

10.2019.643.1
CONDITIONS OF CONSENT:

DEFERRED COMMENCEMENT CONDITION PURSUANT TO SECTION 4.16(3)

The following condition concerns matters as to which the Council must be satisfied before the consent can be issued:

1. Deferred Commencement Consent – Amendments to the plans required

This consent does not operate until Council is satisfied that the following amendments have been made to the proposed development:

Pursuant to Section 4.16(3) of the EPA Act 1979, this consent does not operate until Council is provided with a full set of architectural drawings including floor plans, elevations, sections, landscape plan and site plan. The plans are to be prepared based on the submitted site plan, landscape plan, ground floor plan, first floor plan, second floor plan, third floor plan, roof plan, elevations, and sections prepared by Shaun Lockyer Architects Pty Ltd dated 29.10.2020, 26.03.2020, and 20.04.2020.

To satisfy Council in this matter the applicant must submit amended plans:

- a) Demonstrating compliance with the 9m maximum building height limit in accordance with *clause 4.3 Height of Buildings* of the LEP 2014. The whole of the development must not exceed 9m in height measured from natural ground level.
- b) Demonstrating compliance with the required 0.5:1 floor space ratio in accordance with *clause 4.4 Floor Space Ratio* of the LEP 2014. The amended plans must demonstrate how the new design complies with the 0.5:1 floor space ratio requirement having regard to *clause 4.5 Calculation of floor space ratio and site area* of the LEP 2014.
- c) Removing the two hardstand outdoor semi circular courtyard areas and replacing with terraced landscaping and plantings. Details to be included on the architectural plans and updated vegetation management plans.

Evidence is required to be submitted of compliance with the above condition, sufficient to satisfy the Council as to those matters, within 2 years of the date of this Notice of Determination. If satisfactory evidence is produced in accordance with this requirement, the Council will give written notice to the applicant of the date from which this consent commences operation.

If Council has not notified the applicant within a period of 28 days after the applicant's evidence is produced to it, the Council is, for the purposes only of Section 8.7 of the Environmental Planning and Assessment Act 1979, taken to have notified the applicant that Council is not satisfied as to those matters on the date on which that period expires.

SCHEDULE 2. CONDITIONS OF CONSENT

Parameters of consent

2. Development is to be in accordance with approved plans

The development is to be in accordance with the plans approved under deferred commencement Condition No.1.

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.

3. Support for neighbouring buildings

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

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

4. Bushfire safety measures

This land is identified as being designated bushfire prone land and Under s4.14 of the Environmental Planning and Assessment Act 1979, Council must be satisfied prior to making a determination for development on bushfire prone land that the development complies with "Planning for Bush fire Protection 2019". The development must comply at all times with the requirements of the NSW Rural fire Service provided in the letter dated Tuesday 23 June 2020 contained in Schedule 3 of this consent.

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

5. Stability Assessment Report – Slip Prone Land

A Stability Assessment Report from a professional Engineer experienced in Geotechnical Science is to be provided to the Principal Certifying Authority, prepared in accordance with accordance with Appendix C of the Australian Geomechanics Society (AGS) "Practise Note Guidelines for Landslide Risk Assessment" March 2007 demonstrating risk level to the site and its surrounds in relation to landslide "before, during and completion of the development" will be undertaken to confirm the risk level is low or better.

6. Geotechnical Report required – Building Works

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

7. Dilapidation Reports required

Prior to the commencement of any excavation works requiring rock drilling, blasting or breaking, a pre-construction Dilapidation Report by a Chartered Structural Engineer is to be submitted to Council detailing the current condition of all adjoining buildings, infrastructure and roads.

8. Geotechnical Report required – Engineering Works

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

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

9. Plans of retaining walls and drainage

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

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

10. On-site stormwater detention 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 to kerb and gutter at the street frontage via a kerb adaptor in accordance with Councils Standard Drawing R-08.

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) Minimum 7kL OSD;
- b) All inlet pits in the driveway must be fitted with a GPT;
- c) Detailed design of the proposed concrete Vee drain;
- d) 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
- e) 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.

