



## NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

<b>Application No.</b>	10.2021.205.4 PAN-423461
<b>Applicant</b>	Mr M J Lute
<b>Property</b>	8 Aloota Crescent OCEAN SHORES LOT: 664 DP: 240398
<b>Development</b>	Modification to Approved Plans in Relation to the Modified Location of the Approved Dual Occupancy Dwelling and Driveway
<b>Determination</b>	Approved Consent Authority - Byron Shire Council
<b>Date of determination</b>	28 August 2024

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

### Reason for approval

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

### Right of appeal / review of determination

If you are dissatisfied with this determination:

#### Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 28 days from the date that you received this notice provided that an appeal under section 8.9 of the EP&A Act has not been disposed of by the Court.

#### Rights to appeal

You have a right under section 8.9 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

### Signed on behalf of the Consent Authority

Benjamin Barnet  
Planner

## Schedule 1 – Modification Summary

### A. Modify condition 1 of the Notice of Determination to read as follows:

#### 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:
A02 Revision 9	Site Plan, Revised Driveway and Landscaping Plan V 3.0 (as amended in red)	Scott Allen Consulting	12/04/2022 (in red)
Rev B	Location Plan	R S Jasprizza & Associates	26/3/2022
A07 Revision 9	Ground Floor Level	Scott Allen Consulting	12/04/2022 (in red)
A08 Revision 9	First Floor Plan	Scott Allen Consulting	12/04/2022 (in red)
A10 Revision 9	Carpark / Garage Space	Scott Allen Consulting	12/04/2022 (in red)
A05 Revision 9	North Elevation and South Elevation	Scott Allen Consulting	12/04/2022 (in red)
A06 Revision 9	West Elevation and East Elevation	Scott Allen Consulting	12/04/2022 (in red)
A09 Revision 9	Typical Section	Scott Allen Consulting	12/04/2022 (in red)
A13 Revision 9	Height Plane Perspective 3 – North Elevation	Scott Allen Consulting	12/04/2022 (in red)
A11 Revision 9	Height Plane Perspective 1	Scott Allen Consulting	12/04/2022 (in red)
A12 Revision 9	Actual View from North Boundary	Scott Allen Consulting	12/04/2022 (in red)
A15 Revision 9	Shadow Diagrams	Scott Allen Consulting	12/04/2022 (in red)
A16 Revision 9	Shadow Diagrams	Scott Allen Consulting	12/04/2022 (in red)
A01 Revision 9	Perspective – Proposed Dual Occupancy Dwelling	Scott Allen Consulting	12/04/2022 (in red)
A04 Revision 9	Perspectives	Scott Allen Consulting	12/04/2022 (in red)
A12 Revision 9	Perspective – Actual view from north boundary	Scott Allen Consulting	12/04/2022 (in red)
A14 Revision 9	General Notes	Scott Allen Consulting	12/04/2022 (in red)
A15 Revision 9	Shadow Diagrams	Scott Allen Consulting	12/04/2022 (in red)
A16 Revision 9	Shadow Diagrams	Scott Allen Consulting	12/04/2022 (in red)
A18	Tree Removal Plan	Applicant	18/12/2021 (in red)

except as modified by the following plans but only in relation to the modified dual occupancy dwelling and driveway locations:

Plan No.	Description	Prepared by	Dated:
C1 Rev A	Site Plan	Lucena	07/08/2024
C2 Rev A	Sections / Details 1	Lucena	07/08/2024
C3 Rev A	Sections / Details 2	Lucena	07/08/2024
C4 Rev A	Sections / Details 3	Lucena	07/08/2024
VT1 Rev A	Vehicle Turning	Lucena	07/08/2024

The approved plans listed below form part of the concurrent approval under Section 68 of the Local Government Act 1993 (Council reference No: 60.2021.205.1):

Plan No.	Description	Prepared by	Dated:
02	Site plan	SAC	12.4.22
07	Ground Floor	SAC	12.4.22
08	First Floor	SAC	12.4.22
For a copy of Councils standard drawings, refer to Councils website. <a href="https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications">https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications</a>			
102	Water Supply Standards	BSC	May 18

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.

