



BSC File No: 100420D x 10.2021.230.4/#A2024/24278  
Contact: Stephen Jones

## NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

<b>Application No.</b>	10.2021.230.4 PAN-412037
<b>Applicant</b>	Ms N G Piat-Niski
<b>Property</b>	25 Alcorn Street SUFFOLK PARK LOT: 13 DP: 31280
<b>Development</b>	Modification for Alterations and Additions to Existing Dwelling House
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	2 May 2024

*Under of the EP&A Act, notice is given that the above application to modify previous 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

Stephen Jones  
Planner

## Schedule 1 – Modification Summary

### MODIFIED CONDITIONS OF CONSENT:

#### A. Delete condition 9 e) of the Notice of Determination

#### B. Modify conditions 1 and 10 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:
C1.00 Rev D	Site Plan (annotated by Council)	Ben de Nardi Architects	11 Mar. 2024
C1.01 Rev D	Floor Plan (annotated by Council)	Ben de Nardi Architects	11 Mar. 2024
A1.02 Rev A	Upper Floor Plan (annotated by Council)	Paper Plans	22 Oct. 2021
A1.03 Rev A	Roof Plan (annotated by Council)	Paper Plans	22 Oct. 2021
C3.00 Rev D	Elevations (North and West) (annotated by Council)	Ben de Nardi Architects	11 Mar. 2024
A3.01 Rev A	Elevations (South and East)	Paper Plans	22 Oct. 2021
A4.00 Rev A	Sections	Paper Plans	22 Oct. 2021
A8.00 Rev A	Door & Window Schedule	Paper Plans	22 Oct. 2021
C1.06	Tree Removal & Planting Plan (annotated by Council)	Ben de Nardi Architects	18 Jan. 2024

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.

##### 10. Landscaping plan required

The principal certifying authority must ensure that all landscaping works are in accordance with the landscaping plan, including the following:

- a) Removal of the mature pine at the southwest corner of the property; and
- b) Adequate and effective landscaping and planting of appropriate vegetation in the front set back of the property, including the area between the front fence and front boundary, to reduce the visual impact of the building works.

The landscaping plan must indicate:

- i. proposed location for planted shrubs and trees;
- ii. use of locally native species;
- iii. botanical name of shrubs and trees to be planted;
- iv. mature height of trees to be planted;
- v. location of grassed and paved areas; and
- vi. location of trees identified for retention in the development application plans.
- vii. compensatory planting that includes a planting rate of 10:1 due to the high significance value of the pine tree being removed. Replacement plantings to consist of native shrubs which reach a minimum of 2m height.

For a list of native species that may be suitable please refer to [Native Species Planting Guide | Byron Shire Council \(nsw.gov.au\)](#) .

The plan is to be prepared by a suitably qualified landscape architect / architect /ecologist who has appropriate experience and competence in landscaping.

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

Note: Landscaping of the property is to comply with the principles of Appendix 4 of 'Planning for Bush Fire Protection 2019'

**C. Add condition 1A to the Notice of Determination to read as follows:**

**1A. Plans annotated by Council**

The principal certifying authority must ensure that all works are in accordance with the plans annotated by Council including the following:

- a) Plans to show removal of the pine tree as per consent 10.2021.230.3.
- b) Plans to show front fence, as follows:
  - i. Height of 1.8 metres with 500mm set back from front boundary.
  - ii. Labelled 'Timber Paling Painted Black'.
  - iii. Comply with AS 2890 requirements for pedestrian sight distances.

**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.*

<b>Statement of Reasons</b>
The modifications are minor and the development as modified is substantially the same as the originally approved development, with no significantly detrimental environmental impacts.

<b>How community views were addressed</b>
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. 10.2021.230.1**

Matt Walker Town Planning  
PO Box 1150  
BYRON BAY NSW 2481

Email: [mattwalkertownplanning@gmail.com](mailto:mattwalkertownplanning@gmail.com)

<b>Property description</b>	LOT: 13 DP: 31280 <b>25 Alcorn Street SUFFOLK PARK</b>
<b>Development</b>	Alterations and Additions to Existing Dwelling House
<b>Determination</b>	<b>Consent granted</b> <i>Subject to the attached schedule of conditions</i>
<b>Date determined</b>	14 December 2021
<b>Consent to operate from</b>	15 December 2021
<b>Consent to lapse on</b>	15 December 2026

### IMPORTANT INFORMATION

**It is the responsibility of the applicant, landowner, builder, and any other contractors or agents involved with the development to read and understand all conditions of consent prior to commencing work.**

***The Environmental Planning and Assessment Act 1979 require you to:***

1. Obtain a **Construction Certificate** prior to the commencement of any **building works** as required by conditions of this consent. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the Construction Certificate. Additional fees are payable for this application.
2. Nominate a **Principal Certifying Authority (PCA)** which may be either Council or an accredited certifier and notify Council of that appointment. You **cannot lawfully** commence works without complying with this requirement.
3. Give Council at least two days notice of your intention to commence the erection of a building **before** commencing construction works. You cannot lawfully commence works without complying with this requirement.
4. Obtain an **Occupation Certificate** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