11. 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 (residential areas)

A driveway(s) in accordance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

Any driveway being made redundant with the construction of the new driveway must be removed and replaced with kerb & gutter and grass verge to match the existing.

12. Traffic Control Plan

Consent from Council must be obtained for a Traffic Control Plan pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction. The traffic control plan is to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control

Devices for Works on Roads’.

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

The traffic control plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

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

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

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

- a) 4 parking spaces;
- b) convert the proposed visitors parking into a turnaround area;
- c) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- d) site conditions affecting the access;
- e) existing and design levels;
- f) longitudinal section from the road centreline to the car space(s);
- g) cross sections every 15 metres;
- h) drainage details;
- i) turning paths; and
- j) line marking and signage for the turnaround area..

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".

14. Water and Sewerage - Section 68 approval required

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

15. Building Height – Surveyor Certificate

Prior to the issue of a Construction Certificate, a certificate from a registered surveyor must be submitted to the Principal Certifying Authority confirming the maximum height of the proposed building is no greater than 9m above ground level (existing). A Construction Certificate must not be issued unless the maximum height of the proposed building is no greater than 9m above ground level (existing).

Note: ground level (existing) means the existing level of a site at any point.

16. Construction/Vibration Management Plan

A Construction / Vibration Management Plan (CVMP) must be submitted to Council for approval prior to the issue of the construction certificate for building works. The CVMP must detail the methods that will be implemented for the whole project and:

- a) be prepared by a suitably qualified professional;
- b) have regard to Geotechnical Report prepared by Pacific Geotech Ref: PG-2896 dated December 2019;
- c) contain details of measures to be undertaken to ensure that construction works do not result in any off-site impacts, including those that could interfere with neighbourhood amenity by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise;
- d) have regard to the Site Waste Minimisation and Management Plan that details the management of building wastes created as a result of the construction including on-site storage and disposal of building wastes; and
- e) include details of complaints handling process.

17. **Vegetation Management Plan**

A Vegetation Management Plan must be prepared in accordance with the attached *Guidelines for Preparing a Vegetation Management Plan* and the plan submitted to and approved by Council. This plan must detail protection and compensation measures proposed to retain and improve the area of identified littoral rainforest on the site.

The plan must

- a. illustrate on a map of a suitable scale (1:200 or better) the accurate extent of approved asset protection zones on the subject site.
- b. Illustrate on a map of a suitable scale (1:200 or better) trees to be removed and retained. The map must illustrate tree locations and indicate Tree Protection Zones for trees to be retained as per the Australian Standards 2009.
- c. detail the methodology for habitat restoration and specify the use of qualified and experienced bush regenerators only. Areas outside the approved development footprint and APZs must be restored or replanted.
- d. specify that planting and/or restoration works will commence immediately upon approval of the Management Plan.
- e. include lists of locally occurring native tree, shrub and ground cover plant species suitable for planting as part of the ecological restoration program and site landscaping. Species to be planted in the rear yard of the property to be predominantly endemic to a littoral rainforest.
- f. Include a list of environmental weed species present on the site and the proposed methodology to manage them. This list must be reproduced in separate form to inform individual community members when establishing plantings about future dwellings and detailing the threats posed by environmental weeds to local vegetation communities.
- g. Provide and implement strategies to decrease the likelihood of bird strike against windows of buildings including monitoring of effectiveness.
- h. The plan to include as a minimum two stages being Stage 1 Plantings Completed prior to Occupation of the dwellings and Stage 2 Ongoing Management Works post occupation of the dwellings.

18. **No tree removal prior to CC**

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

19. **Retained Trees**

All trees to be retained in accordance with this development consent must be illustrated on

any and all relevant Construction Plans, along with their Tree Protection Zones formulated in accordance with AS 4970-2009 – *Protection of Trees on Development Sites*.

