

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:
Sheet 1 of 2	Floor Plan, Elevations South, West, East, Section	PJ	29.10.2018
Sheet 2 of 2	Site Plan, Elevation North	PJ	1.11.2018
-	Site Waste Management Plan	-	-

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

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

2. **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:
- Inform the neighbouring property owner immediately.
 - Engage a structural engineer to determine any remedial works that may need to be undertaken.
 - Preserve and protect the adjoining building from damage.
 - If necessary, underpin and support the building in an approved manner.

3. **Conditions prescribed by the Regulation**
This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in **Schedule 3** of this consent.

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

The development is approved subject to the following conditions:

Asset Protection Zones

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel and other assisting fire-fighting activities. To achieve this, the following conditions shall apply.

1. From the start of building works, the property around the secondary dwelling must be managed as follows:

- An inner protection area (IPA) for a distance of 20 metres or to the property boundary.

The IPA must comprise:

- Minimal fine fuel at ground level.
- Grass mowed or grazed.
- Tree 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 and window or doors.
- Minimal plant species that keep dead material or drop large quantities of ground fuel.
- Tree canopy cover not more than 15%.
- Tree separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building, and
- Lower limbs or trees removed up to a height of 2 metres above the ground.

The IPA shall be managed in accordance with an approved Vegetation and Fuel Management Plan (VFMP) as referred to in Condition 5 of this consent. All vegetation within the IPA identified for conservation in the VFMP is to be retained and managed in perpetuity.

Water and Utilities Services

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel and other assisting firefighting activities.

2. Any new or extension of existing water, electricity, and/or gas service must comply with table 7.4a of Planning for Bush Fire Protection 2019.

Construction Standards

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

3. New construction must comply with Section 3 and Section 7 (BAL-29).

Landscaping Assessment

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

4. Landscaping within the required inner protection area is to comply with the principles of Appendix 4 of 'Planning for Bush Fire Protection 2019'.

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

5. Vegetation and Fuel Management Plan

Prior to the issue of a Construction Certificate, a Vegetation and Fuel Management Plan (VFMP) must be prepared by the applicant and approved by Council.

The plan must:

- (1) Specify that all native vegetation on land identified on the Biodiversity Values Map will be retained in perpetuity, and will not be cleared, removed, pruned or damaged (including for the purposes of bush fire management).
- (2) Illustrate on maps of a suitable scale (1:200 or better) an Inner Protection Area (IPA) around the approved secondary dwelling for a distance of 20m or to the property boundary, whichever is shorter.
- (3) Detail a methodology for maintenance of the IPA, including:
 - (a) Minimal fine fuel at ground level.
 - (b) Grass mowed or grazed.
 - (c) Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area.
 - (d) Trees and shrubs located far enough from buildings so that they will not ignite the building.
 - (e) Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors.
 - (f) Minimal plant species that keep dead material or drop large quantities of ground fuel.
 - (g) Tree canopy cover not more than 15%.
 - (h) Tree canopies not located within 2 metres of the building.
 - (i) Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building.
 - (j) Lower limbs of trees removed up to a height of 2 metres above the ground.
 - (k) Indicate the location of compensatory plantings in plan and word form at the compensation ratio of 10 locally native tree/shrub plantings for every native tree/shrub removed within the IPA (excluding native vegetation on land identified on the Biodiversity Values Map which is to be retained in perpetuity).

6. 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.

7. **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 release of a construction certificate for the secondary dwelling. 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.

8. **Certificate of Compliance – s307 Water Management Act 2000**

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

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

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

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

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

Payment by Personal or Company Cheque will not be Accepted

9. **Water and Sewerage - Section 68 Part B approval**

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.

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.

10. **Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No. 1232545S, dated Tuesday, 17 August 2021.

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.

11. **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.

12. **No native vegetation removal prior to issue of construction certificate**

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

13. **Insect screening required**

The application for a Construction Certificate is to include plans and specifications that provide effective insect screening to all windows, doors and other openings to all parts of the development used for habitable purposes.

Such plans are to be approved as part of the Construction Certificate.

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

14. **Erosion and sediment measures**

Where erosion of soils or runoff of any substance is likely to occur, erosion and sedimentation controls are to be in place in accordance with the Guidelines for Erosion & Sediment Control on Building Sites. This may include stockpiled materials such as sand, etc.

