



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

**Development Application No. 10.2022.215.1**

Evolve Planning Services Pty Ltd  
PO Box 241  
Banora Point NSW 2485

Email: [adminevolve@evolveps.com.au](mailto:adminevolve@evolveps.com.au)

<b>Property description</b>	LOT: 2 SP: 57243 <b>2/1 Luan Court BYRON BAY</b>
<b>Development</b>	New Dwelling to create Dual Occupancy (Detached)
<b>Determination</b>	<b>Consent granted</b> <i>Subject to the attached schedule of conditions</i>
<b>Date determined</b>	13 September 2022
<b>Consent to operate from</b>	15 September 2022
<b>Consent to lapse on</b>	15 September 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
2 of 15	C	Site Plan	GJ Gardner	3/05/2022
3 of 15	C	Driveway Section	GJ Gardner	3/05/2022
4 of 15	C	Floor Plan - Lower	GJ Gardner	3/05/2022
5 of 15	C	Floor Plan - Upper	GJ Gardner	3/05/2022
6 of 15	C	Elevations 1 of 2	GJ Gardner	3/05/2022
7 of 15	C	Elevations 2 of 2	GJ Gardner	3/05/2022
8 of 15	C	Sections/Details 1 of 2	GJ Gardner	3/05/2022
9 of 15	C	Sections/Details 2 of 2	GJ Gardner	3/05/2022

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. **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.

**4. Concurrent Approvals**

The following approvals are provided under Section 4.12 of Environmental Planning and Assessment Act, subject to the conditions contained in **Schedule 4** of this Notice of Determination:

**Concurrent Approvals under Section 68 of the Local Government Act 1993**

**Part B Water supply, sewerage and stormwater drainage work**

B1 Carrying out water supply work

B4 Carrying out sewerage work

These works must be carried out to the satisfaction of Byron Shire Council and can not be assessed for the purpose of compliance, or otherwise deemed acceptable by a private certifier.

**5. Consent provided under section 138 of Roads Act 1993**

Approval has been granted with this consent (Council reference No: 51.2022.215.1) for the works within the road reserve as follows and subject to the conditions contained in **Schedule 5** of this Notice of Determination:

**Driveway upgrade**

A driveway in accordance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

**6. 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:

**Asset Protection Zones**

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel and other assisting fire fighting activities.

1. At the commencement of building works and in perpetuity, to assist in the ongoing protection from the impact of bush fires, the entire property shall be managed as an Inner Protection Area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.

When establishing and maintaining an IPA the following requirements apply:

- Tree canopy cover should be less than 15% at maturity;
- Trees at maturity should not touch or overhang the building;
- Lower limbs should be removed up to a height of 2m above the ground;
- Tree canopies should be separated by 2 to 5m;
- Preference should be given to smooth barked and evergreen trees;
- Large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings
- Shrubs should not be located under trees;
- Shrubs should not form more than 10% ground cover
- Clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- Grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- Leaves and vegetation debris should be removed.

### **Water and Utilities Services**

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel and other assisting fire fighting activities.

2. Any new or extension of existing water, electricity, and/or gas service must comply with table 7.4a of Planning for Bush Fire Protection 2019.

### **Construction Standards**

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:

3. New construction shall comply with Sections 3 and 6 (BAL 19) Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' and the relevant provisions of Section 7.5 of Planning for Bush Fire Protection 2019.

### **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.

4. 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**

### **7. 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 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.

### **8. Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No. 1229381S\_03, dated 28 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.

**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 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](http://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. 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.

**11. Tree Removal**

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

**12. 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.

**13. Easement required over pipelines**

In all new subdivisions and/or developments, an easement in gross benefitting Byron Shire Council shall be provided for all pipelines in accordance with the Council Policy: Building in the Vicinity of Underground Infrastructure 2020.

Easement documentation shall be prepared in accordance with NSW Land Registry Services requirements over the pipeline/s within the allotment/s. Easement documentation must be submitted to Council for execution, together with a survey showing location, size and depth of the pipeline/s and payment of fees in accordance with Council's adopted fees and charges.

Prior to issue of the construction certificate, proof of lodgement to NSW Land Registry Services must be provided to the Principal Certifying Authority.

The minimum width of the required easement on western boundary shall be 4.00 metres centred over the pipeline.