### STATEMENT OF REASONS

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

Statement of Reasons	
S.4.55	The modifications are minor and the development as modified is substantially the same as the originally approved development, with no significantly detrimental environmental impacts.
DA	The development is satisfactory having regard to the relevant provisions of Byron Local Environmental Plan 2014.
DA	The development is satisfactory having regard to the provisions of relevant State Environmental Planning Policies.
DA	The development is satisfactory having regard to the relevant provisions of Development Control Plan 2014.
DA	The development is satisfactory having regard to the relevant provisions of the Environmental Planning & Assessment Regulation 2021.
DA	The development will not have significant impacts, including environmental impacts on the natural or built environments, or social or economic impacts in the locality.
DA	The site is suitable for the development.
DA	The development application was publicly exhibited in accordance with the Community Participation Plan. Issues raised in any submissions received have been taken into consideration in the assessment of the application.
DA	The development is unlikely to prejudice or compromise the public interest.
How community views were addressed	
1	The application did not require public exhibition in accordance with the Community Participation Plan.

## Schedule 2 - Conditions of Consent



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

**Development Application No. 10.2021.205.1**

Mr M J Lute  
PO Box 7  
NEW BRIGHTON NSW 2483

Email: office@certifiers2u.com.au

<b>Property description</b>	LOT: 664 DP: 240398 <b>8 Alooata Crescent OCEAN SHORES</b>
<b>Development</b>	Dwelling to create a Dual Occupancy (Detached)
<b>Determination</b>	<b>Consent granted</b> <i>Subject to the attached schedule of conditions</i>
<b>Date determined</b>	13 April 2022
<b>Consent to operate from</b>	14 April 2022
<b>Consent to lapse on</b>	14 April 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. **Development is to be in accordance with approved plans**  
The development is to be in accordance with plans listed below:

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Rev B	Location Plan	R S Jasprizza & Associates	26/3/2022
A07 Revision 9	Ground Floor Level	Scott Allen Consulting	12/04/2022 (in red)
A08 Revision 9	First Floor Plan	Scott Allen Consulting	12/04/2022 (in red)
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A18	Tree Removal Plan	Applicant	18/12/2021 (in red)

except as modified by the following plans but only in relation to the modified dual occupancy dwelling and driveway locations:

Plan No.	Description	Prepared by	Dated:
C1 Rev A	Site Plan	Lucena	07/08/2024
C2 Rev A	Sections / Details 1	Lucena	07/08/2024
C3 Rev A	Sections / Details 2	Lucena	07/08/2024
C4 Rev A	Sections / Details 3	Lucena	07/08/2024
VT1 Rev A	Vehicle Turning	Lucena	07/08/2024

The approved plans listed below form part of the concurrent approval under Section 68 of the Local Government Act 1993 (Council reference No: 60.2021.205.1):

Plan No.	Description	Prepared by	Dated:
02	Site plan	SAC	12.4.22
07	Ground Floor	SAC	12.4.22
08	First Floor	SAC	12.4.22
For a copy of Councils standard drawings, refer to Councils website. <a href="https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications">https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications</a>			
102	Water Supply Standards	BSC	May 18

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

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

- a) Two (2) car spaces for the existing dwelling in the single garage and hardstand parking space; and
- b) Two (2) car spaces for the proposed dwelling in the double carport.

**3. 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.

**4. Dual occupancy (detached) requirements. 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.

5. **Concurrent Approvals**

The following approvals are provided under Section 4.12 of Environmental Planning and Assessment Act (Council reference No: 60.2021.205.1) for the following works (refer **Schedule 3** 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 Carry out water supply work;
- B3 Install, alter, disconnect or remove a meter connected to a service pipe;
- B4 Carry out sewerage work;
  
- B6 Connect 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.

