

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:
DA.10 E	Site Plan	Rob Mills Architecture	10/9/2020
DA.11 E	Roof Plan	Rob Mills Architecture	10/9/2020
DA.12 E	Ground Floor Plan	Rob Mills Architecture	10/9/2020
DA.20 D	Elevations	Rob Mills Architecture	10/9/2020
DA.30 D	Sections	Rob Mills Architecture	10/9/2020
DA.62 D	3D Aerial	Rob Mills Architecture	10/9/2020
DA.63 D	3D Aerial 2	Rob Mills Architecture	10/9/2020
DA.51 C	Earthworks & Tree Removal	Rob Mills Architecture	10/9/2020

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. **Arborist report**

Works are to be undertaken in accordance with the submitted report entitled *Preliminary Arborist Report 37 Byron Street, New Brighton* prepared by TPZ Project Arborists and dated 10th September 2020.

3. **Landscape plan**

Works are to be undertaken in accordance with the submitted amended landscape design plan prepared by Acre and dated 14th September 2020.

4. **Bush fire 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 2006". The development is approved subject to the requirements of the Bushfire Risk Assessment dated 5 July 2020 prepared by Melanie Jackson of Bushfire Risk.

5. **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.

6. **Coastal Erosion**

The development must cease if at any time the coastal erosion escarpment comes within

50 metres of any building associated with this development. The buildings and works used in connection with the development must be removed immediately to an approved location by the owner of the land. The owner must return the landform of the subject land to the predevelopment state and suitably revegetate the land.

In this condition coastal erosion escarpment means the landward limit of erosion in the dune system caused by storm waves.

Note: at the end of a storm the escarpment may be nearly vertical; as it dries out, the escarpment slumps to a typical slope of 1 vertical to 1.5 horizontal.

7. 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 under provided in an additional Schedule further in this consent.

8. Development not to extend into or affect Crown Land

No activity may be undertaken on Crown land and Crown land may not be used for any purpose associated with the development. The development must not:

- encroach upon the Crown land,
- remove any vegetation from the Crown land,
- stockpile materials, equipment or machinery on the Crown land,
- use the Crown land for access purposes,
- direct stormwater discharges to the Crown land, or
- use the Crown land as an Asset Protection Zone.

9. Interception/ Penetration of Groundwater

The development is not to intercept or penetrate the groundwater at any time. No dewatering is approved as part of the development.

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

10. 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.

11. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. 1135493S, dated 11 September 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.

12. 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.

13. Bond required to guarantee against damage to public land

A bond of \$10,000 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.

14. 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.

15. Tree Removal

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

16. 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.

17. 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 supporting columns and screening structures are in accordance with the Flood Report with document number R.B23674.001.06 prepared by BMT Commercial Australia Pty Ltd. The design must ensure the following:-
 - Screening around the perimeter of the underside of the building including the underside of the swimming pool area must not impede the flow of floodwaters under the building and swimming pool area;
 - Structural components under the building must ensure free flow (no obstruction) of floodwater; and
 - Minor levelling on the immediate surrounds of the building and the underside of the building to prevent ponding under the building and swimming pool area.
- b) the design of the civil engineering works, including retaining walls has been assessed as structurally adequate,
- c) the civil engineering works will not be affected by landslip or subsidence either above or below the works; and
- d) adequate drainage has been provided.

18. **Sediment and Erosion Control Management Plan required**

The application for a Construction Certificate is to include plans and specifications that indicate the measures to be employed to control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as filter fences and sedimentation basins.

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".

19. **Stormwater Drainage – Infiltration Trench**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. The supporting Stormwater Management Plan prepared by Greg Alderson & Associates with Report no 19312-SWMP-F dated 16 September 2020 is not supported.

All stormwater drainage for the development must be conveyed by a gravity system to an infiltration trench or trenches complying with the requirements of Council's *Comprehensive Guidelines for Stormwater Management*.