**14. Compliance required with Building in the Vicinity of Underground Infrastructure Policy**

All developments must comply with Policy: Building in the Vicinity of Underground Infrastructure 2020. Swimming pools are classed as buildings and are required to comply with this policy.

The use of displacement and screw pile construction methods will require approval by Council.

Any retaining wall / brick / masonry fence crossing a pipeline requires Council approval. The fence must be supported such that it does not cause loading on the pipes zone-of-influence.

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

Prior to issue of any Construction Certificate, a Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous County Council Development Servicing Plans. Where staging of the Construction Certificate occurs, a separate s307 Compliance Certificate must be obtained for each stage.

Byron Shire Council acts as Rous County Council's agent in this matter and will issue a Certificate of Compliance on behalf of Rous County Council upon payment of the Rous County Council Development Servicing Charge to this Council.

**Note:** For issue of the Certificate of Compliance, an application form and associated fee must be lodged via Council's website. Copies of Byron Shire Council's Development Servicing Plans are available via Council's website.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Utilities on 02 6626 7000. Applicable charges can also be found on Council's website:

<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>

**The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.**

**Payment by Personal or Company Cheque will not be Accepted**

**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](#). 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).**

**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.

**18. 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**

**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 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.

**21. 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.

**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 builder's 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. Fill to be retained on the subject land**

Fill material must not encroach onto any adjoining land.

**25. 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.**

**26. 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.

**27. 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.

**28. 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 \(2014\)](#)

**29. 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](#).

**30. 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**

**31. 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.

**32. 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.”

**33. 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.

**34. 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.

**35. Easement required over pipelines**

The easement over Council pipelines required by conditions of this consent must be registered on title and a copy of the title search and registered easement documentation, including plan of easement, must be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate (including Interim Occupation Certificates).

**36. 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.

**The following conditions are to be complied with at all times**

**37. Approved use – Dual occupancy**

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

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

**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.

## **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. LOCAL GOVERNMENT ACT 1993 SECTION 68 CONDITIONS OF APPROVAL**

Approval has been granted with this consent for the following activity approval/s:

- Council reference No: 60.2022.215.1

The following activities are granted approval pursuant to Section 68 of Local Government Act 1993.

**PRIVATE SERVICES CONDITIONS** - (Private working being defined by up to the water meter outlet and sewer boundary shaft /boundary kit)

- 1. All works associated with this approval must be fully contained inside the properties boundaries unless prior approval from Byron Shire Council has been granted.**
- 2. Prior to commencement of works**

In accordance with the Local Government Act and the NSW Code of Practice for Plumbing and Drainage your Plumber **must obtain a Plumbing Permit at least two (2) working days prior to commencing work**. Please forward this to your plumber to complete and to return to Council prior to commencement of work. All work is to be completed by a suitably qualified person licensed for the purpose by the NSW Department of Fair Trading. If the property is to be connected to council water mains, no internal sewer inspections shall take place until a water meter is installed. Drawing off of the council water main without a meter will result in a fine and possibly a stop works notice.

### 3. Unapproved fixtures

Any unapproved fixtures shall be removed to council's satisfaction.

### 4. Erosion & Sediment Measures

Erosion and sedimentation controls are to be in place in accordance with the Guidelines for Erosion & Sediment Control on Building Sites. A summary of these guidelines is attached. A full copy may be downloaded from Council's web site at [www.byron.nsw.gov.au](http://www.byron.nsw.gov.au). Particular attention is to be given to the provision of the following 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. **Note: Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.**

### 5. During Construction

Plumbing, Water Supply and Sewerage 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. The changes made are from Plumbers and Drainage Regulation 2012 NSW Government

1. The licensee is to provide 24 hours notice and attend the site for the following **INSPECTIONS**, prior to covering of work. Inspections will be carried out a mutually convenient time for any works that fall under the following descriptions for inspections. (If there are no applicable works, for example, a new water supply with no sewer services, then an inspection for "external drainage" will not be required)

Typical inspections that must be booked in include but are not limited to:

- a) Internal Drainage;
  - b) External Drainage;
  - c) Sewer connection to council boundary shaft/asset
  - d) Water Rough In
  - e) Final - all work completed. - \* Note below.
2. **Prior to booking a final inspection**, a licensee is required to provide to Council and owner of the property a **Compliance Certificate** and **Sewer Services Diagram/ Works as Executed drawings THAT IS STRICTLY TO NSW FAIR TRADING REQUIREMENTS**.

