

CONDITIONS OF CONSENT:

SCHEDULE 1. 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

This consent does not operate until Council is satisfied as to the following matter:

(a) Building Information Certificate required

A Building Information Certificate is required to be issued by Council for the Dual occupancy dwelling. Prior to issue of the Building Information Certificate the applicant is to demonstrate to Councils satisfaction with evidence in the form of detailed report/s from suitably qualified and experienced professionals the constructed works satisfies:

1. The following Performance Provisions of the Building Code of Australia and
2. Section B (Water Services) and Section C (Sanitary Plumbing and Drainage Services) of the Plumbing Code of Australia and
3. Any Environmental Consultants report for the installation and/ or upgrade of the wastewater system installed on the property and
4. Any recommended works identified in this report/s or identified by Council must be completed prior to issue of the Building Information Certificate;

Performance Requirement of the Building Code of Australia

P2.0.1 Application

P2.1.1 Structural stability and resistance to actions

P2.2.1 Surface water

P2.2.2 Weatherproofing

P2.2.3 Dampness

P2.3.2 Fire detection and early warning

P2.3.3 Heating appliances

P2.4.1 Wet areas

P2.4.2 Room heights

P2.4.3 Facilities

P2.4.4 Light

P2.4.5 Ventilation

NSW P2.6.1(a) Building Fabric & (b) Building Sealing

NSW P2.6.2 Services

NSW P3.10.5 Construction in Bush Fire Prone areas

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 97 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 28 day period expires.

SCHEDULE 2. CONDITIONS OF CONSENT

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

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:
Plan 2 Rev B	Site Plan	Newton Denny Chapelle	02.06.2020
Plan 3 Rev B	Floor Plan	Newton Denny Chapelle	02.06.2020
Plan 4 Rev B	Elevations	Newton Denny Chapelle	02.06.2020
	Site Evaluation Statement via a <i>Statutory Declaration</i>	<i>Lynetta Love (nee James) of 530 Lismore Road, Binna Burra 2479</i>	11 September 2020
Report no. 190638	<i>Statement of Environmental Effects: Proposed Dual Occupancy (Detached)</i>	<i>Newton Denny Chapelle</i>	<i>May 2020</i>

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:

- 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.

3. Bushfire safety measures

This land is identified as being designated bush fire prone land and under section 4.14 of the Act, 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 and must comply with the 'Grassland Deeming Provisions', Table 7.9a of the Planning for Bush Fire Protection 2019 (as amended) document.

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

4. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. 1105493S_03, dated 02 June 2020.

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.

5. Building materials and colours to be specified

The application for a Construction Certificate is to include plans and specifications that indicate the

proposed building materials and colours consistent with the provisions of Development Control Plan 2014 – Chapter D2.2.3 - Character and Visual Impact. Please note that colours must be non-reflective earth tone colours and that the use of white and near white colours is not permissible

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

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

The contributions 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.

8. Site Waste Minimisation and Management Plan

Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

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

9. Water and Sewerage - Section 68 approval required

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

10. On-site sewage management facility Section 68 approval required

An approval under Section 68 of the Local Government Act 1993 for on-site effluent disposal must be obtained from Council prior to issue of a Construction Certificate. Such approval must be issued after the date of this consent.

The application for Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters, which addresses the site specific design of sewage management in accordance with the requirements of the NSW Local Government Act, and Approvals Regulation and Guidelines approved by the Director General.

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

11. 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).

12. 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.

13. Rural House numbering

The Rural Address Number for this property is No.272. This number must be displayed at the main driveway entrance approved for your property, in accordance with the "Rural Property Address Guidelines"

14. 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.

(Note: Works are on a classified road and as such concurrence from Roads and Maritime Services will be required).

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 provide a sealed driveway from the edge of road seal to the property boundary complying with Roads and Maritime Services current standards.

15. 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.

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

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 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.

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. Inspection for on-site sewage management

All plumbing and drainage works is to be installed by a suitably qualified person. The plumber must adhere to the requirements of the NSW Code of Practice and AS/NZ 3500. The plumber is to arrange for the following inspections to be undertaken:

- a) Internal drainage prior to covering of the works.
- b) External drainage prior to the covering of works.
- c) Irrigation installation prior to the covering of works.
- d) Final

19. 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.

20. 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.

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. 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.

23. Muted bushland tones external finishes

To ensure the development is compatible with the surrounding environment, colours and finishes are

to be muted bushland tones. In this regard white, light or bright colours are not permissible.

24. 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

25. 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.

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 Interim or Final Occupation Certificate.”

27. On-site Sewage Management system must be completed

The on-site sewage management system is to be constructed in accordance with approved plans and in accordance with current specifications and standards. The system is not to be used and/or operated until a Council Officer has inspected the system and authorised its use.