20. Care to be taken when placing services near trees

To minimise root disturbance where services are to be laid in close proximity to trees, any excavation within the Tree Protection Zone (TPZ) for installation of underground services is to be done by directional drilling or in manually excavated trenches in accordance with Section 4.5.5 of AS4970-2009. Works must be conducted under the supervision of the project arborist (minimum AQF level 5 qualified arborist), and may include the use of pneumatic or hydraulic tools such as air knives.

21. Water service and meter to be connected to each dual occupancy

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.

22. Certificate of Compliance – Water Management Act 2000

A Certificate of Compliance will be issued upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous Water Development Servicing Plans.

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

Note: Copies of the application forms for Certificates of Compliance are available on Council's website http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf or from Council's Administration Office. Copies of Byron Shire Council's Development Servicing Plans are available at Council's Administration Office.

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, Water on 02 6626 7081. Applicable charges can be found on Council's website:

<http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>

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

23. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. 1040813M, dated 3 October 2019.

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

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

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

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

24. Long Service Levy to be paid

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

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

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

25. 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 or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

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

26. Bond required to guarantee against damage to public land

A bond of \$3000 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development, together with payment of an asset inspection fee in accordance with Council's fees and charges. Evidence is to be provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets.

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

27. Details of pool fence required

The application for a Construction Certificate is to include plans and specifications that indicate the details of the fence around the swimming pool in accordance with the Swimming Pools Act 1992 and AS1926.1.

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

28. Water and Sewerage - Section 68 Part B approval (where required)

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

29. Site Waste Minimisation and Management

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

30. Tree Removal

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

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

31. Erosion and Sediment Control Management Plan required

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

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

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

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

32. Toilet facilities

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

33. 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

34. Construction times

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

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

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

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

35. 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.

36. Construction/Vibration Management Plan required

Construction works must be in accordance with the approved Construction / Vibration Management Plan. The applicant is required to ensure that the construction management and all construction staff must be made aware of their responsibility to abide by the plan. A copy of the plan must be located in a prominent position on site at all times.

37. 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.

38. 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 construction management plans.

39. 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

40. 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.

41. Fill to be retained on the subject land

Fill material must not encroach onto any adjoining land.

42. 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.

43. 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.

Please note the Byron Resource Recovery Centre can not accept asbestos. You will need to arrange disposal at an alternate landfill site.

44. 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.

45. Stormwater drainage work

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

46. Demolition

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

47. Removal of demolition and other wastes

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

48. Aboriginal Relics

If any Aboriginal archaeological relics or items are exposed during construction works, the Applicant shall:

- a. immediately cease works;
- b. notify the NSW National Parks and Wildlife Service (NPWS);

- c. obtain any necessary permits and/or approvals to continue the work under the National Parks and Wildlife Act 1974.

The Applicant shall comply with any further request made by the NPWS to cease work for the purposes of archaeological assessment and recording.

49. Trees to be retained and protected

Trees to be retained are to be protected by a Tree Protection Zone (TPZ) exclusion fence. The fence is to be constructed in accordance with the Protective Fencing Plan included in the submitted arborist report prepared by Northern Tree Care and dated 11th November 2019. The fence must comply with Sections 3.2 and 4.3 of AS4970-2009 Protection of trees on development sites (Standards Australia 2009). The fence must:

- a) have a minimum height of 1.8 metres;
- b) be constructed of wire mesh panels, plywood, steel star pickets or similar, with a maximum distance of 2metres between star pickets;
- c) have a minimum of 3 strands of steel wire or similar;
- d) have high visibility barrier mesh (eg orange), shade cloth or similar, attached to the outside of the fence and continuing around its perimeter;
- e) include at least one Tree Protection Zone (TPZ) sign in accordance with Section 4.4 of AS4970-2009.

Activities that are excluded within the TPZ (as per section 4.2 of AS4970-2009) include excavation, construction activity, grade changes, surface treatment and storage of material. If these activities are required within the TPZ they may only occur under the supervision of the project arborist (minimum AQF level 5 qualified arborist).

The Tree Protection Zone (TPZ) exclusion fence is to be maintained for the duration of the site clearing, preparation, construction and landscaping works.

