within or adjacent to a flood planning area. Where the building/s or improvements are close to boundaries, offset distances are to be included on the additional copy of the plan. This plan must be endorsed by a Registered Surveyor. Any encroachments affecting new boundaries or the road reserve must be removed or relocated wholly within the allotment. The new boundaries must not cause any existing building/s to contravene the Building Code of Australia.

37. Developer Contributions to be paid

Contributions set out in the schedule below are to be paid to Council prior to the release of a subdivision certificate. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at www.byron.nsw.gov.au or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

The contributions as set out in the schedule may either be paid in full or they may be paid in stages on a proportional basis dependent on the number of lots to be released in the subdivision certificate. The first credit for a site will be retained on the residual lot. Any additional credits over one (1) will be allocated at the first stage(s).

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

38. Certificate of Compliance – s307 Water Management Act 2000

Water and sewer services are to be provided to the land in accordance with an approval granted under Section 68 of the Local Government Act 1993. Payment of developer charges to Byron Shire Council for water supply and sewerage. A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of a Subdivision Certificate. Where staging of the Subdivision occurs, a separate s307 Compliance Certificate must be obtained for each stage.

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

39. Street addressing

In accordance with clause 60(c) of the Surveying and Spatial Information Regulation 2017 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each lot in the final plan of subdivision. The street addressing for this property must be approved by Council. A written request seeking approval of street addresses is to be submitted to Council's Land Information Officer (planning.certificates@byron.nsw.gov.au) with a copy of the final plan of subdivision showing driveway access to each lot from the public road servicing the lots.

Prior to issue of the subdivision certificate, the approved street number must be displayed in a prominent location near the approved driveway access for each lot with an existing dwelling/building approved for separate occupation.

40. Section 88B Instrument - Infrastructure

A Section 88B Instrument and one (1) copy are to be submitted with the application for a subdivision certificate. The final plan of subdivision and accompanying Section 88B Instrument are to provide for:

a) Ecological Buffer – Lot 1

A 25 metre ecological buffer be provided over Lot 1 from the western boundary with Lot 3 to prohibit any development in this area other than VMP works.

b) Easement of conservation

A restriction must be applied over Lot 3. The restriction on user must prohibit, except as otherwise permissible by law, all of the following (with the exception of works associated with stormwater management) within the area covered by the restriction on user:

- i. the destruction or removal of any native trees, shrubs, grasses or other vegetation, or the planting of any vegetation other than locally native vegetation;
- ii. any act or omission which may adversely affect any native vegetation or any native fauna or their related habitats;
- iii. any act or omission which may result in the deterioration in the natural state or in the flow, supply, quantity or quality of any body of water or in the natural hydrological

- regime of the area;
- iv. the removal, introduction or disturbance of any soil, rock or other minerals;
- v. any structures or dwellings;
- vi. no deposition or accumulation of rubbish or refuse, including garden refuse and weed propagules, nor the use of any of the area for storage of any substance or material.

c) Dedicated Public Road Access

Dedication of suitable public road accesses to all proposed allotments.

d) Inter-allotment Drainage Easements

The creation of easements for drainage of water, with a minimum width of 1.5 metres, over all inter-allotment drainage pipelines and structures located within the proposed allotments.

e) Drainage Easements

The creation of easements for drainage of water over all drainage pipelines and structures located within the proposed allotments in accordance with Council's policy.

f) Sewer Easements

The creation of easements for drainage of sewage over all sewage pipelines and structures located within the proposed allotments in accordance with the Policy: Building in the Vicinity of Underground Infrastructure 2020.

g) Private pump station

No dwelling/building shall be erected or placed on the lot burdened unless the proprietor has first constructed or made provision for the construction of a private sewage pumping system to connect to the Council's sewerage system.

Land owners are solely responsible for installation, maintenance, electricity usage costs and repair and replacement of all sewerage infrastructure contained within the land parcel. The design, construction and/or provision of the system shall be to the requirements and satisfaction of Byron Shire Council.

h) Drainage Reserve

The dedication of drainage reserve over the drainage treatment devices and constructed access.

41. Completion of Stage 1 Construction Works

All subdivision works required by this development consent, and associated Subdivision Works Certificate, are to be completed prior to issue of the subdivision certificate. A copy of the final completion letter/s, issued by the Principal Certifying Authority, and final plumbing certificate, issued by the water supply authority, for the relevant subdivision works must be submitted with the application for a subdivision certificate.

42. Erection of Street Signs

The subdivider is to supply and erect street signs for the approved street names in accordance with this development consent and the Subdivision Works Certificate approval.

43. Certificates for engineering works

The submission of all test certificates, owners manuals, warranties and operating instructions for civil works, mechanical and/or electrical plant, together with a certificate from a suitably qualified engineer certifying that all works have been constructed in accordance with the approved plans and Council's current "Northern Rivers Local Government Design and Construction Manuals and Specifications".