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).

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

15. Protection of native vegetation

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.

16. 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 Sundays or public holidays.

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

17. 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.

18. 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.

19. 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.

20. **Fill to be retained on the subject land**

Fill material must not encroach onto any adjoining land.

21. **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.

22. **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.

23. **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.

24. **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.

25. **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 \(2014\)](#).

26. **Stormwater drainage work**

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

27. **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.

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

28. **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.
29. **New Street number (if required)**
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 with an appropriate plan showing dwellings/units approved for separate occupation and pedestrian access to each dwelling/unit from the public road servicing the development. The approved street number must be displayed in a prominent location near the approved main point of access prior to issue of any occupation certificate.
30. **Stormwater disposal**
Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:
 - a. Clear of buildings and infrastructure,
 - b. Clear of effluent disposal areas,
 - c. Not concentrated so as to cause soil erosion,
 - d. Not directly to a watercourse, and
 - e. Not onto adjoining land.
31. **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 Council's road/footpath reserve.

The following conditions are to be complied with at all times

32. **Vegetation and fuel management works**
Management of vegetation for bush fire protection purposes must only be carried out in accordance with the approved Vegetation and Fuel Management Plan (VFMP). All native vegetation must be retained and protected in perpetuity with the exception of

any vegetation subject to the bush fire protection measures specifically set out in the approved VFMP.

33. **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.

34. **Car parking to be available for the approved use**

Two (2) car parking spaces are to be provided and maintained for the principal dwelling, together with all necessary access driveways.

35. **No subdivision**

In accordance with clause 24 of the State Environmental Planning Policy (Affordable Rental Housing) 2009, subdivision of the subject land is not to occur.

36. **Use of dwelling houses**

The dwelling houses are not to be holiday let or used as tourist and visitor accommodation or as short-term rental accommodation.

37. **Relationship to Principal Dwelling**

The secondary dwelling must remain on the same lot as the principal dwelling.

38. **No more than the principal dwelling and secondary dwelling**

There must not be any dwelling on the land other than the principal dwelling and the secondary dwelling.

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 1988.
The proposed development complies with relevant State Environmental Planning Policies
The proposed development complies with relevant provisions of Development Control Plan 2010
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 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 public submissions were received.

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						
1bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		1	@	0.75 SDU	=	0.75
3 bedroom units/dwellings =		1	@	1 SDU	=	1
Allotments =		0	@	1	=	0
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	0.75
Schedule valid until		27-April-2022	After this date contact Council for CPI update.			
Local Open Space & Recreation	(OS-BB)	0.75	SDU @	\$ 4,407.34	=	\$ 3,305.51
LGA Wide Open Space & Recreation	(OS-SW)	0.75	SDU @	\$ 793.28	=	\$ 594.96
LGA wide Community Facilities	(CF-SW)	0.75	SDU @	\$ 1,161.84	=	\$ 871.38
Local Community Facilities	(CF-BB)	0.75	SDU @	\$ 1,309.20	=	\$ 981.90
Bikeways & Footpaths	(CW-BB)	0.75	SDU @	\$ 1,451.39	=	\$ 1,088.54
Shire Wide Bikeways & Footpaths	(CW-SW)	0.75	SDU @	\$ 85.22	=	\$ 63.92
Urban Roads	(R-BB)	0.75	SDU @	\$ 3,174.30	=	\$ 2,380.73
LGA Wide Roads	(R-SW)	0.75	SDU @	\$ 240.04	=	\$ 180.03
Rural Roads	#NA	0.75	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	0.75	SDU @	\$ 1,199.90	=	\$ 899.93
Total						\$ 10,366.90

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
Sewer	0.75 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.

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate

prior to works commencing. Application forms are available from the customer services counter or Council's website www.byron.nsw.gov.au

Principal Certifying Authority:

Work must not commence until the applicant has:-

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

Occupation Certificate required:

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

Protection of the Environment Operations Act 1997:

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

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.

Secondary dwellings

Approval of your Secondary Dwelling will be included in a register to provide accountability of the uptake of this affordable housing approach and to assist in any compliance action that may need to be taken in the circumstance that the dwellings are being used for tourism purposes rather than meeting the need for affordable housing (*Council Resolution No. 11-268*).

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).