See link below.

[http://www.fairtrading.nsw.gov.au/ftw/Tradespeople/Plumbers\\_and\\_drainers/Plumbing\\_and\\_drainage\\_inspections/Plumbing\\_inspection\\_documents.page?#sewer\\_service\\_diagram](http://www.fairtrading.nsw.gov.au/ftw/Tradespeople/Plumbers_and_drainers/Plumbing_and_drainage_inspections/Plumbing_inspection_documents.page?#sewer_service_diagram)

### ADDITIONAL CONDITIONS

Each dwelling to have a separate 20mm council read water meter at the front boundary, the existing property water service can be split to create two services, if the existing property water service is inadequate to meet the simultaneous demand of two dwellings and a new water mains tapping and property service is required all cost incurred are the liability of the property owners.

## SCHEDULE 4. ROADS ACT 1993 SECTION 138 CONDITIONS OF CONSENT

Approval has been granted with this consent for the following Roads Act approval/s:

- Council reference No: 51.2022.215.1

The following works in the road reserve are granted consent pursuant to Section 138 of the Roads Act 1993.

- Gutter and vehicular crossing from the kerb to the property boundary.
  - When required, connection of stormwater outlet to street kerb with a galvanised metal kerb adaptor.
1. In regards to the plans you are advised of the following:
    - The Engineering Plans have been checked and found to comply with Council's guidelines. All calculations, designs and details have not been thoroughly checked. This Notice of Determination does not relieve the applicant from rectifying any errors or omissions, which may become evident prior to or during construction.
    - Drive cross over to comply to Northern Rivers Local Government plan R-05.
    - Pavement shall be 25mm AC10 (hot mix only) on 150mm of DGB20 or
    - Plain Concrete wood Floated (broom/brush finish only, no other finish accepted). For concrete type and engineering details, refer to NRLG standard drawings.
    - Any concrete finish that is not deemed "plain concrete wood floated finish" in accordance with the Northern Rivers Development and Design Manual (NRDDM) requirements shall require a suitably qualified person to sign off the works.

This shall be achieved by submitted a signed letter from a suitably qualified person (engineer), letter to state the following:

*"In relation to approval number 51.20XX.XXX.X, I "Qualified engineer name", here by certify that the cross over finish is equal to or better than the Northern Rivers Development and Design Manual (NRDDM) requirements for plain concrete wood floated finish. "*

*i.* Letter is to state person's details proving appropriate qualification.

- Approval of Engineering Plans is current for a period of two (2) years from the date of this Notice of Determination, after which time Council may require alteration to Engineering Design to comply with Standards current at that date.
2. Erosion & Sediment Control measures shall be employed in accordance with an erosion and sediment control plan which has been submitted and approved by Council prior to commencement of works.
  3. A Traffic Management Plan shall be implemented in accordance with the RTA Traffic Control at Work sites Manual by a RTA accredited person.
  4. Twenty four (24) hours notice must be given for required inspections.

Inspections required –

- a. Upon compaction of sub-grade prior to placement of Pavement shall be 25mm AC10 or
- b. On completion of the placement of reinforcement and formwork prior to concrete pours;
- c. Prior to pouring kerbs, edge restraints, kerb & gutter, medians, inverts or dish gutters
- d. upon completion of all work. and TMP only

**Upon completion of works payment of inspection fees in accordance with councils adopted schedule of fees and charges is required.**

5. All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. The public liability insurance cover, for a minimum of \$20 million, is to be maintained for the duration of the construction of the development. Council is not held responsible for any negligence caused by the undertaking of the works.

**SCHEDULE 5. 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.

**How community views were addressed**

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

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

**SCHEDULE 6. 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](http://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.

### **Water payments under the Water Management Act 2000**

Charges will be calculated based on the additional water and sewerage load that the proposed development generates, shown in Equivalent Tenements (ET) by the following table:

#### **ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT** **(ET Policy 2018)**

Water	0.60 ET
Bulk Water	0.60 ET
Sewer	1.00 ET

NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>).

These charges will enable you to calculate the total contribution charges payable when you are ready to pay them. Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment.

### **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).

### **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](http://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



Mr J R Vickers  
Planner

*Dated: 15 September 2022*