6. **Essential Energy requirements**

Essential Energy's records indicate that the existing underground service cable to the property is affected by the proposal:

- a. The proposed secondary dwelling cannot be constructed over the existing service cable. The Applicant will need to engage the services of an Accredited Service Provider to:
  - i. re-locate this existing service cable; and
  - ii. ensure adequate provision of power is available to both dwelling(s);

in accordance with *NSW Service and Installation Rules*. All works will be at the Applicant's expense. A Level 2 Electrician will be able to advise on these requirements and carry out the required work to ensure compliance.

- b. Prior to carrying out any works (excavation or otherwise), a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW) to locate this service cable.

Essential Energy's records also indicate that low voltage underground cables are located across the street frontage of the property:

- c. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW) to locate these cables.
- d. Any excavation works in this area or any works on the driveway must comply with the latest industry guideline currently known as [\*ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure\*](#).
- e. Works around the cables must be managed. If the ground levels over the cables are to be altered, clearances must be maintained and cable integrity protected.

- f. Any driveway or access used by vehicles into the property must have a minimum clearance of 500 millimetres from its closest point to the service pillar located at the front of the property. Also, the driveway must not impact on existing cables, cable joints, pits, pillars and the like – refer Essential Energy’s policy *CEOM7098 Distribution Underground Design and Construction Manual*. Note that approval is not possible where the driveway is proposed to be located with an impact on existing cables, cable joints, pits, pillars and the like - refer *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
- g. The service pillar is to remain clear of vegetation, retaining walls, garden beds etc.
- h. Any proposed tree planting or landscaping across the street frontage must comply with *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.

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

**7. 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](http://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.

**8. Garage to be reinstated**

Prior to issue a Construction Certificate the single garage of the existing dwelling must be reinstated. Details must be submitted with the application for a Construction Certificate to reinstate the garage.

**9. On-site stormwater detention required**

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 via an on-site stormwater detention system by gravity to the kerb and gutter at the street frontage via a kerb adaptor in accordance with Councils Standard Drawing R-08.

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 and on-site stormwater detention contained in Council’s Development Control Plan, Stormwater Guideline and Local Approvals Policy; and

- (b) 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**

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

b) **Driveway Removal**

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

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 suitably designed permeable pavements;
- b) site conditions affecting the access;
- c) existing and design levels;
- d) turning paths; and
- e) longitudinal sections.

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. **Flood Planning Level**

The flood planning level for this development is 3.60m A.H.D. The plans and specifications to accompany the construction certificate application are to 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. **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. 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/repared 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.

14. **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 shall be 3.15 metres centred over the pipeline.

15. **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.

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.

16. **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.

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. 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.

**19. Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No. 1183374S\_02, dated Monday, 31 January 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.

**20. 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.

**21. 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.

**22. Tree Removal**

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

issued.

23. **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.

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

24. **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.**

25. **Construction Certificate and Plumbing Permit**

A Construction Certificate and plumbing permit must be issued prior to any works.

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

26. **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.**

27. **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.**

**28. Signs to be erected on building and demolition sites**

A sign must be erected in a prominent position on the work site:

- a. stating that unauthorised entry to the work site is prohibited, and
- b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

**29. Builders rubbish to be contained on site**

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

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

Fill material must not encroach onto any adjoining land.

**31. Prevention of water pollution**

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

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

**32. 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.

**33. 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.

**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 DECC Waste Classification Guidelines \(2008\)](#).

**35. 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**

**36. 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.

**37. On-site Stormwater Detention – Certification of works**

All stormwater drainage works, including on-site stormwater detention works, for the development must be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate. Certificate/s of Compliance and Work-As-Executed (WAE) plans for the stormwater works must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

The certificate/s and WAE plans are to be prepared by a suitably qualified engineer and must be in accordance with Council's [Comprehensive Guidelines for Stormwater Management](#).

**38. 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).

**39. 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.

**40. Landscaping to be completed**

The landscaping must be completed, generally in accordance with the approved Landscaping Plan, prior to the issue of an occupation certificate.

**41. Plumbing Works**

All works in relation to any associated Section 68 Water and Sewerage approval must be fully complied with and have a Final Plumbing Certificate issued prior to the issue of any Interim or Final Occupation Certificate.

