



BSC File No: 271341D x 10.2023.404.1/#DD010.2023.00000404.001,PR271341,Contact: Lachlan Wall

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application No.	10.2023.404.1 PAN-383530
Applicant	Mr M Walker
Property	27 Tyagarah Road TYAGARAH LOT: 50 DP: 1291928
Development	Dwelling House, Secondary Dwelling and Swimming Pool
Determination	Approved Consent Authority - Council
Date of determination	16 April 2024
Date from which the consent operates	24 April 2024
Date on which the consent lapses	24 April 2029

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

Reason for conditions

The conditions imposed have been included in response to development considerations and to ensure a high standard of development having regard to the effect upon the environment and the amenity of the neighborhood.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

Signed on behalf of the Consent Authority



Lachlan Wall
Planner

CONDITIONS OF CONSENT

SCHEDULE 1. CONDITIONS OF CONSENT

Parameters of consent

1. Approved plans and supporting documentation

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

Plan No.	Plan Title	Drawn by	Dated
A.01.3 Rev B	Site Plan	Isabelle Menzes	17/11/2023
A.01.4 Rev B	Tree Removal and Demolition Plan	Isabelle Menzes	17/11/2023
A.01.5 Rev C	Principal Dwelling Ground Floor	Isabelle Menzes	17/11/2023
A.01.6 Rev C	Principal Dwelling Roof Plan	Isabelle Menzes	17/11/2023
A.01.7 Rev C	Principal Dwelling Elevations (E, S)	Isabelle Menzes	17/11/2023
A.01.8 Rev C	Principal Dwelling Elevations (W, N)	Isabelle Menzes	17/11/2023
A.01.9 Rev A	Secondary Dwelling Ground Floor	Isabelle Menzes	17/11/2023
A.01.10 Rev A	Secondary Dwelling Roof Plan	Isabelle Menzes	17/11/2023
A.01.11 Rev A	Secondary Dwelling Elevations (N, S)	Isabelle Menzes	17/11/2023
A.01.12 Rev A	Secondary Dwelling Elevations (E, W)	Isabelle Menzes	17/11/2023
A.01.13 Rev A	Secondary Dwelling Sections (1, 2)	Isabelle Menzes	17/11/2023
A.01.14 Rev A	Pool Section	Isabelle Menzes	17/11/2023
A.01.15 Rev A	Earthworks and Driveway Plan	Isabelle Menzes	17/11/2023
2307VIA2166	Bushfire Risk Assessment	Melanie Jackson	20/09/2023
AC539SE-01E02 Acoustic Modelling Assessment (r0)	27 Tyagarah Rd, Tyagarah Acoustic Assessment	Octave Acoustics	05.03.2024
A194 – Pacific Hwy Tyagarah – Road Noise Assessment (Rev 2)	<i>QDC MP 4.4 Road Traffic Noise Assessment, Pacific Highway Tyagarah NSW 2481</i>	Craig O'Sullivan	10.11.2017

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

2. **Payment of security deposits**

Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the certifier:

Security deposit	\$3000
Inspection fee	In accordance with the current fees and charges .

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property.

Note: The inspection fee includes Council's fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the *Roads Act 1993*). The amount payable must be in accordance with council's fees and charges at the payment date.

3. **Support for neighbouring buildings**

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

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

4. **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 a **Schedule** to this consent.

5. **Staged Development**

The development is to be carried out in the following stages:

Stage 1: Construction of principal dwelling, swimming pool and associated works.

Stage 2: Installation of secondary dwelling (being a moveable dwelling).

Where conditions are required to be satisfied prior to a particular event, those conditions are the conditions relevant to the works being carried out in the stage.

The relevant conditions are the conditions deemed necessary, by the Principal Certifying Authority (PCA) appointed for the development, or, where pursuant to the issue of a Construction Certificate, the relevant consent authority.

6. **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

7. Noise Mitigation

The proposed development is within proximity to the Pacific Motorway. The dwellings onsite are to be located, designed, and constructed in a manner which complies with the recommendations of the approved acoustic reports.

Interior sounds levels are to be in accordance with Australian Standard AS2107:2000 - Recommended design sound level and reverberation times for building interiors and Australian Standard AS3671 - 1989 - Acoustics - Road traffic noise intrusion - Building siting and construction.