## 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:

Plan No.	Description	Prepared by	Dated:
C1.00 Rev D	Site Plan (annotated by Council)	Ben de Nardi Architects	11 Mar. 2024
C1.01 Rev D	Floor Plan (annotated by Council)	Ben de Nardi Architects	11 Mar. 2024
A1.02 Rev A	Upper Floor Plan (annotated by Council)	Paper Plans	22 Oct. 2021
A1.03 Rev A	Roof Plan (annotated by Council)	Paper Plans	22 Oct. 2021
C3.00 Rev D	Elevations (North and West) (annotated by Council)	Ben de Nardi Architects	11 Mar. 2024
A3.01 Rev A	Elevations (South and East)	Paper Plans	22 Oct. 2021
A4.00 Rev A	Sections	Paper Plans	22 Oct. 2021
A8.00 Rev A	Door & Window Schedule	Paper Plans	22 Oct. 2021
C1.06	Tree Removal & Planting Plan (annotated by Council)	Ben de Nardi Architects	18 Jan. 2024

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.

**1A. Plans annotated by Council**

The principal certifying authority must ensure that all works are in accordance with the plans annotated by Council including the following:

- c) Plans to show removal of the pine tree as per consent 10.2021.230.3.
- d) Plans to show front fence, as follows:
  - i. Height of 1.8 metres with 500mm set back from front boundary.
  - ii. Labelled 'Timber Paling Painted Black'.
  - iii. Comply with AS 2890 requirements for pedestrian sight distances.

**2. Coastal erosion**

The development must cease if at any time the coastal erosion escarpment comes within 50 metres of any building associated with this development. The buildings and works used in connection with the development must be immediately demolished or removed to an approved location by the owner of the land. The owner must return the landform of the subject land to the predevelopment state and suitably revegetate the land.

In this condition coastal erosion escarpment means the landward limit of erosion in the dune system caused by storm waves.

**Note: At the end of a storm the escarpment may be near vertical; as it dries out, the escarpment slumps to a typical slope of 1 vertical to 1.5 horizontal.**

**3. Conditions prescribed by the Regulation**

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

**4. Concurrent Approvals**

The following approvals are provided under Section 4.12 of Environmental Planning and Assessment Act, subject to the conditions contained in **Schedule 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 Carrying out water supply work

B4 Carrying out sewerage work

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

**5. 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 firefighting 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 firefighting activities.

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

### **Construction Standards**

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

3. New construction shall comply with Sections 3, 7 (BAL 29 for eastern façade) and 5 (BAL 12.5 for all other facades), Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' and the relevant provisions of Section 7.5 of Planning for Bush Fire Protection 2019.

### **Landscaping Assessment**

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

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

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

#### **6. Water and Sewerage - Section 68 approval required**

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.

#### **7. Stormwater drainage – dispersion trench**

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, including existing and proposed roof areas, must be conveyed by a gravity system to a dispersion trench or trenches complying with the requirements of Council's *Comprehensive Guidelines for Stormwater Management*.

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

#### **8. Public Positive Covenant to be placed on title – Coastal erosion**

Documentary evidence is to be provided to the Principal Certifying Authority that a public positive covenant, pursuant to the provisions of S.88E of the *Conveyancing Act 1919*, has been placed on the title to the land, the subject of this consent, stating: -

*The development granted via development consent number 10.2021.230.1 must cease if at any time the coastal erosion escarpment comes within 50 metres of the building subject of the consent. The development the subject of this consent must be demolished and removed immediately. Further the landowner must suitably revegetate the land.*

*In this covenant coastal erosion escarpment means the landward limit of erosion in the dune system caused by storm waves.*

Note: Documents requiring the endorsement of Council associated with the creation or cancellation of easements, restrictions, covenants are subject to fees listed within Council's Fees & Charges.

## **9. Amendments to the plans required**

The plans submitted for approval of the Construction Certificate must be amended as follows:

- a) Removal of the sitting pergola at the south east corner to ensure all building works are at least 9m from the eastern boundary;
- b) Reduction of the ground floor parapet wall height to a maximum of 200mm above the floor level of the upper floor;
- c) Removal of wet bar from living room;
- d) Reduction in the width of the western pergola and crazy paving to a maximum of 1.4m from the western wall of the dwelling extension; and
- e) Deleted by 10.2021.230.4 dated 2 May 2024.

Such plans are to be approved as part of the Construction Certificate.

## **10. Landscaping plan required**

The principal certifying authority must ensure that all landscaping works are in accordance with the landscaping plan, including the following:

- a) Removal of the mature pine at the southwest corner of the property; and
- b) Adequate and effective landscaping and planting of appropriate vegetation in the front set back of the property, including the area between the front fence and front boundary, to reduce the visual impact of the building works.

