

RECOMMENDED MODIFICATIONS:

- A. Modify the Description of Development in the Notice of Determination to read as follows:
- “Alterations and Additions to Dual Occupancy (Attached) Including Use of Existing Built Works”**
- B. Delete all conditions of consent numbered 1–38 in Schedule 1 of the Notice of Determination and replace with the conditions detailed below:

SCHEDULE 1. CONDITIONS OF CONSENT

Parameters of consent

1. Approved plans and supporting documentation

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

Plan No.	Plan Title	Drawn by	Dated
CC01.00	Site Plan	KYMA Design Studio	August 2022
CC02.00	Ground Floor Plan	KYMA Design Studio	August 2022
CC03.00	First Floor Plan	KYMA Design Studio	August 2022
CC04.00	Roof Plan	KYMA Design Studio	August 2022
CC05.00	Elevations: West, North, South	KYMA Design Studio	August 2022
CC06.00	North Elevation, Sections A-A, B-B	KYMA Design Studio	August 2022
CC07.00	Stormwater Plan	KYMA Design Studio	August 2022
809-001-ASS	Acid Sulfate Soil Management Plan	Australian Soil and Concrete Testing	14 July 2016

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. Limit of consent

The proposed shed near the Peter Street boundary is not approved under this development consent, and is to be removed in accordance with Condition 16.

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.

The following conditions are to be complied with prior to the commencement of any demolition works or any works associated with the driveway or parking area

4. Erosion and Sediment measures

Erosion and sedimentation controls are to be in place in accordance with the Guidelines for Erosion & Sediment Control on Building Sites. A copy may be downloaded from Council's web site. Particular attention is to be given to the provision of the following sediment and erosion control measures:

- a) Temporary driveway from the edge of road to the building site;
- b) Temporary downpipes immediately installed after the roof has been erected;
- c) Silt fence or sediment barrier.

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

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

The following conditions are to be complied with during any demolition works, or any works associated with the establishment of the driveway or carparking area

5. Acid Sulfate Soil Management Plan

Any disturbed soils shall be treated, handled and stored in accordance with the approved Acid Sulfate Soils Management Plan no. 809-001-AAA by Australian Soil and Concrete Testing, dated 14 July 2016.

6. Hours of work

The principal certifier must ensure that work is only carried out between:

- 7am to 6pm on Monday to Friday.
- 8am to 1pm on Saturday.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

7. Construction Noise

While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A)

above background noise, when measured at any lot boundary of the property where the construction is being carried out.

8. 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.

9. Builders rubbish to be contained on site

All builder's 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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 \(2014\)](#).

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

15. Building Information Certificate

A Building Information Certificate (BIC) is required to be issued by Byron Shire Council for the alterations and additions to Unit 2 that were carried out before the issue of a construction certificate.

The applicant is to demonstrate to Councils satisfaction with evidence in the form of detailed reports and certification from suitably qualified and experienced professionals that the constructed work (including plumbing work) satisfies the relevant provisions of the National Construction Code.

A copy of the BIC must be provided to the Registered Certifier prior to the issue of any occupation certificate.

16. Existing shed to be removed

The existing shed located near the Peter Street boundary must be demolished and removed from the land prior to the issue of any occupation certificate or within 12 months of the date of this amended Notice of Determination, whichever comes first.

17. Developer Contributions to be paid

Contributions set out in the schedule at the end of this consent are to be paid to Council prior to the issue of any occupation certificate. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended).

The [Developer Contribution Plan](#) can be viewed online or using the Customer Kiosk 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.

Contact Council for payment options.

18. Certificate of Compliance – s307 Water Management Act 2000

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

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

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

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

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

19. Long Service Levy to be paid

In accordance with Section 6.8 of the Environmental Planning and Assessment Act 1979 (as amended), the 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) must be 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.

20. Consent required for Works within 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:

a) Driveway Upgrade

The existing driveway must be upgraded to comply with Council's current standards, in accordance with Council's Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings.