44. **Works-As-Executed Plans**

Following completion of works and prior to issue of the subdivision certificate, Work-as-Executed Drawings, together with a Work-As-Executed Certification Report, in accordance with Council's requirements are to be submitted to Council. Two categories of Work-as-Executed Drawings are to be submitted to Council, being

Amended Design Work-as-Executed Drawings and **Summary Work-as-Executed Drawings**.

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

- a) One (1) paper copy at the same scale and format as the approved design plans, but, marked appropriately for as constructed information and with original signatures; and
- b) An electronic copy of above in PDF format and provided to Council on CD, DVD or via email.

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

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

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

45. **CCTV Inspection and Report**

CCTV inspection must be undertaken on all completed underground pipe systems, **including minor sewer main extensions**, in accordance with Council's specification.

Both a hardcopy and electronic copy of the report (submitted in CD or DVD medium in a format suitable to Council) of the CCTV inspection must be provided to Council for consideration prior to the release of the Subdivision Certificate, Occupation Certificate, Final Inspection for Section 68 Approvals, "Off-maintenance" or Release of Security Bond.

46. **Certificate for services within easements**

The submission of a certificate from a registered surveyor certifying that all pipelines, structures, access driveways and/or services are located wholly within the relevant easements.

47. **Electricity Supply Certificate**

Prior to the issue of the Subdivision Certificate, a Notice of Arrangement (NOA) requested from the Distribution Network Service Provider, currently Essential Energy, must be submitted to the Principal Certifying Authority. The NOA must confirm that satisfactory electricity supply has been provided to each of the proposed lots and all necessary street lighting has been energised for

the development.

Note: Requests for a NOA are to be made to the Contestable Works section at Essential Energy.

48. Fibre-ready Facilities and Telecommunications Infrastructure

Prior to the issue of the Subdivision 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).

49. Geotechnical Report (Lot Classification)

A certificate from a practicing Geotechnical Engineer must be provided in conjunction with a Lot Classification Report prepared in accordance with Australian Standard AS2870.1. Such certificate must certify that all vacant allotments have a building site of adequate size and shape on each lot that is not subject to slip or subsidence.

50. Maintenance Bond

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

51. Water service and meter to be connected to each lot

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

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.

52. Record of Infrastructure

A record of infrastructure coming into Council ownership, upon registration of the final plan of subdivision, is to be submitted to Council. The information is to be submitted in the form of Council's Standard Form titled "Asset Creation Record". This form is available from Council's Local Approvals Section.

Ecological Works

53. Completion of Vegetation Management Plan works

Prior to the issue of a Subdivision Certificate for Stage 1, a monitoring report from a qualified and experienced ecologist and/or bush regenerator certifying that primary works as defined within the approved Vegetation Management Plan (VMP) for the site have been completed must be submitted and approved by Council.

Prior to the completion of Stage 2 works a monitoring report from a qualified and experienced ecologist and/or bush regenerator certifying that vegetation works up to Year 3 as defined within the approved Vegetation Management Plan (VMP) for the site have been completed must be submitted and approved by Council.

54. Acid Frog Management

Prior to the issue of a Subdivision Certificate for Stage 1, a monitoring report from a qualified and experienced ecologist addressing the Acid Frog Management Plan works up to Year 1 in terms of the conservation of the population, the success of the management plan and implementation of any necessary contingency actions must be submitted and approved by Council.

Prior to the completion of Stage 2 works a monitoring report from a qualified and experienced ecologist addressing the Acid Frog Management Plan works up to Year 3 in terms of the conservation of the population, the success of the management plan and implementation of any necessary contingency actions must be submitted and approved by Council.

The following conditions are to be complied with at all times

55. Protection of native vegetation

All native vegetation 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*.

56. Replanting and restoration works

Replanting and restoration works must be undertaken and continued until the performance criteria have been achieved in accordance with the approved Vegetation Management Plan for a minimum period of five years, during which annual monitoring reports must be submitted to Council for approval.

57. Retention of native vegetation within 10/50 Vegetation Clearing Entitlement Area

All native vegetation that the 10/50 Vegetation Clearing Code of Practice would otherwise authorize to be removed, destroyed or pruned must be retained for conservation purposes.

58. Native vegetation is not permitted to be cleared under Schedule 5A and/or Division 5 of the Local Land Services Act 2013

Clearing of native vegetation that would be authorised under Schedule 5A and Division 5 of the *Local Land Services Act 2013* (LLS Act) is not permitted to be carried out without development consent under part 4 of the *Environmental Planning and Assessment Act 1979*.

In accordance with the Objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Section 1.3(e) of that Act the purpose of this condition is “to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats”.

Section 60Q(2) of the LLS Act provides that “Schedule 5A does not permit clearing or any other activity—

- a. without an approval or other authority required by or under another Act or another Part of this Act (or in anticipation of the grant of any such approval or other authority), or

- b. in contravention of any provision of or made under (or in contravention of any agreement made under) another Act or another Part of this Act.”