The acoustic measures are to include air conditioning or mechanical ventilation that does not derate the acoustic integrity of the proposed dwelling.

8. 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 development complying with the requirements of the Bushfire Risk Assessment Report no. **2307VIA2166** by Melanie Jackson dated 20 September 2023.

The following conditions are to be complied with prior to issue of a Construction Certificate for building works in Stage 1

9. 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 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.

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.

11. Prior to installation of the manufactured home

A Section 68 approval under the *Local Government Act 1993* must be issued for the installation of the Manufactured Home. The manufactured home and any ancillary structures must be designed, constructed and installed in accordance with the requirements of Division 4 (clauses 133–136 excepted) of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021.

Plans detailing compliance shall be submitted for assessment with 55.2023.4047.1. A laundry must be installed to service the relocatable home. The laundry must be for the exclusive use of the occupants of the relocatable home.

12. 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.

13. 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".

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

- a) minimum 150mm compacted pavement, sealed for grades greater than 12%;
- b) site conditions affecting the access;
- c) existing and design levels;
- d) longitudinal and cross sections;
- e) turning paths;
- f) drainage details; and
- g) access requirements of any bushfire safety conditions.

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".

15. Construction site management plan

Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:

- location and materials for protective fencing and hoardings to the perimeter on the site
- provisions for public safety
- pedestrian and vehicular site access points and construction activity zones
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures
- location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

16. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. 1426115S dated 27 September 2023. 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.

17. 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.

18. Onsite Effluent Wastewater systems (Rural Swimming Pools)

The owner is responsible to ensure works do not conflict with the Onsite Wastewater System (Sewage Management Facility).

Details to be submitted with the Construction Certificate to demonstrate there is no conflict with both the disposal areas, plumbing and treatment/ storage/ septic tanks. Where required, a S68 Application is to be submitted to Council to relocate any system prior to the issue of the Construction Certificate.

19. 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.

20. Waste Management Plan

Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

a. Council's Waste Management Development Control Plan.

OR

b. details the following:

- the contact details of the person(s) removing the waste
- an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill
- the address of the disposal location(s) where the waste is to be taken

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

21. Tree Removal

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

22. 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.

23. Rainwater tanks - amendment to the plan required

Rural dwellings without reticulated water must have minimum domestic tank capacity to ensure that adequate water supply is available.

The plans submitted for approval of the Construction Certificate must be amended to demonstrate that the approved rural dwelling has a dedicated minimum domestic tank capacity of 40,000 litres, exclusive of any additional water storage required for firefighting purposes required by this development consent.

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

The following conditions are to be complied with prior to the installation of the moveable dwelling in Stage 2

24. Approval required for installation of moveable dwelling

An approval under Section 68 of the *Local Government Act 1993* must be obtained for the installation of the moveable dwelling in Stage 2. The moveable dwelling and any ancillary structures must be designed, constructed and installed in accordance with the requirements of Division 4 (clauses 133–136 excepted) of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021

25. Developer Contributions to be paid.

Contributions set out in the schedule in the Notes Section of this consent are to be paid to Council prior to the issue of any approval under Section 68 of the Local Government Act 1993 for the installation of a moveable dwelling, manufactured home, or associated structure.

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 as set out in the schedule may either be paid in full or they may be paid in stages on a proportional basis dependent on the number of lots to be released in the subdivision certificate. The first credit for a site will be retained on the residual lot. Any additional credits over one (1) will be allocated at the first stage(s).

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

26. Certificate of Compliance from Rous County Council– s307 Water Management Act 2000

Prior to the issue of any approval under Section 68 of the Local Government Act 1993 for the installation of a moveable dwelling, manufactured home, or associated structure, a Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained from Rous County Council confirming that all Developer Charges payable to Rous County Council have been provided to Rous County Council and all required water supply works have been completed. Where staging of the Construction Certificate occurs, a separate s307 Compliance Certificate must be obtained for each stage.

To obtain a Certificate of Compliance, please contact Rous County Council on 02 6623 3800. You will be required to provide your stamped approved plans for assessment of developer charges payable and any water supply works to be undertaken. Rous County Council will issue you an assessment letter with required payment instructions and works instructions (where applicable). Once payment received and works complete (where applicable) a Certificate of Compliance will be issued.