The infiltration trench or trenches must be designed by a qualified practising Civil Engineer to fully infiltrate the 20 year ARI runoff from all impervious areas of the proposed development for all storm durations without surcharge onto neighbouring properties. 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.

As a minimum, the following parameters will effectively address the requirements of Council's DCP and Stormwater Comprehensive Guidelines:-

- a) Crate-box Infiltration trench;
- b) Infiltration trench with 300m² area and 0.4m depth must be provided at the discharge tank overflow located western section of the development;
- c) Infiltration trench with 150m² area and 0.4m depth must be provided to cater for the stormwater discharge coming from the ground level surface area located on the eastern section of the development;

- d) Minimum 1.0m separation of the underside of the infiltration trench and the highest recorded groundwater level in eiaustralia Geotechnical Investigation Report no E24137.G03 Trv6 dated 21 September 2020.

Such plans and specifications must be approved as part of the Construction Certificate and variations lesser than the minimum requirements will require approval from Council's Development Engineer.

20. **Access & Parking**

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. Plans are to include, but not be limited to, the following items:

- 1) The existing driveway traversing south, towards the proposed Building Location Envelope (BLE) and internal access of the development shall be upgraded to comply with the acceptable solutions of s.4.1.2 [2] – Property Access of NSW Planning for Bush Fire Protection 2006;
- 2) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment including suitably designed permeable pavements;
- 3) site conditions affecting the access;
- 4) existing and design levels; and
- 5) longitudinal section from the road centreline to the car space(s).

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".

21. **Flood Planning Level**

The flood planning level for this development is R.L. 3.61m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate the use of flood compatible materials and services below the flood planning level in accordance with the requirements of Council's Development Control Plan 2014 – Chapter C2 – Areas Affected by Flood.

22. **S.88E Public Positive Covenant to be placed on title – Coastal erosion**

Documentary evidence is to be provided to the Principal Certifying Authority that a public positive covenant, pursuant to the provisions of S.88E of the Conveyancing Act, 1919, has been placed on the title to the land, the subject of this consent, stating:-

The development granted via development consent number 10.2019.444.1 must cease if at any time the coastal erosion escarpment comes within 50 metres of the building subject of the consent. The development the subject of this consent must be demolished and removed immediately. Further the landowner must suitably revegetate the land.

In this covenant coastal erosion escarpment means the landward limit of erosion in the dune system caused by storm waves.

Please note: Documents requiring the endorsement of Council associated with the creation or cancellation of easements, restrictions, covenants are subject to fees listed within

23. **Interception or Penetration of Groundwater**
Interception or penetration of groundwater not permitted. Engineering plans, reports, details and specifications must demonstrate that all construction works are designed to avoid the interception or penetration of groundwater. Technical information must be provided to demonstrate that this condition has been met. All documentation must be assessed and approved prior to the issue of any construction certificate. No dewatering is permitted or approved.
24. **Earthworks and depth of footings are limited**
Earthworks and footings must be no deeper than 1.0m below natural ground level to avoid groundwater interception. Engineering plans, reports, details and specifications must demonstrate that all construction works are designed to limit development to this depth. Technical information must be provided to demonstrate that this condition has been met. Where required footings may need to be shallower to avoid the groundwater All documentation must be assessed and approved prior to the issue of any construction certificate.
25. **Technical reports in support of the development**
Technical reports must be provided in compliance with this consent. The information must demonstrate that conditions imposed upon this consent have been met. All submitted information must be to the satisfaction of Council Engineering and Environmental Teams. The information must be assessed and approved by Council prior to the issue of any construction certificate.
26. **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. In particular the facility is to include a tertiary treatment system (with total nitrogen removal of 87% and phosphorus removal of 84%) with a minimum disposal area in the form of a Wisconsin mound of 220m².
27. **Unexpected Findings Protocol - Contamination & Remediation**
An Unexpected Findings Protocol (UFP) shall be prepared and submitted to Council for approval prior to the issue of any construction certificate. The UFP must be prepared by a suitable qualified person experienced in matters relating to Contamination of Land and Remediation.
28. **Water and Sewerage - Section 68 Part B 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.
- 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->

Any new water service and meter will be at applicants cost.

