

BSC File No: 176150D x 10.2022.233.2/#A2024/48798
Contact: Gregory Smith

NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

Application No.	10.2022.233.2 / PAN-449403
Applicant	Ardill Payne and Partners
Property	3 Mill Street MULLUMBIMBY LOT: 2 DP: 367728
Development	Modification to Delete Conditions 20 and 21 and the Water Payments and S7.11 Notes in Schedule 4 of the Consent for the Approved Part Demolition of Existing Dwelling and Construction of New Dwelling House
Determination	Approved / Consent Authority - Byron Shire Council
Date of determination	16 September 2024

Under of the EP&A Act, notice is given that the above application to modify the original application has been approved, subject to the conditions specified in this notice and as described in the Modification Summary

Reason for approval

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 28 days from the date that you received this notice provided that an appeal under section 8.9 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.9 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



Gregory Smith
Team Leader Planning Services, Residential and Sub

Schedule 1 – Modification Summary

A. Delete conditions 17, 20, 21 and 46 of the Notice of Determination.

B. Insert the following condition into the Notice of Determination in appropriate order:

17. Certificate of Compliance – s307 Water Management Act 2000

Water and sewer services are to be provided to the land in accordance with an approval granted under Section 68 of the Local Government Act 1993.

A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of a Construction Certificate.

Note: For issue of the Certificate of Compliance, an application form and associated fee must be lodged via Council's website.

C. Delete the Note of the Notice of Determination titled “Water payments under the Water Management Act 2000”.

D. Delete the Note of the Notice of Determination titled “S7.11 Schedule of Development Contributions”.

STATEMENT OF REASONS

Council is 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 modifications are minor and the development as modified is substantially the same as the originally approved development, with no significantly detrimental environmental impacts.

How community views were addressed
The application did not require public exhibition in accordance with the Community Participation Plan.

Schedule 2 - Conditions of Consent

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION
 issued under the
Environmental Planning and Assessment Act, 1979 Section 4.18(1)(a)

Development Application No. 10.2022.233.1

Ardill Payne & Partners
 PO Box 20
 BALLINA NSW 2478

Email: planning@ardillpayne.onmicrosoft.com

Property description	LOT: 2 DP: 367728 2 Stuart Street MULLUMBIMBY
Development	Part Demolition of Existing Dwelling and Construction of New Dwelling House
Determination	Consent granted <i>Subject to the attached schedule of conditions</i>
Date determined	1 December 2022
Consent to operate from	6 December 2022
Consent to lapse on	6 December 2027

IMPORTANT INFORMATION

It is the responsibility of the applicant, landowner, builder, and any other contractors or agents involved with the development to read and understand all conditions of consent prior to commencing work.

The Environmental Planning and Assessment Act 1979 require you to:

1. Obtain a **Construction Certificate** prior to the commencement of any **building works** as required by conditions of this consent. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the Construction Certificate. Additional fees are payable for this application.
2. Nominate a **Principal Certifying Authority (PCA)** which may be either Council or an accredited certifier and notify Council of that appointment. You **cannot lawfully** commence works without complying with this requirement.
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.

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.	Revision No.	Plan Title	Drawn by	Dated
DA-102	DA6	Site Plan (marked in red by Council)	Murphy Homes	04.04.22
DA-103	DA6	Demolition Plan	Murphy Homes	04.04.22
DA-104	DA6	Ground Floor Plan	Murphy Homes	04.04.22
DA-105	DA6	Roof Plan	Murphy Homes	04.04.22
DA-200	DA6	Elevations	Murphy Homes	04.04.22
DA-201	DA6	Elevations	Murphy Homes	04.04.22
DA-300	DA6	Sections	Murphy Homes	04.04.22
	A	Car Parking Plan	Axis Surveys (as marked)	02.08.21

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. **Support for neighbouring buildings**

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

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

3. **Car Parking to be available for the approved use**

Parking within the development, together with all driveways and turning areas, must be provided and maintained as follows:

- a) Two (2) car spaces in the double garage for the dwelling on Lot 2 DP 367728; and
- b) Two (2) car spaces for the dwelling on Lot 20 DP 2772.

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 **Schedule 3** of this consent.

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

5. Water and Sewerage - Section 68 approval required

If required, an **Approval** under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.

6. 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 D1.2.4 - Character and Visual Impact. Please note that roof colours must be non-reflective earth tone colours and that the use of white and near white roof colours is not permissible

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

7. Car parking to be installed

Prior to the issue of a Construction Certificate for the proposed dwelling car parking for the existing dwelling must be installed in accordance with the Stamped Approved Plans.

8. Stormwater Drainage

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. All stormwater drainage for the development must be conveyed by a gravity system to a dispersion trench located at the rear of the site within the property.

Certification must be submitted from a suitably qualified engineer to certify the structural adequacy of footings and structures within 3m of the trench.

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

9. Consent required for Works within Road Reserve

Consent from Council must be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve.

Such plans are to be in accordance with Council's current Design & Construction Manuals and are to provide for the following works:

a) Driveway Upgrade (Stuart Street)

The existing driveway from to Stuart Street from Lot 20 must be upgraded to comply with Council's current standards, in accordance with Council's Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings. The driveway access is to be widened to provide access to the parking spaces, generally as shown on the approved Car Parking Plan.

10. **Access & Parking (Lot 20 D P2772)**

The application for a Construction Certificate is to include plans and specifications 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) the parking spaces shown as CP1 and CP2 on the approved Car Parking Plan are to be provided;
- b) driveway access to parking spaces;
- c) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or suitably designed permeable pavements;
- d) turning paths;
- e) site conditions affecting the access; and
- f) existing and design levels.

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".

