

BSC File No: 211310D x 10.2023.353.1/#A2024/18586Contact: Lachlan Wall

## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

<b>Application No.</b>	10.2023.353.1 PAN-370427
<b>Applicant</b>	Mr J F Kilgariff
<b>Property</b>	111B Balemo Drive OCEAN SHORES LOT: 1 DP: 862364
<b>Development</b>	Dwelling House and Secondary Dwelling
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	10 April 2024
<b>Date from which the consent operates</b>	11 April 2024
<b>Date on which the consent lapses</b>	11 April 2029

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

### Reason for conditions

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

### Right of appeal / review of determination

If you are dissatisfied with this determination:

#### Request a review

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

#### Rights to appeal

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

### Signed on behalf of the Consent Authority



Lachlan Wall  
Planner

## CONDITIONS OF CONSENT

### SCHEDULE 1. CONDITIONS OF CONSENT

#### Parameters of consent

**1. Approved plans and supporting documentation**

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

Plan No.	Revision No.	Title	Drawn by	Dated
DA01	-	Site plan	Luis Crista Designs	16/02/2024
DA02	-	Main dwelling floor plan	Luis Crista Designs	16/02/2024
DA03	-	Section & window schedule	Luis Crista Designs	16/02/2024
DA04	-	Main dwelling elevations	Luis Crista Designs	16/02/2024
DA05	-	S. Dwelling floor plan	Luis Crista Designs	16/02/2024
DA06	-	Secondary dwelling Elev	Luis Crista Designs	16/02/2024
DRV1	B	Proposed Driveway – Site Plan	Lucena	04/03/2024
DRV2	B	Proposed Driveway – Longitudinal Section	Lucena	04/03/2024
SWMP 1	A	Proposed Stormwater Management Plan – Site Plan	Lucena	28/11/2023

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. 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.

**3. Payment of security deposits**

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

Security deposit	\$3,000
Inspection fee	In accordance with the <a href="#">current fees and charges</a> .

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.

#### 4. **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.

#### 5. **Conditions prescribed by the Regulation**

This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in a **Schedule** to this consent.

#### 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 for the Principal Dwelling shall comply with Sections 3 and 5 (BAL 12.5) 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.
4. New construction for the Secondary Dwelling shall comply with Sections 3 and 7 (BAL / 29) 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.

5. 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. Plan of subdivision to be registered**

Before the issue of the construction certificate, the plan of subdivision approved by development consent 10.2020.587.1 must be registered by NSW Land Registry Services and titles created.

### **8. Construction site management plan**

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

- location and materials for protective fencing and hoardings to the perimeter on the site
- provisions for public safety
- pedestrian and vehicular site access points and construction activity zones
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site

- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures
- location of temporary toilets.

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

#### **9. Stormwater Drainage – Connection to Public or Inter-allotment Drainage**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. All stormwater drainage for the development must be conveyed by a gravity system to the existing Council stormwater pit in the north west side of Council's stormwater drainage easement.

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:

- 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.

#### **10. 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 Alteration**

The existing driveway must be altered to facilitate the proposed internal driveway and must comply with Council's current standards, in accordance with Council's Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings.

##### **b) Street Tree replacement**

If required, the tree within Council's road reserve may be impacted by the driveway works. If this tree is removed, a replacement street tree with a mature height of at least 3.0m is to be provided within the frontage of the lot. The street tree to be a native species endemic to the North Coast of NSW. Details to be included in the S138 Application

**11. Access & Parking**

The application for a Construction Certificate is to include plans and specification that indicate access, parking and manoeuvring details in accordance with the plans approved by this consent.

The access, parking and manoeuvring for the site is to comply with the requirements of AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking. Plans are to include, but not be limited to, the following items:

- a) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment including suitably designed permeable pavements;
- b) site conditions affecting the access;
- c) existing and design levels; and
- d) longitudinal section from the road centreline to the car space(s).

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".

**12. 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.

**13. Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No. 1417235M, dated Wednesday, 30 August 2023.

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

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

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

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

**14. Building materials and colours to be specified**

The application for a Construction Certificate is to include plans and specifications that indicate the proposed building materials and colours consistent with the provisions of Development Control Plan 2014 – Chapter D2.2.3 - Character and Visual Impact. Please note that colours must be non-reflective earth tone colours and that the use of white and near white colours is not permissible

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

**15. 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.

**16. Developer Contributions to be paid**

Contributions set out in the schedule at the end of this consent are to be paid to Council prior to the release of a construction certificate for the secondary dwelling. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended).