29. **Noise Management Plan – Construction**

A Noise Management Plan must be submitted to Council for approval prior to the issue of the construction certificate for building works. The Noise Management Plan must be prepared by a suitably qualified acoustic practitioner and detail the methods that will be implemented for the whole project to minimise demolition and construction noise.

Information should include:

- a) identification of nearby residences and other sensitive land uses;
- b) assessment of expected noise impacts;
- c) detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts;
- d) strategies to promptly deal with and address noise complaints;
- e) details of performance evaluating procedures (for example, noise monitoring or checking work practices and equipment);
- f) procedures for notifying nearby residents of forthcoming works that are likely to produce noise impacts;
- g) reference to relevant consent conditions; and
- h) name and qualifications of person who prepared the report.

Note to EO: Refer to DECC's 'Interim Construction Noise Guideline' (2009) for more information (see <http://www.environment.nsw.gov.au/noise/constructnoise.htm>)

30. **Environmental Management Plan**

An Environmental Management Plan (EMP) must be submitted to Council for approval prior to construction works commencing. The EMP must be prepared by a suitably qualified professional and contain details of measures to be undertaken to ensure that demolition or construction works do not result in any off-site impacts that could interfere with neighbourhood amenity by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise.

All works must be in accordance with NSW WorkCover Authority.

31. **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

32. **Vegetation Management Plan**

A Vegetation Management Plan must be prepared in accordance with the Byron Shire Council Guidelines for preparing a Vegetation Management Plan (VMP) or Biodiversity Conservation Management Plan (BCMP) and the plan submitted to and approved by Council. Such plan must detail ecological restoration works for the coastal floodplain

swamp sclerophyll forest community in the western half of the site.

The plan must:

- a. illustrate on maps of a suitable scale (1:200 or better) the accurate extent of approved asset protection zones on the subject site.
- b. detail the methodology for ecological restoration and specify the use of qualified and experienced bush regenerators only. Areas outside the approved development footprint and APZs must be restored.
- c. specify that planting and/or restoration works will commence immediately upon approval of the Management Plan.
- d. include an action to remove all built structures, waste and non-native vegetation planted within the disused nursery area in the west of the site.

33. **No Tree Removal prior to CC**

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

34. **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 Sections 3.2 and 4.3 of AS4970-2009 Protection of trees on development sites (Standards Australia 2009). The fence must:

- a) Be located outside the dripline of the tree so as to minimise disturbance to tree roots;
- b) have a minimum height of 1.8 metres;
- c) be constructed of wire mesh panels, plywood, steel star pickets or similar, with a maximum distance of 2metres between star pickets;
- d) have a minimum of 3 strands of steel wire or similar;
- e) have high visibility barrier mesh (eg orange), shade cloth or similar, attached to the outside of the fence and continuing around its perimeter;
- f) 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.

35. **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*.

36. **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.

37. **Landscaping**

All landscaping on any part of the site must accord with the requirement to plant only appropriate local native species as marked on the stamped plans.

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

38. **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.

39. **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.

40. **Development not to encroach into Coastal Wetland**

The development must not encroach at any time into the "Coastal Wetland" mapped under *State Environmental Planning Policy (Coastal Management) 2018*. The "Coastal Wetland" to the east of the existing north-south access driveway through the site must be accurately marked out on the site prior to any works commencing, and such marking must be maintained throughout the construction of the development until the issue of the Occupation Certificate to ensure that there is no encroachment.

Note: No encroachment of any development into the "Coastal Wetland" has been approved by Council because such encroachment would constitute designated development.

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

41. **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.

42. **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.

43. **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.

44. **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.

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

Fill material must not encroach onto any adjoining land.

46. **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.

47. **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.

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

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

49. **Stormwater drainage work**

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

50. **Removal of demolition and other wastes**

All wastes, including asbestos and lead-contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licenced Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with the NSW EPA Waste Classification Guidelines (2014) <https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines>

51. **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.