50. Protection of Native Trees

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

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

51. 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.

52. Plumbing Works

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

53. Building Height – Final Certification

Prior to the issue of an Occupation Certificate, a certificate from a registered surveyor must be submitted to the Principal Certifying Authority confirming the maximum height of the building is no greater than 9m above ground level (existing). An Occupation Certificate must not be issued unless the maximum height of the building is no greater than 9m above ground level (existing).

Note: ground level (existing) means the existing level of a site at any point.

54. Asbestos Clearance Certificate

An Asbestos Clearance Certificate demonstrating that all ACM have been removed from the site must be provided to the PCA prior to the issue of an Occupation Certificate for the buildings. The Asbestos Clearance Certificate must be prepared by an accredited Asbestos Assessor in accordance with Safe Work NSW requirements.

55. Dilapidation Reports required

A 'Dilapidation Report' is to be prepared by a 'chartered structural engineer' detailing whether the works created any structural damage to adjoining buildings, infrastructure and roads. The report is to compare the post-construction dilapidation report with the pre-construction dilapidation report and have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure or roads. A copy of the report is to be provided to Council.

(NB Any damaged to surrounding property or Council infrastructure to be rectified if required.)

56. Completion of Vegetation Management Plan works

Prior to the issue of an Occupation Certificate, a report from a qualified and experienced ecologist and/or Bush Regenerator to demonstrate that all works required by the approved Vegetation Management Plan (VMP) for the site have been completed and that all performance criteria have been met, must be submitted and approved by Council and any private certifier.

57. Access to be completed

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

58. Internal driveway in accordance with approved plans

Internal driveway and turnaround area are to be constructed from the property boundary in accordance with the approved plans.

59. On-site Stormwater Detention – Certification of works

All stormwater drainage works, including on-site stormwater detention works, GPT and Vee drain 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](#).

60. Stability Certification – Slip Prone Land

Certification from a professional Engineer experienced in Geotechnical Science is to be

provided to the Principal Certifying Authority, certifying that the works has been undertaken in accordance with the approved plans and confirms that the risk level is low or better in accordance with Appendix C of the Australian Geomechanics Society (AGS) "Practise Note Guidelines for Landslide Risk Assessment" March 2007.

61. Section 88B Instrument

A Section 88B Instrument and one (1) copy are to be submitted and endorsed prior to the issue of the final occupation certificate. The accompanying Section 88B Instrument is to provide for:

a) Drainage Easements

The creation of easements for drainage of water, with a minimum width of 1.5 metres, over the proposed Vee drain as shown on Odyssey Consulting Group drawing SK-04 Rev A dated 13/9/19. The easement shall be in favour of Lot 422 DP729062.

62. Swimming pool fencing

Swimming pool fencing is to comply with the requirements of the Swimming Pools Act 1992 and Regulations.

63. Swimming pool backwash

Pool backwash to be connected to a sewer overflow relief gully.

64. Compliance with bushfire conditions

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

The following conditions are to be complied with at all times

65. Vehicles to enter/leave in a forward direction

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

66. Limited Tree Removal

Removal of existing native trees from the site is limited to those expressly permitted by this development consent as marked on stamped plans. All other trees and native plants within the site are to be retained and protected.

67. Protection of Native Trees

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

68. Protection of native fauna from disturbance

- a) Any clearing of native vegetation and/or earthworks must not commence until the area proposed for clearing has been inspected for the presence of all fauna species using the site by a suitably qualified and experienced individual;
- b) Should fauna be present at the time of proposed clearing, relevant fauna spotter/catcher protocols must be followed to prevent injury to wildlife;

- c) Any injured wildlife must be taken to a local wildlife vet for treatment.
- d) Approval to proceed with the clearing of vegetation in accordance with this section is only valid for the day on which the inspection has been undertaken.
- e) The individual referred to in (ii) above, or a nominated representative, must remain on site during any approved clearing of vegetation.

69. 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.