The [Developer Contribution Plan](#) can be viewed online or using the Customer Kiosk 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.

Contact Council for payment options.

**17. 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**

**18. 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.

**19. Tree Removal**

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

**20. 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.

**21. Plans of retaining walls and drainage**

The application for a Construction Certificate is to include plans and specifications that indicate retaining walls or other approved methods of preventing movement of the soil, where any excavation or filled area exceeds 600mm in height. Adequate provision must be made for drainage.

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

**22. Erosion and Sediment measures**

Erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. 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).**

**23. 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**

**24. 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.

**25. 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.

**26. 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.

**27. 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.

**28. 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.

**29. 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.**

**30. Removal of asbestos**

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

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

**31. 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.

**32. 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.

**33. 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.

**34. 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 \(2014\)](#)

**35. 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](#).

**36. 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**

**37. 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.

**38. 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.

**39. New Street number**

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.

**40. 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.

Prior to issue of any occupation certificate, written certification from a suitably qualified engineer must be obtained confirming that the driveway as constructed complies with the relevant parts of AS 2890.1 Parking Facilities – Off-Street Carparking.

**41. 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.

**42. 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**

**43. 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.

**44. Use of the dwelling house**

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

**45. Use of Secondary dwelling**

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

**46. Relationship to Principal Dwelling**

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

**47. 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.

**48. 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.

**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.
- e. Goods deliveries shall be restricted to daytime operating hours.

**SCHEDULE 2. PRESCRIBED CONDITIONS**

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

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

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

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

*Note: From July 1 2018, Councils 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 notified/advertised in accordance with Council's Community Participation Plan. No submissions were received.

### SCHEDULE 4. NOTES

#### Construction Certificate required:

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

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

#### Principal Certifying Authority:

Work must not commence until the applicant has:-

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

#### Occupation Certificate required:

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

#### Protection of the Environment Operations Act 1997:

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

**Penalties apply for failure to comply with development consents**

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

**Plumbing Standards and requirements.**

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

**Relics Provisions- Advice**

Attention is directed to the NSW Heritage Act 1977 and the provisions of the Act in relation to the exposure of relics. The Act requires that if:

- a) a relic is suspected, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation; and/or
- b) any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation;

Those responsible for the discovery must notify nominated management personnel who will in turn notify the Heritage Council of New South Wales or its delegate, the Office of Environment and Heritage, NSW Heritage Branch, and suspend work that might have the effect of disturbing, damaging or destroying such relic until the requirements of the NSW Heritage Council have been satisfied (ss139, 146).

**Fire Ants**

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

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

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

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



### 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 based on the contribution rates that are applicable at the time of payment.

The current contribution rates are available from Council offices during office hours.

Section 7.11 contributions Schedule						
Ocean Shores						
Catchment						
This schedule was calculated in spreadsheet #E2024/6353						
1 bedroom 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		24-April-2024	After this date contact Council for CPI update.			
Local Open Space & Recreation	(OS-OS)	0.55	SDU @	\$ 2,055.75	=	\$ 1,130.66
LGA Wide Open Space & Recreation	(OS-SW)	0.55	SDU @	\$ 889.83	=	\$ 489.41
LGA wide Community Facilities	(CF-SW)	0.55	SDU @	\$ 1,303.25	=	\$ 716.79
Local Community Facilities	(CF-OS)	0.55	SDU @	\$ 1,774.93	=	\$ 976.21
Bikeways & Footpaths	(CW-OS)	0.55	SDU @	\$ 560.49	=	\$ 308.27
Shire Wide Bikeways & Footpaths	(CW-SW)	0.55	SDU @	\$ 95.60	=	\$ 52.58
Urban Roads	(R-OS)	0.55	SDU @	\$ -	=	\$ -
LGA Wide Roads	(R-SW)	0.55	SDU @	\$ 269.26	=	\$ 148.09
Rural Roads	#N/A	0.55	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	0.55	SDU @	\$ 1,345.94	=	\$ 740.27
<b>Total</b>						<b>\$ 4,562.28</b>

### 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 2022)**

Water	0.40 ET
Bulk 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.

## 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*).

## 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](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 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.