52. **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

53. **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.

54. **Removal of demolition and other wastes**

All wastes, including asbestos and lead-contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licenced Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with the NSW EPA Waste Classification Guidelines (2014) <https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines>

55. **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

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

56. 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 Council's road/footpath reserve.

57. 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."

58. 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.

59. Swimming pool fencing

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

60. Compliance with bush fire 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.

61. Internal driveway in accordance approved plans

A driveway is to be constructed in accordance with the approved plans.

62. Floor Levels – Certification for Flooding

Prior to the issue of any Occupation Certificate, a certificate from a registered surveyor must be submitted to the Principal Certifying Authority confirming the height of habitable and non-habitable floors. An Occupation Certificate must not be issued unless the floor levels are at or above the relevant flood planning levels. 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.

63. Stormwater drainage work

Stormwater drainage for the development must be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate.

64. 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.

65. 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>'.

66. Landscaping works to be completed

Landscaping is to be implemented in accordance with the approved Landscape Plan prior to issue of the occupation certificate for the development. A site meeting must be arranged with Council to determine satisfaction of this condition or alternatively a report must be provided from a qualified and experienced Landscape Architect/Ecologist/AABR-accredited Bush Regenerator.

The following conditions are to be complied with at all times

67. Approved use

Dwelling house – Use of the development is approved for a dwelling house. Any activity other than that defined as dwelling house must not be carried out unless development consent is sought.

Note. *dwelling house* means “a building containing only one 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 as short term rental accommodation, tourist and visitor accommodation or to be “holiday let”.

68. 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.

69. Pool backwash in rural areas

Pool water disposal and backwash is to be directed to a soakage trench located in such a location as to not cause any nuisance to adjoining properties or damage to any structures or impact on any land application areas for the on-site sewage management system.

70. 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.

71. **Swimming Pool Fencing**
Swimming pool fencing is to comply with the requirements of the Swimming Pool Act 1992 and Regulations at all times.
72. **Swimming pool health requirements**
The swimming pool water is to be re-circulated, filtered and disinfected in accordance with the requirements of Council and NSW Health. The swimming pool water is to be maintained at satisfactory levels of purity for bathing at all times.
73. **Interception of groundwater not permitted**
Interception of groundwater not permitted at any time.
74. **Dewatering is not permitted at any time**
Dewatering is not permitted on site at any time without prior approval from Council. This condition does not imply that subsequent approvals will be granted by Council.
75. **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.
76. **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.
77. **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.
78. **Ecological restoration works**
Ecological 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.
79. **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.
80. **Native vegetation is not permitted to be cleared under Schedule 5A and/or Division 5 of the Local Land Services Act 2013**
Clearing of native vegetation that would be authorised under Schedule 5A and Division 5 of the *Local Land Services Act 2013* (LLS Act) is not permitted to be carried out without development consent under part 4 of the *Environmental Planning and Assessment Act 1979*.

In accordance with the Objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Section 1.3(e) of that Act the purpose of this condition is “to protect the

environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats”.

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

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

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

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

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

81. **Window screening**

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

82. **External lighting**

To prevent impacts on nesting and sea-finding behaviour of adult turtles and hatchlings, no external lighting is permitted on the seaward side of the dwelling, with the exception of the pool area and pathway from the pool area to the dwelling. Lighting within the pool area and pathway must:

- a) Be installed as close as possible to the ground to minimize light spill and glow;
- b) Be directed only towards the pool and pathway;
- c) Be of the lowest intensity practicable;
- d) Avoid the use of white LED (unless filtered*), metal halide (unless filtered*), white fluorescent, halogen or mercury vapour light types

- * ‘Filtered’ means LEDs can be used only if a filter is applied to remove the short wavelength light.

SCHEDULE 2. 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](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 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 advertised in accordance with Council's Community Participation Plan. The submissions received were considered on merit and addressed during assessment of the application.

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

SCHEDULE 4. NOTES

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.

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).