



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

Development Application No. 10.2021.17.1

Frank Stewart Architect
Unit 20
21 Cemetery Road
BYRON BAY NSW 2481

Email: frankstewart@mullum.com.au

Property description	LOT: 1 DP: 1080317 7 New City Road MULLUMBIMBY
Development	Secondary Dwelling
Determination	Consent granted <i>Subject to the attached schedule of conditions</i>
Date determined	28 May 2021
Consent to operate from	2 June 2021
Consent to lapse on	2 June 2026

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.

SCHEDULE 1. CONDITIONS OF CONSENT

Parameters of consent

1. **Development is to be in accordance with approved plans**

The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
A01	Site Plan	Frank Stewart Architect	Sep 2020
A02	Floor Plan	Frank Stewart Architect	Sep 2020
A03	Elevation	Frank Stewart Architect	Sep 2020
A04	Elevation	Frank Stewart Architect	Sep 2020
A05	Section	Frank Stewart Architect	Sep 2020
A08	Landscape Plan	Frank Stewart Architect	May 2021
102	Water supply standards meters	BSC	May 2018

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. **Support for neighbouring buildings**

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

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

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 2** of this consent.

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

Two (2) car parking spaces are to be provided and maintained for the principal dwelling, together with all necessary access driveways, to the satisfaction of Council.

5. **Concurrent Approvals**

The following approvals are provided under Section 4.12 of Environmental Planning and Assessment Act:

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
- B3 Installing, altering, disconnecting or removing a meter connected to a service pipe
- B4 Carrying out sewerage work
- B6 Connecting a private drain or sewer with a public drain or sewer under the control of a council or with a drain or sewer which connects with such a public drain or sewer

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.

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

6. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. 1157966S, dated 17 December 2020.

The commitments indicated in the Certificate are to be indicated on the plans submitted for approval of the Construction Certificate.

The plans submitted must clearly indicate all windows numbered or identified in a manner that is consistent with the identification on the Basix Certificate.

Minor changes to the measures may be undertaken without the issue of any amendment under Section 4.55 of the Act, provided that the changes do not affect the form, shape or size of the building.

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

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. 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.

9. **Developer Contributions to be paid**

Contributions set out in the schedule below are to be paid to Council prior to the release of a construction certificate. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at www.byron.nsw.gov.au or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

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

10. **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 Water 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 Water's agent in this matter and will issue a Certificate of Compliance on behalf of Rous Water upon payment of the Rous Water 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

11. **Stormwater Drainage – Connection to Public Drainage**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. Stormwater drainage for the development must be conveyed by a gravity system to the open drain on Hollingworth Lane.

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

All stormwater drainage systems within the lot and the connection to a public or an inter-allotment drainage system must:

- (a) comply with any requirements for the disposal of stormwater drainage

contained in Council's Development Control Plan, Stormwater Guideline and Local Approvals Policy; and

unless exempt from obtaining an approval under section 68 of the Local Government Act 1993 by a Local Approvals Policy, an approval must be obtained under that Act prior to issue of a Construction Certificate.

12. **Flood Planning Level**

The flood planning level for this development is 4.01m 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.

13. **Footpath Construction**

The application for a Construction Certificate is to include plans and specification to provide a minimum 1.2m wide all weather footpath to provide pedestrian access from the proposed secondary dwelling to New City Road. Services must not obstruct pedestrian access.

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

14. **Bond required to guarantee against damage to public land**

A bond of \$3,000 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development, together with payment of an asset inspection fee in accordance with Council's fees and charges. Evidence is to be provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets.

Such bond will be held until Council is satisfied that the infrastructure is maintained/repaired to pre development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths etc.

15. **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.

16. **Tree Removal**

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

17. **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.

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.

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

19. **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 at [Guidelines for Erosion and 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).

20. **Construction certificate and plumbing permit required**

A construction certificate and plumbing permit must be issued prior to any works.

21. **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

22. **Construction times**

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

- a. Monday to Friday, from 7 am to 6 pm.
- b. Saturday, from 8 am to 1 pm.

No construction work to take place on Sundays or public holidays.

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

23. **Construction Noise**

Construction noise is to be limited as follows:

- a. For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b. For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A)

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

24. **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.

25. **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.

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

Fill material must not encroach onto any adjoining land.

27. **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.

28. **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.

29. **Aboriginal Relics**

If any Aboriginal archaeological relics or items are exposed during construction works, the Applicant shall:

- a. immediately cease works;
- b. notify the NSW National Parks and Wildlife Service (NPWS);
- c. obtain any necessary permits and/or approvals to continue the work under the National Parks and Wildlife Act 1974.

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

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

30. 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.

31. Plumbing Works

The Final Plumbing Certificate for all of the works associated with the S68 plumbing and drainage approval must be issued by Council prior to any occupation certificate or Interim occupation certificate being issued.

32. 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.

33. 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.

34. 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.