Note: *Rous County Council is the Water Supply provider for the location of the subject development. The applicant must organise the provision of a water service to the development with Rous County Council and provide a Certificate of Compliance from Rous County Council to this Council.*

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

27. Erosion and Sediment Control Management Plan to be implemented

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.

28. 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 or be a building and construction site portable chemical toilet.

Only one (1) such portable chemical toilet may be used during construction, should additional toilets be required during the construction they must be either:

- a. Connected to an accredited sewage management system approved by the Council. or
- b. Not installed or used until such time that approval under Section 68 of the Local Government Act 1993 is obtained for the installation of a human waste storage facility.

Note: The chemical toilet must be installed and serviced by a licensed contractor (including pump-outs)

29. Site Location

The location of the building on the site to be established by a suitably qualified Surveyor and must comply with this approval including any required setbacks to boundaries.

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

30. 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.

31. Hours of work

The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

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

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

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

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

32. Construction Noise

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

33. Implementation of BASIX commitments

While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

34. 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.

35. 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.

36. 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.

37. Removal of asbestos

All asbestos wastes associated with removal of the existing building 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.

38. 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.

39. 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.

40. 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.

41. 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 \(2014\)](#).

42. 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](#).

43. Aboriginal Relics

While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - a. relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - b. is of State or local heritage significance; and

- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

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

44. Noise Mitigation

Prior to the issue of any occupation certificate for the dwelling, an appropriately qualified acoustic consultant must provide documentary evidence to the Principle Certifying Authority to certify that the acoustic mitigation works for the dwelling have been completed in accordance with the Australian Standard AS2107:2000 - Recommended design sound level and reverberation times for building interiors and Australian Standard AS3671 - 1989 - Acoustics - Road traffic noise intrusion - Building siting and construction.

45. Compliance with Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021

The manufactured home and any ancillary structures must be designed, constructed and installed in accordance with the requirements of Division 4 (clauses 133–136 excepted) Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021.

An inspection of the completed development including ancillary structures, vehicular access, bushfire measures and landscaping must be undertaken by Council Building Services Team and a satisfactory inspection result must be issued before occupation and/or use of the manufactured home.

Note. Refer to S68 application number 55.202023.404.1 for certifications required to be provided to Council upon installation of the manufactured home.

46. Occupation of secondary dwelling

An occupation certificate for the principal dwelling must be obtained prior to the issue of an occupation certificate for the secondary dwelling.

47. Access and parking areas to be completed.

The access and parking areas are to be constructed in accordance with the approved plans and conditions of consent prior to the issue of an occupation certificate.

48. 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.

49. 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.

50. 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>'.

51. 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."

52. 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.

53. Swimming pool fencing

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

54. 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.

55. Site Location Survey

A final survey of the structures showing setbacks to boundaries to be submitted to the Private Certifier with the Occupation Certificate demonstrating compliance with the approved plans.

56. Works to be completed prior to issue of a Occupation Certificate

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development including approvals issued under the Local Government Act 1993 and the Roads Act 1993, are to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Councils road/footpath reserve.

The following conditions are to be complied with at all times

57. Use of the dwelling house

The principal dwelling and secondary dwelling must not be holiday let or used as tourist and visitor accommodation or as **short-term rental accommodation**.

58. Use of Secondary dwelling

The Secondary dwelling is not to be holiday let or used as tourist and visitor accommodation or as **short-term rental accommodation**.

59. Relationship to Principal Dwelling

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

60. 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.

61. Rainwater Supply

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

62. 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 in 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.

63. 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.

64. 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.

65. Swimming pool fencing

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

66. 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.

67. 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.

68. 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 2. PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 2, Subdivision 1 of the Environmental Planning and Assessment Regulation 2021 as at the date of this development consent as are of relevance to this development must be complied with:

- [69](#) Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- [70](#) Erection of signs
- [71](#) Notification of Home Building Act 1989 requirements
- [72](#) Entertainment venues
- [73](#) Maximum capacity signage
- [74](#) Condition relating to shoring and adequacy of adjoining property
- [75](#) Fulfilment of BASIX commitments

Refer to the [Environmental Planning and Assessment Regulation 2021](#), Division 2, Subdivision 1 of for full text of the above clauses. This can be accessed at <http://www.legislation.nsw.gov.au>.

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

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

Statement of Reasons

The proposed development complies with the provisions of Byron Local Environmental Plan 2014.