Similarly, Section 60S(4) of the LLS Act provides that “A land management (native vegetation) code does not permit clearing or any other activity—

- a. Without an approval or other authority required by or under another Act or another Part of this Act, or
- b. In contravention of any provision of or made under another Act or another Part of this Act”

As this condition is imposed under section 4.17 of the EP&A Act, sections 60Q and 60S of the LLS Act apply and the clearing of native vegetation under Schedule 5A and Division 5 of the LLS Act is not permitted.

59. Private Pump Stations on each Lot:

The owner is solely responsible for the operation, maintenance and repair of private sewer pump station. Conditions of approval also include the following:

- Power Operation - Owners/occupiers are not permitted to interfere with the electrical operation of the pump station. Council requires the pump station to be wired into the common switchboard in such a manner so as not to interfere with the normal electrical operation of the property, nor be accessible by the residents.
- Maintenance - The owner is to enter into a contract for the maintenance of the private sewer pump station with a suitably qualified person in accordance with the manufacture’s specification. Pump wells must be checked by the service provider as part of the 6 monthly maintenance inspections. This bi-annual maintenance shall include servicing of pumps and electrical components, and a check that the level switches are correctly set and operating.

The owner is also required to keep records of maintenance and repair of private sewer pump station. These records need to be supplied to Council on an annual basis.

Approval of your private pump station will be included in a register to provide accountability for the operation and maintenance of the pump station and to assist in any compliance action that may be required in the circumstance that unsatisfactory operation and maintenance regimes arise.

60. 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.

SCHEDULE 2 PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Part 4 Division 2 Subdivision 1 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 69 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- Clause 70 Erection of signs
- Clause 71 Notification of Home Building Act 1989 requirements
- Clause 72 Conditions relating to entertainment venues
- Clause 73 Condition relating to maximum capacity signage
- Clause 74 Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Part 6 Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 3 - REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

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

Statement of Reasons
The proposed development complies with the provisions of Byron Local Environmental Plan 2014.
The proposed development complies with the provisions of Byron Local Environmental Plan 1988
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 the Community Participation Plan. There were no public submissions made.
The proposed development is unlikely to prejudice or compromise the public interest.

How community views were addressed
The DA was advertised in accordance with Council's Community Participation Plan. The submissions

received were considered on merit and addressed during assessment of the application.

To view the considerations, please contact Council to view a copy of the assessment report relating to this DA.

SCHEDULE 4 - NOTES

S7.11 Schedule of Development Contributions

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

Section 7.11 contributions Schedule						
Byron Bay Suffolk Park						
Catchment						
This schedule was calculated in spreadsheet #E2021/99005						
1 bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		0	@	0.75 SDU	=	0
3 bedroom units/dwellings =		0	@	1 SDU	=	0
Allotments =		3	@	1	=	3
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	2
Schedule valid until		26 Oct 2022	After this date contact Council for CPI update.			
Local Open Space & Recreation	(OS-BB)	2.00	SDU @	\$ 4,512.45	=	\$ 9,024.90
LGA Wide Open Space & Recreation	(OS-SW)	2.00	SDU @	\$ 812.20	=	\$ 1,624.40
LGA wide Community Facilities	(CF-SW)	2.00	SDU @	\$ 1,189.55	=	\$ 2,379.10
Local Community Facilities	(CF-BB)	2.00	SDU @	\$ 1,340.43	=	\$ 2,680.86
Bikeways & Footpaths	(CW-BB)	2.00	SDU @	\$ 1,486.01	=	\$ 2,972.02
Shire Wide Bikeways & Footpaths	(CW-SW)	2.00	SDU @	\$ 87.26	=	\$ 174.52
Urban Roads	(R-BB)	2.00	SDU @	\$ 3,250.00	=	\$ 6,500.00
LGA Wide Roads	(R-SW)	2.00	SDU @	\$ 245.77	=	\$ 491.54
Rural Roads	#NA	2.00	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	2.00	SDU @	\$ 1,228.52	=	\$ 2,457.04
Total						\$ 28,304.38

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.

Protection of the Environment Operations Act 1997:

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

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine being issued pursuant to section 4.2(1) of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 9.50 of the Environmental Planning & Assessment Act 1979.

Plumbing Standards and requirements.

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

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).

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	2 ET
Bulk Water	2 ET
Sewer	2 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.

Essential Energy Advice

Essential Energy makes the following general comments:

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
3. As part of the subdivision, an easement/s are/is created for any existing electrical infrastructure (located within the property or adjoining the property as required). The easement/s is/are to be created using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision. Refer Essential Energy's Contestable Works Team for requirements via email contestableworks@essentialenergy.com.au.
4. Council should ensure that a Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions. Despite Essential Energy not having any safety concerns, there may be issues with respect to the subdivision layout, which will require Essential Energy's approval.
5. In addition, Essential Energy's records indicate there is electricity infrastructure located within close proximity to the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as [*ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*](#). Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
6. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the *Electricity Supply Act 1995* (NSW).
7. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines* and *Code of Practice – Work near Underground Assets*.