35. 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 at all times

36. No subdivision

In accordance with clause 24 of the State Environmental Planning Policy (Affordable Rental Housing) 2009, subdivision of the subject land is not to occur.

37. **Use of dwelling houses**

The dwelling houses are not to be holiday let or used as tourist and visitor accommodation or short term rental accommodation.

38. **Relationship to Principal Dwelling**

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

39. **No more than the principal dwelling and secondary dwelling**

There must not be any dwelling on the land other than the principal dwelling and the secondary dwelling.

40. **No vehicle access from Hollingworth Lane.**

Vehicle access from Hollingworth Lane is not permitted as part of this development consent.

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: 60.2021.17.1

Description of Activity granted approval:

- **Staging:** Nil
- **Part 1 Private works:** Water and sewer works associated with a secondary dwelling.
- **Part 2 Council Assets:**

This approval has given consent for the installation of;

1 new water meters of size DN20 on the existing property service in accordance with BSC 102.

A copy of the approved plans and this approval must be onsite at all times and during all inspections. The contractor employed to do the works must be given a full copy of this approval and approved plans. The contractor must present the approved plans during any inspection, failure to produce the approved plans will result in a failed inspection at the applicants cost. Reinspection for the works will be required to be booked in by the contractor; this may lead to costly delays.

PART 1: Private works conditions

Deemed from the outlet of the water meter(s) and sewer boundary shaft.

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. 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

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:

- Internal Drainage;
- External Drainage;
- Sewer connection to council boundary shaft/asset
- Water Rough In;
- Stack work;
- Final - all work completed. - * Note below.

The licensee is required to provide to Council and owner of the property a Compliance Certificate and Sewer Services Diagram. Failure to provide Council with the required documents within 48 hours of the final inspection taking place will render the inspection as failed. Another final inspection will be required, fees apply.

All documents must be submitted directly to Council@byron.nsw.gov.au

Do not send documents to Council officers. Any document sent directly to an officer will not be actioned.

Sewer services diagram to be to NSW fair trading requirements.

See link below.

http://www.fairtrading.nsw.gov.au/ftw/Tradespeople/Plumbers_and_drainers/Plumbing_and_drainage

5. Ancillary Conditions

a) BASIX Certificate

All works must be in accordance with the corresponding BASIX certificate if there is an affiliated DA with BASIX requirements.

b) Back flow protection Register

Any testable backflow device installed shall be commissioned with a copy of the commissioning certificate submitted to council.

This in addition to a scale floor or site plan detailing the device location and what it serves.

c) Thermostatic Mixing Valve/warm water system Register

Any Thermostatic Mixing Valve/warm water system installed shall be commissioned with a copy of the commissioning certificate submitted to council.

This in addition to a scale floor or site plan detailing the device location and what it serves.

d) Outdoor Showers:

The external shower must be one of the following:

- Coldwater supply only, discharging directly onto the ground; or
- Hot and cold water supply, connected to sewer and protected by a roof structure to prevent rainwater ingress. Any hardstand surrounding the shower base must be graded away from the shower gulley to prevent the ingress of stormwater. The shower base must have a minimum 30mm bund or approved equivalent.

Note: The required roof overhang is to be 10 deg. larger than the shower base. The 10 deg. angle is projected upwards from the edge of the shower base.

e) Garbage disposal units

Garbage disposal units or the like are not allowed to be installed.

f) Storm water Ingress

Sewer inlets shall be protected from storm water ingress. As a minimum a permanent roof cover shall over hang any plumbing fixture and exceed the outermost edges of any fixture (sink, bowl etc) measured 10 degrees from the vertical to the lowest part of the roof. The cover must be all weather and structurally supported. This may require a certificate from the building certifier.

g) Commercial/Industrial buildings with Bin Storage Areas.

Development Control Plan Appendix B8.6 Commercial/ Industrial Waste and Recycling Storage Areas, Waste/recycling storage areas must be serviced by a hose cock complete with a RPZD back flow device. The hose cock and backflow device must be protected from the waste containers and must be located in a position that is easily accessible when the area is filled with waste containers. The storage area MUST drain to sewer and will therefore be required to be protected from rain water ingress. This will require adequate bunding and roofing or such storage areas.

h) Flood Level: The "Declared Flood Level" as per AS3500.2 Clause 3.15 is determined to be the "1 in 100 year flood event", which can be derived from the corresponding DA or Council generated flood certificate by taking 500mm from the "flood planning level".