21. Use of flood compatible materials and services

Prior to the issue of any occupation certificate, written evidence from a suitably qualified person is to be provided to the Registered Certifier confirming that flood compatible materials and services have been used below the flood planning level in accordance with the requirements of Council's Development Control Plan 2014 – Chapter C2 – Areas Affected by Flood.

22. Access and parking areas to be completed.

Prior to the issue of any occupation certificate, written evidence shall be provided to the Registered Certifier from a suitably qualified engineer certifying that the carparking area and driveway have been constructed in accordance with:

- (a) the approved plans and conditions of consent, and
- (b) the Roads Act consent required under Condition 45, and
- (c) AS 2890.1: 2004 Parking Facilities – Off-Street Carparking.

The internal access and parking areas are to be constructed using an all-weather surface such as asphalt, bitumen seal, concrete, pavers or suitably designed permeable pavement.

23. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. A443455_04, dated Tuesday, 31, May 2022. The Registered Certifier must be satisfied that the commitments indicated in the BASIX certificate have been installed and/or implemented prior to the issue of any occupation certificate.

24. Certification of stormwater drainage work

Written evidence must be provided to the Registered Certifier from a suitably qualified engineer confirming that all stormwater drainage for the development has been conveyed by a gravity system to the open drain within the drainage easement at the rear of the site.

The engineer must also confirm that the stormwater drainage system has been constructed in accordance with the requirements of Council's Development Control Plan 2014, Stormwater Guideline and Local Approvals Policy.

25. Floor Levels – Certification for Flooding

The Flood Planning Level for this development is R.L.3.63m AHD. Prior to the issue of any Occupation Certificate, a certificate from a registered surveyor must be submitted to the Registered Certifier confirming the height of habitable and non-habitable floors. An Occupation Certificate must not be issued unless the as-built floor levels are equal to the floor levels identified on the approved plans. A copy of the floor level certification from the registered surveyor must also be submitted to Council for the attention of Council's Drainage and Flood Engineer.

26. 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 Occupation Certificate."

27. Works to be completed prior to issue of an 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 an 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.

The following conditions are to be complied with at all times

28. Car Parking to be available for the approved use

At least one (1) hardstand parking space, together with driveway access, must be provided and maintained at all times.

SCHEDULE 2. PRESCRIBED CONDITIONS

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

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

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

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

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

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

How community views were addressed

The DA was notified/advertised in accordance with Council's Community Participation Plan. No submissions were received.

SCHEDULE 4. NOTES

Developer contributions

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						
Ocean Shores						
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 =		1	@	1 SDU	=	1
Allotments =		0	@	1	=	0
Less Site Credits =		0.75	@	-1	=	-0.75
Total SDU					=	0.25
Schedule valid until		28 Jul 2022	After this date contact Council for CPI update.			
Local Open Space & Recreation	(OS-OS)	0.25	SDU @	\$ 1,864.34	=	\$ 466.09
LGA Wide Open Space & Recreation	(OS-SW)	0.25	SDU @	\$ 806.98	=	\$ 201.75
LGA wide Community Facilities	(CF-SW)	0.25	SDU @	\$ 1,181.91	=	\$ 295.48
Local Community Facilities	(CF-OS)	0.25	SDU @	\$ 1,609.67	=	\$ 402.42
Bikeways & Footpaths	(CW-OS)	0.25	SDU @	\$ 508.31	=	\$ 127.08
Shire Wide Bikeways & Footpaths	(CW-SW)	0.25	SDU @	\$ 86.70	=	\$ 21.68
Urban Roads	(R-OS)	0.25	SDU @	\$ -	=	\$ -
LGA Wide Roads	(R-SW)	0.25	SDU @	\$ 244.19	=	\$ 61.05
Rural Roads	#N/A	0.25	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	0.25	SDU @	\$ 1,220.62	=	\$ 305.16
Total						\$ 1,880.71

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	0.20 ET
Bulk Water	0.20 ET

Sewer	0.25 ET
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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.

Principal Certifying Authority:

Work must not commence until the applicant has:

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

Occupation Certificate required:

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

Protection of the Environment Operations Act 1997:

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

Penalties apply for failure to comply with development consents

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

Plumbing Standards and requirements.

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

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).