The proposed development complies with relevant State Environmental Planning Policies

The proposed development complies with relevant provisions of Development Control Plan 2014

The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.

The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.

The proposed development is considered suitable for the proposed site.

The development application was notified/advertised in accordance with Council's Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application.

The proposed development is unlikely to prejudice or compromise the public interest.

NOTES

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.

Section 7.11 contributions Schedule						
Rural North						
Catchment						
This schedule was calculated in spreadsheet #E2021/99005						
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
Allotments =		0	@	1	=	0
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	0.75
			No further indexation. Contributions are at the Ministerial cap.			
Local Open Space & Recreation	(OS-RN)	0.75	SDU @	\$ -	=	\$ -
LGA Wide Open Space & Recreation	(OS-SW)	0.75	SDU @	\$ 828.74	=	\$ 621.55
LGA wide Community Facilities	(CF-SW)	0.75	SDU @	\$ 1,213.78	=	\$ 910.33
Local Community Facilities	(CF-RN)	0.75	SDU @	\$ -	=	\$ -
Bikeways & Footpaths	#N/A	0.75	SDU @	\$ -	=	\$ -
Shire Wide Bikeways & Footpaths	(CW-SW)	0.75	SDU @	\$ 89.03	=	\$ 66.77
Urban Roads	#N/A	0.75	SDU @	\$ -	=	\$ -
LGA Wide Roads	(R-SW)	0.75	SDU @	\$ 250.77	=	\$ 188.08
Rural Roads	(R-RN)	0.75	SDU @	\$ 16,364.15	=	\$ 12,273.12
Administration Levy	(OF-SW)	0.75	SDU @	\$ 1,253.54	=	\$ 940.15
Total						\$ 15,000.00

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 for a Construction Certificate must be made online using the [NSW Planning Portal](#).

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).

Fire Ants

The importation of any of the following material from Queensland invasive ant biosecurity zones must be in accordance with the [Biosecurity \(Invasive Ant Carriers\) Control Order 2023](#) (including any revised orders made under the Biosecurity Act 2015) and meet the requirements of NSW Department of Primary Industries:

- organic mulch (which includes manure, bark, wood chips, hay, straw, silage, and sugar cane bagasse);
- baled materials;
- potted plants;
- agricultural or earth-moving machinery;
- fill or soil (which includes anything with soil on it such as turf); and
- mining or quarrying materials.

Prior to the importation of each material type, the supplier must provide the receiver and the Principal Certifying Authority with the relevant Certificate as identified within the Biosecurity (Invasive Ant Carriers) Control Order 2023 or revised biosecurity control orders. All material shall meet the requirements of the relevant Certificate.

It is an offence under the Biosecurity Act 2015 if this material comes from within five kilometres of a known invasive ant infested area (e.g. identified Fire Ant Biosecurity Zones in Queensland), or any other place at which the person knows, or ought reasonably to know, that an invasive ant has been detected, unless the carrier material has been managed and treated to reduce the risk and meets the certification requirements listed in the Control Order.

General Advisory Notes

Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth) Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact Telstra's Network Integrity Team on Phone Number 1800 810 443.

The Environmental Planning and Assessment Act 1979 requires you to:

1. For building works, obtain a **Construction Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate.

For subdivision works, obtain a **Subdivision Works Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Subdivision Works Certificate.

An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the above Certificates.

All applications must be lodged via the [NSW Planning Portal](#).

2. Nominate a **Principal Certifier** which may be either Council or a registered certifier and notify Council of that appointment. You **cannot lawfully commence works** without complying with this requirement. Appointment must be made through the [NSW Planning Portal](#)
3. Give Council at least two days' notice of your intention to commence the erection of a building before commencing construction works. You cannot lawfully commence works without complying with this requirement.
4. Obtain an **Occupation Certificate** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

All applications must be lodged via the [NSW Planning Portal](#).

You may also need to:

5. Lodge an Application for Subdivision to obtain a Subdivision Certificate if a land (including stratum) subdivision is proposed and an Application for Subdivision to obtain Strata Title Subdivision under the relevant Strata Titles Act if strata title of the development is proposed.
6. Carry out critical stage inspections in accordance with Section 6.5 of the EP&A Act 1979 and clauses 61, 63 and 65 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.