11. **Flood Planning Level**

The flood planning level for this development is 4.74m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate a minimum habitable floor level that is at, or up to 0.3m above, the flood planning level unless a greater floor level has been shown on the plans approved by the development consent.

The plans and specifications to accompany the construction certificate application are to also 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.

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

12. **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	\$3,000
Inspection fee	\$200

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.

13. **Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No. 1290765S, dated 25 March 2022.

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.

14. **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.

15. **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.

16. **Tree Removal**

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

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

Water and sewer services are to be provided to the land in accordance with an approval granted under Section 68 of the Local Government Act 1993.

A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of a Construction Certificate.

Note: For issue of the Certificate of Compliance, an application form and associated fee must be lodged via Council's website.

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

If required, an **Approval** under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.

Water metering to be in accordance with Byron Shire Council's water metering requirements

See: <https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications>

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

19. **Water service and meter to be connected**

A water service and water meter must be connected to the property using an approved backflow prevention device prior to 'any' physical works commencing on the site. It is the applicant's responsibility to engage a licensed plumber who shall liaise with council during this process.

20. ***Deleted by 10.2022.233.2 dated 16 September 2024***

21. ***Deleted by 10.2022.233.2 dated 16 September 2024***

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

22. **Erosion and Sediment measures**

Erosion and sedimentation controls are to be in place in accordance with the [Guidelines for Erosion & Sediment Control on Building Sites](#). Particular attention is to be given to the provision of the following sediment and erosion control measures:

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

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

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

23. **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.

24. **Water service to be connected**

A water service must be connected to the property using an approved backflow prevention device. It is the applicant's responsibility to engage a licensed plumber who shall liaise with council during this process.

Any new water service will be at the applicants cost.

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

25. **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.

26. **Construction Noise**

While building work is being carried out, and where a noise and vibration management plan is approved under this consent, the applicant must ensure that any noise generated from the site is controlled in accordance with the requirements of that plan.

OR

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.

27. **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.

28. **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.

29. **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.

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

Fill material must not encroach onto any adjoining land.

31. **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.

32. **Removal of asbestos**

All asbestos wastes associated with removal of the existing dwelling to be disposed of in accordance with the requirements of the Workcover Authority. The applicant/owner is to produce documentary evidence that this condition has been met.

Please note the Byron Resource Recovery Centre can not accept asbestos. You will need to arrange disposal at an alternate landfill site.

33. **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.

34. **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.

35. **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.

36. **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 \(2014\)](#)

37. **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.](#)

38. **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.

39. **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 prior to occupation of the building

40. **Works to be completed prior to issue of a Final Occupation Certificate**

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

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

41. **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.”

42. **Access and parking areas to be completed.**

The access and parking areas on Lot 20 DP 2772 are to be constructed in accordance with the approved plans and Roads Act consent prior to the issue of any occupation certificate.

43. **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.

44. **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.

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.

45. **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.

46. ***Deleted by 10.2022.233.2 dated 16 September 2024***

47. **New Street number (if required)**

The street addressing for this property must be approved by Council. A written request seeking approval of street addresses is to be submitted to Council's Land Information Officer with an appropriate plan showing dwellings/units approved for separate occupation and pedestrian access to each dwelling/unit from the public road servicing the development. The approved street number must be displayed in a prominent location near the approved main point of access prior to issue of any occupation certificate.

The following conditions are to be complied with at all times

48. **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".

49. **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.

SCHEDULE 2. PRESCRIBED CONDITIONS

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

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

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

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

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

Statement of Reasons

The proposed development complies with the provisions of Byron Local Environmental Plan 2014.
The proposed development complies with relevant State Environmental Planning Policies
The proposed development complies with relevant provisions of Development Control Plan 2014
The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.
The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.
The proposed development is considered suitable for the proposed site.
The development application was notified/advertised in accordance with Council's Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application.
The proposed development is unlikely to prejudice or compromise the public interest.
The proposed development will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Clause 5.10 of Local Environmental Plan 2014.
The proposed development will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Development Control Plan 2014.

How community views were addressed

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

SCHEDULE 4. NOTES

Construction Certificate required:

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

Application forms are available from the customer services counter or Council's website

www.byron.nsw.gov.au

Principal Certifying Authority:

Work must not commence until the applicant has:-

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

Occupation Certificate required:

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

Protection of the Environment Operations Act 1997:

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

Penalties apply for failure to comply with development consents

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

Plumbing Standards and requirements.

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

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).

Deleted by 10.2022.233.2 dated 16 September 2024

Deleted by 10.2022.233.2 dated 16 September 2024

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.

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 1800810443.

Are you dissatisfied with conditions of consent?

If you are unhappy with conditions of consent discuss your concerns with the officer who dealt with your application. You may submit an application to Council to modify the consent under Section 4.55 of the Environmental Planning & Assessment Act, 1979.

You will need to provide reasons why the conditions should be changed or deleted. You may lodge a Section 4.55 application at any time after the notice of determination. If you are not happy with Council's decision on your request for modification, then you may appeal to the Land & Environment Court within six (6) months of the notification by Council.

Right of Review

You may request Council to review its decision under Section 8.2 of the Environmental Planning and Assessment Act, 1979. Such a request must be made within six (6) months of the date of the determination, or if there is an appeal to the Land and Environment Court, up to the time when the court hands down its decision. In reviewing its decision Council is able to consider alterations to the above plans, provided that the Development Application remains substantially the same as the one for which the consent was originally sought, and the changes are publicly notified.

Right of Appeal

If you are dissatisfied with this decision, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.

Signed on behalf of the Consent Authority

Yours faithfully



Greg Smith
Team Leader Planning Services

Dated: 18 September 2024

General Advisory Notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the Conditions of development consent: advisory notes. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.