Therefore:

- i) Any inlet to any fixture must be 150mm above the "1 in 100 year flood event", or discharge via an ejector pump and float shut off (Clause 3.15.2).
- ii) The Overflow relief gully (ORG) must be a minimum 150mm above the "1 in 100 year flood event" in accordance with Clause 4.6.6.8.
- iii) Fixtures inlets must be 150mm above the ORG Clause 4.6.6.6, Otherwise a reflux

valve is required as per Clause 4.5.

i) Fire services connected to the potable water supply:

- i. Any supply for the fire suppression systems are to be metered (as requested by infrastructure) via a council water meter, with appropriate backflow prevention in accordance with AS3500, see example image below..
- ii. Upon completion of the water supply works, a certificate is required from an appropriately qualified engineer certifying that the works are installed in accordance with the applicable Australian standard, that the pressure and flow is adequate, and that the backflow prevention is in accordance with AS3500.
- iii. Council does not certify or commission fire systems, Councils onus is only concerned with the backflow prevention servicing a fire system.

6. Please note Council has sent each plumber proformas of these documents when your permit was issued to commence work. If the works cannot be plotted on the supplied proforma, the NSW fair trading website has alternative sizes of submission sheets. It is the applicant's responsibility to engage a licensed plumber who shall liaise with council during this process.

PART 2 Council Assets Conditions

The Following Condition relate to all Works on Council Assets or on Works to be inherited by Council. Owner/Applicant MUST either;

- 1: Install the water meter, or;
- 2: Provide a signed statement certifying compliance with the LGA.

Statement shall read 'I (owner of the property), hereby certify each of the premises on this property (property address), are occupied by a single household as a single residence.'

Water Assets Documentation and Inspections

Required Process of Inspections and documentation

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 at mutually convenient time for any works that fall under the following descriptions for inspections.

Mandatory Inspections:

- Water meter inspection
- **On Completion of Council assets and prior to Final booking**

The following documents must be submitted to Council;

Certificate of compliance

- Scanned copy of the Certificate of Compliance from the Plumber. (PDF format)

Councils LAC department will let you know if the documentation is accepted, once accepted you can now book in a **final inspection**.

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 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.

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 forms are available from the customer services counter or Council's website www.byron.nsw.gov.au

Principal Certifying Authority:

Work must not commence until the applicant has:-

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

Occupation Certificate required:

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

Protection of the Environment Operations Act 1997:

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

Penalties apply for failure to comply with development consents

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

Plumbing Standards and requirements.

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

Secondary dwellings

Approval of your Secondary Dwelling will be included in a register to provide accountability of the uptake of this affordable housing approach and to assist in any compliance action that may need to be taken in the circumstance that the dwellings are being used for tourism purposes rather than meeting the need for affordable housing (*Council Resolution No. 11-268*).

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 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
- 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).

S7.11 Schedule of Development Contributions

The following contributions are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The current contribution rates are available from Council offices during office hours. **Payments will only be accepted by cash or bank cheque.**

Section 7.11 contributions Schedule for Mullumbimby Catchment						
This schedule was calculated in spreadsheet #E2018/73086						
1bedroom units =	1	@	0.55 SDU	=		0.55
2 bedroom units =	0	@	0.75 SDU	=		0
3 bedroom units/dwellings =	1	@	1 SDU	=		1
Allotments =	0	@	1	=		0
Less Site Credits =	1	@	-1	=		-1
Total SDU				=		0.55
Schedule valid until		28/07/2021	After this date contact Council for CPI update.			
Local Open Space & Recreation	(OS-ML)	0.55	SDU @	\$ 13,078.12	=	\$ 7,192.97
LGA Wide Open Space & Recreation	(OS-SW)	0.55	SDU @	\$ 773.06	=	\$ 425.18
LGA wide Community Facilities	(CF-SW)	0.55	SDU @	\$ 1,132.22	=	\$ 622.72
Local Community Facilities	(CF-ML)	0.55	SDU @	\$ 222.63	=	\$ 122.45
Bikeways & Footpaths	(CW-ML)	0.55	SDU @	\$ 2,137.98	=	\$ 1,175.89
Shire Wide Bikeways & Footpaths	(CW-SW)	0.55	SDU @	\$ 83.05	=	\$ 45.68
Urban Roads	(R-ML)	0.55	SDU @	\$ 1,109.71	=	\$ 610.34
LGA Wide Roads	(R-SW)	0.55	SDU @	\$ 233.93	=	\$ 128.66
Rural Roads	#N/A	0.55	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	0.55	SDU @	\$ 1,169.31	=	\$ 643.12
Total				=		\$ 10,967.01

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	0.40 ET
Sewer	0.50 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.

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

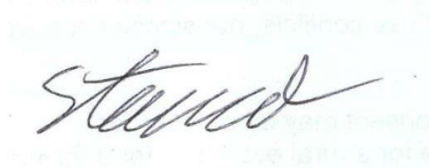
You may request Council to review its decision under Section 8.2 of the Environmental Planning and Assessment Act, 1979. Such a request must be made within six (6) months of the date of the determination, or if there is an appeal to the Land and Environment Court, up to the time when the court hands 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

A handwritten signature in black ink, appearing to read 'S Tarrant', is written over a light blue rectangular stamp. The stamp contains some faint, illegible text.

Mr S S Tarrant
Planner

Dated: 2 June 2021