70. Window screening

To minimize the risk of bird strikes, measures to prevent the reflection of sky and adjacent vegetation on windows must be retained in perpetuity.

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

Upon completion of the works authorized by this development consent, all remaining 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.

72. 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.

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

73. 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.

74. Swimming pool pump location

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

75. Pool heat water pumps and filters

Pool pumps must not be operated before 8am or after 8pm on any Saturday, Sunday or public holiday, or before 7am or after 8pm on any other day.

76. Swimming Pool Fencing

Swimming pool fencing is to comply with the requirements of the Swimming Pool Act 1992 and Regulations at all times.

SCHEDULE 3. PRESCRIBED CONDITIONS

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

- Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- Clause 98A Erection of signs
- Clause 98B Notification of Home Building Act 1989 requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Condition relating to maximum capacity signage
- Clause 98E Condition relating to shoring and adequacy of adjoining property

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

SCHEDULE 4. RURAL FIRE SERVICE – INTEGRATED DEVELOPMENT CONDITIONS

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted in accordance with section 4.14 of the Environmental Planning and Assessment Act 1979, approval is issued subject to the following conditions:



NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (CNR-3506) 10.2019.643.1
Our reference: DA20200604001963-Original-1

ATTENTION: Rebecca Mercer

Date: Tuesday 23 June 2020

Dear Sir/Madam,

Development Application
s4.14 – Multiple Dwelling – Dual Occupancy
11 BROWNELL DRIVE BYRON BAY NSW 2481 AUS, 6//DP251131

I refer to your correspondence dated 29/05/2020 seeking advice regarding bush fire protection for the above Development Application in accordance with section 4.14 of the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended 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, the property around the dual occupancy to the northern, southern and western boundaries and for a distance of 5 metres to the east shall be managed as an inner protection area (IPA). The IPA must comprise:

- Minimal fine fuel at ground level;
- Grass mowed or grazed;
- Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- Trees and shrubs located far enough from buildings so that they will not ignite the building;
- Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- Minimal plant species that keep dead material or drop large quantities of ground fuel;
- Tree canopy cover not more than 15%;
- Tree canopies not located within 2 metres of the building;
- Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and,
- Lower limbs of trees removed up to a height of 2 metres above the ground.

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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

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. The entire roof and the northern, southern and eastern elevations shall comply with section 3 and section 7 (BAL 29) Australian Standard "AS3959-2009 Construction of buildings in bush fire-prone areas" or NASH Standard (1.7.14 updated) "National Standard Steel Framed Construction in Bushfire Areas – 2014" as appropriate and section A3.7 "Addendum Appendix 3 of Planning for Bush Fire Protection 2006".
3. The western elevation shall comply with section 3 and section 6 (BAL 19) Australian Standard "AS3959-2009 Construction of buildings in bush fire-prone areas" or NASH Standard (1.7.14 updated) "National Standard Steel Framed Construction in Bushfire Areas – 2014" as appropriate and section A3.7 "Addendum Appendix 3 of Planning for Bush Fire Protection 2006".

Water and Utility Services

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

4. Water, electricity and gas must comply with the following:
 - All aboveground water pipes external to the building must be metal including and up to any taps/outlets/fittings.
 - Electrical transmission lines should be located underground where possible. Overhead electricity lines must have short pole spacing (i.e. 30 metres) except where crossing gullies, gorges or riparian areas. No tree may be closer to an electricity line than the distance set out in in ISSC3 Guideline for Managing Vegetation Near Power Lines.
 - Gas must be installed and maintained as set out in the relevant standard and all pipes external to the building must be metal including and up to any taps/outlets/fittings. Polymer-sheathed flexible gas supply lines must not be used.