28. Approval to Operate required

In accordance with the Local Government Act, an Approval to Operate the onsite sewage management system must be obtained from Council. Forms may be downloaded from Council's website with '<http://www.byron.nsw.gov.au/on-site-sewage>'.

29. 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.

30. 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.

31. Driveway Upgrade to be completed

The driveway upgrade is to be constructed in accordance with the approved plans and Roads Act

consent prior to the issue of any occupation certificate.

32. Internal Driveway to be Upgraded

The driveway access from the edge of the existing concrete driveway to the carport of the dual occupancy dwelling must be upgraded to provide a minimum 100mm compacted gravel pavement, prior to the issue of any occupation certificate.

The following conditions are to be complied with at all times

33. Approved use – Dual occupancy

Dual occupancy (detached) – Use of the development is approved for a Dual occupancy (detached). Any activity other than that defined as a Dual occupancy (detached) must not be carried out unless development consent is sought.

Note: *Dual occupancy (detached)* means “2 detached dwellings on one lot of land, but does not include a secondary dwelling”, and *dwelling* means “a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile”. The Dwelling house is not approved for use as a short term rental accommodation, tourist and visitor accommodation or to be “holiday let”.

34. Rain Water Supply

All rain water supply tanks are required to divert water from the first rainfall using a first flush or bypass device.

35. 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.

36. Must not interfere with the amenity of the neighbourhood

The use of the development must not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) Any complaints to Council about ‘offensive’ noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.
- b) Only clean and unpolluted water is permitted to be discharged to Councils’ stormwater drainage system or any waters.
- c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- d) All waste storage and sewage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- e) Goods deliveries shall be restricted to daytime operating hours.

SCHEDULE 3. PRESCRIBED CONDITIONS

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

- | | |
|------------|--|
| Clause 98 | Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 |
| Clause 98A | Erection of signs |
| Clause 98B | Notification of Home Building Act 1989 requirements |
| Clause 98E | Condition relating to shoring and adequacy of adjoining property |

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

SCHEDULE 4. 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 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 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 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.

SCHEDULE 5. 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.

Enclosed public places (smoke-free environment)

Environment Act 2000 and the Smoke-Free Environment Regulation 2000 and the guidelines in the Regulation for determining what an enclosed public place is. Enquiries may be directed to the NSW Department of Health. The legislation may be viewed on:

<http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>

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).

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.**

Updated Section 7.11 contributions Schedule for DA 10.2020.272.1						
Address 530 Lismore Road, Binna Burra						
Rural South Catchment						
This schedule was calculated in spreadsheet #E2018/73086						
1 bedroom units =	0	@	0.55 SDU	=	0	
2 bedroom units =	1	@	0.75 SDU	=	0.75	
3 bedroom units/dwellings =	1	@	1 SDU	=	1	
Number of allotments =	0	@	1	=	0	
Less Site Credits =	1	@	-1	=	-1	
Total SDU				=	0.75	
Schedule valid until		28/10/2020		After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-RS)	0.75	SDU @ \$ -	=	\$ -	
LGA Wide Open Space & Recreation	(OS-SW)	0.75	SDU @ \$ 765.88	=	\$ 574.41	
LGA wide Community Facilities	(CF-SW)	0.75	SDU @ \$ 1,121.71	=	\$ 841.28	
Local Community Facilities	(CF-RS)	0.75	SDU @ \$ -	=	\$ -	
Bikeways & Footpaths	#N/A	0.75	SDU @ \$ -	=	\$ -	
Shire Wide Bikeways & Footpaths	(CW-SW)	0.75	SDU @ \$ 82.28	=	\$ 61.71	
Urban Roads	#N/A	0.75	SDU @ \$ -	=	\$ -	
LGA Wide Roads	(R-SW)	0.75	SDU @ \$ 231.75	=	\$ 173.81	
Rural Roads	(R-RS)	0.75	SDU @ \$ 15,122.97	=	\$ 11,342.23	
Administration Levy	(OF-SW)	0.75	SDU @ \$ 1,158.46	=	\$ 868.85	
Total				=	\$ 13,862.29	

4. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

Has a Disclosure Statement been received in relation to this application	No
Have staff received a 'gift' from anyone involved in this application that needs to be disclosed. Where the answer is yes, the application is to be determined by the Director or Manager of the Planning, Development and Environment Division.	No

Provide Disclosure Statement register details here: Not applicable

5. ENDORSEMENT

Assessment Officer: Mr J R Vickers

Signature:

Date: **Select Date**

6. INSTRUMENT OF EXERCISE OF DELEGATED AUTHORITY

The application is determined in accordance with the above recommendation (amendments have been made where necessary) under delegated authority.

Name:

Position: *Choose a position*

Signature:

Determination Date: