

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application No.	Development Application No. 10.2022.537.1
Applicant	Byron Bay Planning
Property	736 Federal Drive FEDERAL LOT: 2 DP: 735538
Development	Use of Two (2) Existing Sheds for a Rural Industry (Organic Skincare Manufacturing)
Determination	Deferred commencement Consent Authority - Council
Date of determination	2 January 2024
Date on which the consent lapses	3 January 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 deferred commencement consent using the power in section 4.16(3) of the EP&A Act, subject to the conditions set out in this notice.

Relevant matters

This consent does not operate and may not be acted on until the consent authority is satisfied of the following matter(s):

SCHEDULE 1. DEFERRED COMMENCEMENT CONDITION PURSUANT TO SECTION 4.16(3)

The following condition concerns matters as to which the Council must be satisfied before the consent can be issued:

1. Deferred Commencement Consent

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

(a) Deferred Development consent condition:

Bp11 A Building Information Certificate is required to be issued by Council for the structure identified on stamped approved plans as proposed shed 1. Prior to issue of the Building Information Certificate the applicant is to demonstrate to Councils satisfaction with evidence in the form of detailed report/s from suitably qualified and experienced professionals the constructed works satisfies

1. A land survey from a registered surveyor is required with the Building Information Certificate application identifying all structures located upon the subject property.
2. Section B, D and F Performance Provisions of the Building Code of Australia.

Any recommended works identified in this report/s or identified by Council must be completed prior to issue of the Building Information Certificate

Evidence of the above relevant matter(s) must be produced to the consent authority, within 2 years of the date of the determination, otherwise the consent will lapse.

Under section 88(3) of the EP&A Regulation, the consent authority will notify you in writing if the matters above have been satisfied and the date from which this consent operates.

The conditions of development consent below apply from the date that this consent operates.

Where the applicant produces evidence of the relevant matters in accordance with section 76(4) of the EP&A Regulation, the consent authority must notify the applicant whether or not it is satisfied as to the relevant matter(s). If the consent authority has not notified the applicant within 28 days after receiving the applicant's evidence, the consent authority is taken to have notified the applicant that is not satisfied about the relevant matter(s) on the date on which that period expires, for the purposes of section 8.7 of the EP&A Act (see sections 76(4), (5) and (6) of the EP&A Regulation).

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



Steven Denize
Senior Planner

SCHEDULE 2. 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.	Title	Drawn by	Dated
A101		Site Plan – Stage 2 - Shed 2 – Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	
A102		Site Plan – Proposed – Stage 2 - Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	
A401		Ground Floor Plan – Proposed Shed 2 Stage 2 - Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	
A402		First Floor Plan – Proposed Shed 2 Stage 2 - Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	
A501		Elevations – Proposed Stage 2 - Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	
A502		Elevations – Proposed Stage 2 - Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	13.06.2023
A101		Site Plan Shed 1 Stage 1 - Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	
A102		Site Plan – Proposed Shed 1 Stage 1 - Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	13.06.2023
A201		Ground & First Floor Plan – Proposed Shed 1 Stage 1 - Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	23.06.2023
A202		Roof Plan - Proposed Shed 1 Stage 1- Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	23.06.2023
A301		Elevations - Proposed Shed 1 Stage 1- Project number 2301510	KN – SODA CREATIVE DESIGN	23.06.2023

			STUDIO	
A401		Section - Proposed Shed 1 Stage 1- Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	23.06.2023
A302		Elevations - Proposed Shed 1 Stage 1- Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	23.06.2023
A501		Door & Window Schedule Shed 1 Stage 1 - Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	23.06.2023
A601		Electrical Plan – Ground Floor Shed 1 Stage 1 - Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	15.07.2023
A602		Electrical Plan – First Floor Shed 1 Stage 1 - Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	15.07.2023
A701		Perspectives Shed 1 Stage 1 - Project number 2301510	KN – SODA CREATIVE DESIGN STUDIO	23.06.2023
23042-CIV-DA-02		Site Plan and Parking Layout	Greg Alderson and Associates	29/06/2023
23042-CIV-DA-03		Vehicle Swept Paths and Long Section	Greg Alderson and Associates	29/06/2023
23042-CIV-DA-04		Disability Spaces Long Section	Greg Alderson and Associates	27/07/2023
		Additional Information Response letter	Chris Lonergan	27/07/2023

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. **Loading Facilities**

At all times, the loading and unloading of goods for the development must be carried out by a Small Rigid Vehicle (SRV) and only the occasional Medium Rigid Vehicles (MRV). All loading and unloading is to take place within the curtilage of the premises. Servicing of the development by Heavy Rigid Vehicles (HRV) or Articulated Vehicles (AV) is not permitted.

4. **Monitoring Report (Wastewater Monitoring and Management)**

Following commission of wastewater management system (70.2022.537.1) and 6 months after the issue of an occupation certificate for the development the operator must provide a monitoring report for council review. The report must be prepared in accordance with the Monitoring and Maintenance Plan prepared by a suitably qualified person required by conditions of this consent.

The report must provide a record of average daily wastewater load (L/day) generated from use of the development and include monitoring results for water volumes and water quality testing. A minimum of 2 monitoring occurrences must be recorded within the required 6-month monitoring timeframe. The minimum effluent quality that must be achieved at outlet of the AWTS:

Parameter	Value(90 th Percentile)
pH	5.5-8.5
Suspended Solids(mg/L)	<45mg/L
BOD ⁵ (mg/L)	<30mg/L
Total Nitrogen (mg/L)	<40mg/L
Total Phosphorous (mg/L)	<18mg/L
Faecal Coliforms (CFU/100mL)	<100CFU
Free Residual Chlorine	>0.2mg/L and < 2.0mg/L

Where the report demonstrates that volumes generated exceed 50L/day and/or effluent quality exceeds quality parameters required above for domestic effluent quality the operator must:

- obtain an approval under Section 68 of the Local Government Act 1993 for on-site sewage management to upgrade the system to include a (trade waste septic tank)
- obtain an approval under Section 68 of the Local Government Act 1993 for trade waste
- enter into an agreement with a Licensed Liquid Trade Waste Contractor. The grease arrestor / settling pit (trade waste septic tank) shall be regularly serviced by the approved contractor.
- provide a copy of the trade waste agreement to Council.

Advisory note:

The waste collected cannot be disposed at Byron Sewerage Treatment Plant and must be disposed at an appropriately licensed facility.

5. **Plumbers Report for Existing Septic System required**

The applicant must provide a plumber's report that details the operational status of the septic system connected to the existing dwelling house. Where the report identifies that the system is failing or damaged an approval under Section 68 of the Local Government Act 1993 must be obtained for an upgrade. The plumbers report must be submitted, and where necessary a section 68 approval for an upgrade must be issued prior to the issue of a Construction Certificate.

6. **Intensification of Use**

The intensification of use of the development beyond the limits of this consent will require prior development approval from Council.

7. **Bush fire safety measures**

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

The development is approved subject to the following conditions:

Water and Utilities Services

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

1. The provision of water, electricity and gas must comply with the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019:
 - a. In recognition that no reticulated water supply is available to the development, a total of 20,000 litres fire fighting static water supply (SWS) shall be provided on site.
 - b. An outlet for firefighting purposes is located within the IPA or non-hazard side and away from the structure (5-20 metres);
 - c. 65mm Storz connection with a ball valve is fitted to the outlet;
 - d. The ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material;
 - e. Underground tanks have an access hole of 200mm to allow tankers to refill, direct from the tank;
 - f. A hardened ground surface for truck access is supplied within 4m of the water outlet or access hole;
 - g. Above-ground tanks are manufactured from concrete or metal
 - h. Raised tanks have their stands constructed from non-combustible material, or bush fire-resisting timber. The bush fire –resisting timbers are; Silvertop ash, Blackbutt, Red or River Gum, Spotted Gum, Red Ironbark, Kwila (merbau) or Turpentine;
 - i. Unobstructed access can be provided at all times;
 - j. Underground tanks are clearly marked
 - k. Tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters;
 - l. All exposed water pipes external to the building are metal, including any fixtures.
 - m. Where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack;
 - n. Any hose and reel for firefighting connected to the pump shall be 19mm internal diameter; and
 - o. Fire hose reels are constructed in accordance with AS/NSZ 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005.
 - p. A Static Water Supply (SWS) sign shall be obtained from the NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard;
 - i. Markers must be fixed in a suitable location so as to be highly visible; and
 - ii. Markers should be positioned adjacent to the most appropriate access for

- the water supply
- q. Where practicable, electrical transmission lines are underground;
 - r. Where overhead electrical transmission lines are proposed as follows;
 - i. Lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - ii. No part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
 - s. Reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used.
 - t. All fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
 - u. Connections to and from gas cylinders are metal;
 - v. Polymer-sheathed flexible gas supply lines are not used; and
 - w. Above-ground gas service pipes are metal, including and up to any outlets.

Landscaping Assessment

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

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

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

8. Section 7.12 Levy to be paid

The levy will be calculated as follows:

Levy payable = %C x \$C

- %C is the levy rate applicable as set out in the latest Ministerial Direction issued under section 7.17.
- \$C is the proposed cost of carrying out the development.

The rate of %C is:

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001–\$200,000	0.5 percent
More than \$200,000	1.0 percent

The cost of development must be calculated in accordance with clause 25J of the Regulation. The Cost Summary Report (copy attached) as set out in schedule 2 of the Section 7.12 contributions plan must be submitted to Council with the payment. The cost summary report must be prepared by a quantity surveyor. Copies of Cost Summary Report are available at Council's main office or may be downloaded from Council's website.

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

A driveway in accordance with Council's Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings. and Figure 3.1 of AS.2890.2 designed for a SRV and occasional MRV.

b) Driveway Removal

The existing driveway must be removed and the verge area reinstated to Council's satisfaction.

10. Existing Power Line to be relocated & easement created accordingly

Prior to the issue of the Construction certificate the power line running through the site shall be relocated, with supporting easements established on title, to the satisfaction of Essential Energy such that all structures on the property must remain a minimum of 10.0 metres clear from the centreline of the powerline (or outside any registered easement). Details to be submitted to the PCA prior to the issue of the construction certificate demonstrating the above has been resolved to the satisfaction of Essential Energy.

Car parking layout, vehicle circulation and access plans required.

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: Parking facilities, Part 1: Off-street car parking, AS 2890.2 - Parking facilities, Part 2:

Off-street commercial vehicle facilities and AS 2890.6 - Parking facilities, Part 6: Off-street parking for people with disabilities. Plans are to include, but not be limited to, the following items:

- a) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
 - b) site conditions affecting the access;
 - c) existing and design levels;
 - d) longitudinal and cross sections;
 - e) cross sections every 15 metres;
 - f) drainage details;
 - g) turning paths;
 - h) accessible parking and associated walkways for people with disabilities;
- and
- i) line marking and signage.

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. 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.

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. 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](http://www.byron.nsw.gov.au/files/publication/swmmp-pro-forma.doc)

12. **Tree Removal**
No trees or vegetation to be cleared or removed until a Construction Certificate has been issued.
13. **Monitoring and Maintenance Plan (On-site Sewage Management System)**
To ensure that the on-site sewage management system is operated to protect human and environmental health a Monitoring and Maintenance Plan must be prepared by a suitably qualified professional person. The MMP must include sampling frequency, sampling parameters, contingency measures and maintenance requirements for the on-site sewage and trade waste infrastructure. The plan must state that a monitoring report will be provided within 6 months of commission. The MMP must be submitted to Council for approval prior to the issue of a construction certificate.
14. **Terms of approval for on-site sewage management required**
Refer to Local Government Act Section 68 Application No. **70.2022.537.1** or Local Government Act Section 68 approvals issued subsequent to this consent.
15. **Potable Water Supply Management Plan**
Prior to the issue of a Construction Certificate provided to the Principle Certifying Authority a Quality assurance program (or drinking water management system). For further information refer to the following website
<http://www.health.nsw.gov.au/environment/water/Publications/private-water-supply-guidelines.pdf> The QAP must be prepared by a suitable qualified professional.