**42. 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.

43. **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. Not concentrated so as to cause soil erosion, and
  - c. Not onto adjoining land.
44. **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**

45. **Approved use**  
**Dwelling house** – Use of the development is approved for a dwelling house. Any activity other than that defined as dwelling house must not be carried out unless development consent is sought.

Note. *dwelling house* means “a building containing only one dwelling”, and dwelling means “a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile”. The dwelling house is not approved as short term rental accommodation, tourist and visitor accommodation or to be “holiday let”.

**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](#).

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: 60.2021.205.1

### Description of Activity granted approval:

- **Staging:** Nil
- **Part 1 Private works:** Water and sewer works associated with new dwelling to create a dual occupancy.
- **Part 2 Council Assets:**

This approval has given consent for the installation of:

On new DN20mm water meter 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 or connection to existing drainage.
- In ground water lines
- 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](mailto: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\\_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).

## 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 gully 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) Private Pumps Station Requirements**

The development is to be serviced by a Private Pump Station. Prior to issue of any Final Plumbing Certificate, the Licenced Plumber is to supply Council with details of the private pump station as detailed on Byron Shire Council web site.

**j) 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.

**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.

### **2. 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:**

- Prestart meeting at proposed site to confirm water meter locations
- Water meter connections prior to backfill
- Final inspection

### **3. Prior to issue of Final Inspection of Works**

On Completion of Council assets and prior to booking a final inspection the following documents must be submitted to Council prior to booking a final inspection;

#### **a) Water Meter Schedule and site plan**

Water meter schedule to have following information:

- water meter number (photo preferred);
- lot/unit number water meter is serving
- A site plan with the location of the water meter(s), the numbers and what they serve clearly shown.

#### **b) Certificate of compliance**

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

Councils BSA team 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.
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## 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](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.

**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).

**Essential Energy requirements**

Essential Energy also makes the following general comments:

- 1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
- 2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
- 3. In addition, Essential Energy’s records indicate there is electricity infrastructure located within the property and within close proximity of the property. Any activities within these locations must be undertaken in accordance with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
- 4. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines* and *Code of Practice – Work near Underground Assets*.

**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	1.00 ET
Bulk Water	1.00 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.

**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.**

<b>Section 7.11 contributions Schedule</b>						
<b>Ocean Shores</b>						
<b>Catchment</b>						
This schedule was calculated in spreadsheet #E2021/99005						
1bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		2	@	0.75 SDU	=	1.5
3 bedroom units/dwellings =		1	@	1 SDU	=	1
Allotments =		0	@	1	=	0
Less Site Credits =		1	@	-1	=	-1
<b>Total SDU</b>					=	<b>1.5</b>
Schedule valid until		<b>27-April-2022</b>		<b>After this date contact Council for CPI update.</b>		
Local Open Space & Recreation	(OS-OS)	1.50	SDU @	\$ 1,832.69	=	\$ 2,749.04
LGA Wide Open Space & Recreation	(OS-SW)	1.50	SDU @	\$ 793.28	=	\$ 1,189.92
LGA wide Community Facilities	(CF-SW)	1.50	SDU @	\$ 1,161.84	=	\$ 1,742.76
Local Community Facilities	(CF-OS)	1.50	SDU @	\$ 1,582.34	=	\$ 2,373.51
Bikeways & Footpaths	(CW-OS)	1.50	SDU @	\$ 499.68	=	\$ 749.52
Shire Wide Bikeways & Footpaths	(CW-SW)	1.50	SDU @	\$ 85.22	=	\$ 127.83
Urban Roads	(R-OS)	1.50	SDU @	\$ -	=	\$ -
LGA Wide Roads	(R-SW)	1.50	SDU @	\$ 240.04	=	\$ 360.06
Rural Roads	#NA	1.50	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	1.50	SDU @	\$ 1,199.90	=	\$ 1,799.85
<b>Total</b>						<b>\$ 11,092.49</b>

### 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



Ben Barnet  
Planner

*Dated: 30 August 2024*

### **General Advisory Notes**

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

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

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

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