Landscaping Assessment

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

5. Landscaping within the required inner protection area shall comply with following principles of Appendix 5 of 'Planning for Bush Fire Protection 2006':
 - Suitable impervious areas are provided immediately surrounding the building such as courtyards, paths and driveways.
 - Grassed areas, mowed lawns or ground cover plantings are provided in close proximity to the building.
 - Planting is limited in the immediate vicinity of the building.
 - Planting does not provide a continuous canopy to the building (i.e. trees or shrubs should be isolated or located in small clusters).
 - Landscape species are chosen in consideration needs of the estimated size of the plant at maturity.
 - Species are avoided that have rough fibrous bark, or which keep/shed bark in long strips or retain dead material in their canopies.
 - Smooth bark species of tree are chosen which generally do not carry a fire up the bark into the crown.
 - Planting of deciduous species is avoided which may increase fuel at surface/ ground level (i.e. leaf litter).
 - Climbing species are avoided to walls and pergolas.
 - Combustible materials such as woodchips/mulch and flammable fuel are stored away from the building.
 - Combustible structures such as garden sheds, pergolas and materials such as timber garden furniture are located away from the building.
 - Low flammability vegetation species are used.

General Advice – Consent Authority to Note

The recommendations are based on the plans prepared by Shaun Lockyer Architects Pty Ltd, titled '11 Brownell Drive Byron Bay, NSW', dated 29 October 2019 and the 'Bush Fire Assessment Report' prepared by Bushfire Certifiers dated 14 November 2019 (Revision B).

For any queries regarding this correspondence, please contact Neil Pengilly on 1300 NSW RFS.

Yours sincerely,

Alan Bawden
Team Leader, Dev. Assessment & Planning
Planning and Environment Services

SCHEDULE 5. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

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

Statement of Reasons

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

How community views were addressed

The DA was advertised in accordance with Development Control Plan 2014. The submissions received were considered on merit and addressed during assessment of the application.

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

SCHEDULE 6. NOTES

Construction Certificate required:

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

Principal Certifying Authority:

Work must not commence until the applicant has:-

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

Occupation Certificate required:

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

Protection of the Environment Operations Act 1997:

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

SCHEDULE 6. NOTES

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.

Swimming pool discharge (reticulated systems)

Swimming pool waste - irrespective of the filtering system is to be disposed into the property's house drainage - sewerage system via an overflow relief gully with a 100mm visible air gap in accordance with AS/NZS 3500.2, Section 10.9 & Figure 10.2.

This activity is now an exempt activity and does not require approval under Section 68 of the Local Government Act.

If however, site conditions prevent discharge through the existing gully and a new gully is required, this activity will require an approval under S68 before this work can commence.

Note also that this activity must be carried out by a licensed plumber.

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	0.60 ET
Bulk Water	0.60 ET

SCHEDULE 6. NOTES

Sewer	1.00 ET
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NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>). 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.

Schedule of Development Contributions

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

Section 7.11 contributions Schedule for Byron Bay Suffolk Park Catchment						
This schedule was calculated in spreadsheet #E2018/73086						
1 bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		0	@	0.75 SDU	=	0
3 bedroom units/dwellings =		2	@	1 SDU	=	2
Allotments =		0	@	1	=	0
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	1
Schedule valid until		31/07/2020		After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-BB)	1.00	SDU @	\$ 4,255.12	=	\$ 4,255.12
LGA Wide Open Space & Recreation	(OS-SW)	1.00	SDU @	\$ 765.88	=	\$ 765.88
LGA wide Community Facilities	(CF-SW)	1.00	SDU @	\$ 1,121.71	=	\$ 1,121.71
Local Community Facilities	(CF-BB)	1.00	SDU @	\$ 1,263.98	=	\$ 1,263.98
Bikeways & Footpaths	(CW-BB)	1.00	SDU @	\$ 1,401.26	=	\$ 1,401.26
Shire Wide Bikeways & Footpaths	(CW-SW)	1.00	SDU @	\$ 82.28	=	\$ 82.28
Urban Roads	(R-BB)	1.00	SDU @	\$ 3,064.66	=	\$ 3,064.66
LGA Wide Roads	(R-SW)	1.00	SDU @	\$ 231.75	=	\$ 231.75
Rural Roads	#NA	1.00	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	1.00	SDU @	\$ 1,158.46	=	\$ 1,158.46
Total					=	\$ 13,345.10