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

16. **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. A copy may be downloaded from Council's web site. 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.
17. **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)

18. **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

19. **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.

20. **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.

21. **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.

Final

22. **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.

23. **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.
24. **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.**
25. **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.
26. **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.
27. **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.
28. **Muted bushland tones external finishes**
To ensure the development is compatible with the surrounding environment, colours and finishes are to be muted bushland tones. In this regard white, light or bright colours are not permissible.
29. **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.
30. **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 \(2014\)](#)

31. **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](#).

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

32. **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.

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

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

34. **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.

35. **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>'.

36. **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.

The following conditions are to be complied with prior to commencing operations

37. **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.

The following conditions are to be complied with at all times

38. **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.

39. **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.

40. **Substances not to be included in sewage wastewaters**

Except as already provided for by the conditions contained in this consent, the following substances shall not be included in the liquid trade waste resulting from the rural industry:

- a. organochlorine weedicides, fungicides, pesticides, herbicides, and substances of a similar nature and/or wastes arising from the preparation of these substances
- b. organophosphorus pesticides and/or waste arising from the preparation of these substances
- c. any substances liable to produce noxious or poisonous vapours in the sewage system
- d. discharge from chemicals and/or storage areas
- e. organic solvents and mineral oil
- f. any flammable or explosive substances
- g. per-and poly-fluoroalkyl substances (PFAS)
- h. discharges from 'Bulk Fuel Depots'
- i. chromate from cooling towers
- j. natural or synthetic resins, plastic monomers, synthetic adhesives, rubber, and plastic emulsions
- k. rain, surface, seepage, or groundwater, unless specifically permitted (clause 137A of the Local Government (General) Regulation 2005)
- l. solid matter
- m. disposable products including wet wipes, cleaning wipes, colostomy bags, cat litter and
- n. other products marketed as flushable
- o. any substance assessed as not suitable to be discharged to the sewerage system
- p. waste liquids that contain pollutants at concentrations which inhibit the sewage treatment process (refer *Australian Sewage Quality Management Guidelines, June 2012, WSAA*)
- q. any other substances listed in a relevant regulation.

41. **Rain Water Supply**

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

42. **Potable Water Supply Testing and Reporting**

The potable water supply must be maintained in accordance with the requirements of NSW Health's Private Water Supply Guidelines (2016) including annual water quality testing by a NATA accredited laboratory. Results must be kept on site and provided to Council on request.

43. **Trade Waste**

All trade waste pre-treatment devices shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.

44. **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.

45. **Hours of operation**

Operations must not unreasonably interfere with the amenity of the neighbourhood. In particular operational noise, when audible from adjoining residential premises, can only occur:

- a. Monday to Friday, from 7 am to 6 pm.

No operations are to take place on Saturdays and Sundays or Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

46. **Maximum number of employees**

No more than eleven (11) employees at any time.

47. **Wastewater loading**

Trade wastewater loading generated by the rural industry is capped at 50L/day. Loading excludes wastewater loading generated by use of staff amenities.

48. **Protection of the land application area**

The land application area for the approved on-site sewage management system must be protected by means of bollards, architectural barriers, plants or similar to prevent vehicular and regular pedestrian access.

49. **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.

Goods deliveries shall be restricted to daytime operating hours (7am to 6pm).

SCHEDULE 3. 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

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 4. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

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

Statement of Reasons
The proposed modifications were minor and substantially the same as the original development approval with no detrimental environmental impacts.
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 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 5. NOTES

Construction Certificate required:

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

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

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.

Enclosed public places (smoke-free environment)

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

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

Protection of the Environment Operations Act 1997:

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

Penalties apply for failure to comply with development consents

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

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.