The landscaping plan must indicate:

- viii. proposed location for planted shrubs and trees;
- ix. use of locally native species;
- x. botanical name of shrubs and trees to be planted;
- xi. mature height of trees to be planted;
- xii. location of grassed and paved areas; and
- xiii. location of trees identified for retention in the development application plans.
- xiv. compensatory planting that includes a planting rate of 10:1 due to the high significance value of the pine tree being removed. Replacement plantings to consist of native shrubs which reach a minimum of 2m height.

For a list of native species that may be suitable please refer to [Native Species Planting Guide | Byron Shire Council \(nsw.gov.au\)](#) .

The plan is to be prepared by a suitably qualified landscape architect / architect /ecologist who has appropriate experience and competence in landscaping.

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



Note: Landscaping of the property is to comply with the principles of Appendix 4 of 'Planning for Bush Fire Protection 2019'.

**11. 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:

**Driveway Upgrade**

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

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

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

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

**13. Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No. A411271\_02, dated 14 August 2021.

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. 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.

**15. Site Waste Minimisation and Management Plan**

Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

A template is provided on Council's website to assist in providing this information  
[www.byron.nsw.gov.au/files/publication/swmmp-pro-forma.doc](http://www.byron.nsw.gov.au/files/publication/swmmp-pro-forma.doc)

**16. Tree Removal**

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

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

**17. Erosion and sediment control measures**

Erosion and sediment control measures are to be in place in accordance with the Guidelines for Erosion & Sediment Control on Building Sites. A copy may be downloaded from Council's web site. Particular attention is to be given to the provision of the following erosion and sediment 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; and
- c) Silt fence or sediment barrier.

**18. Site Location**

The location of the building on the site to be established by a suitably qualified Surveyor and must comply with this approval including any required setbacks to boundaries.

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

**19. 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.**

**20. 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.**

**21. 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.

**22. 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.

**23. All excavated soils intended 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.

**24. 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) <https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines>

**25. 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. Template s143 Notices are available at <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/wasteregulation/160095-notices143-form.docx>

**26. 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.

**27. Maintenance of erosion and sediment control measures**

Erosion and sediment control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

**28. 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.

**29. Aboriginal Relics**

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

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

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

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

**30. Works to be completed prior to issue of a Final Occupation Certificate**

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development including approvals issued under the Local Government Act 1993 and the Roads Act 1993, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Councils road/footpath reserve.

**31. Plumbing Works**

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.

**32. Driveway upgrade to be completed**

The driveway upgrade is to be constructed in accordance with the approved plans and Roads Act consent prior to the issue of an occupation certificate.

**33. Stormwater drainage work**

Stormwater drainage for the development must be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate.

**34. 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.

**35. Site Location Survey**

A final survey of the structures showing setbacks to boundaries to be submitted to the Private Certifier with the Occupation Certificate demonstrating compliance with the approved plans.

**36. Landscaping**

The landscaping of the site as detailed in the approved landscaping plan must be completed prior to the issue of an occupation certificate for the development.

**37. Compliance with bushfire conditions**

Documentary evidence from a suitably qualified professional is to be submitted demonstrating that the bush fire conditions of this Notice of Determination have been complied with.

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

**38. Maintenance of landscaping**

The landscaping of the site as detailed in the approved landscaping plan is to be maintained at all times.

**SCHEDULE 2. PRESCRIBED CONDITIONS**

**The prescribed conditions in accordance with Part 6 Division 8A of the Environmental Planning and Assessment Regulation as at the date of this development consent as are of relevance to this development must be complied with:**

Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

Clause 98A Erection of signs

Clause 98B Notification of Home Building Act 1989 requirements

Clause 98C Conditions relating to entertainment venues

Clause 98D Condition relating to maximum capacity signage

Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Part 6 Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

### SCHEDULE 3. LOCAL GOVERNMENT ACT 1993 SECTION 68 CONDITIONS OF APPROVAL

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

- Council reference No: 60.2021.230.1

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

1. All works associated with this approval must be fully contained inside the property boundary 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 the Council water main without a meter will result in a fine and possibly a stop works notice.

3. **Unapproved fixtures**

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

4. **Erosion and sediment control measures**

Erosion and sediment control measures are to be in place in accordance with the Guidelines for Erosion & Sediment Control on Building Sites. A summary of these guidelines is attached. A full copy may be downloaded from Council's web site at [www.byron.nsw.gov.au](http://www.byron.nsw.gov.au). Erosion and sediment control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface. **Note: Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.**

5. **During Construction**

Plumbing, Water Supply and Sewerage works shall be installed in accordance with the *Local Government Act 1993*, Plumbers Code of Australia and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications. The changes made are from Plumbers and Drainage Regulation 2012 NSW Government:

1. The licensee is to provide 24 hours' notice and attend the site for the following **INSPECTIONS**, prior to covering of work. Inspections will be carried out a mutually convenient time for any works that fall under the following descriptions for inspections. (If there are no applicable works, for example, a new water supply with no sewer services, then an inspection for "external drainage" will not be required). Typical inspections that must be booked include, but are not limited to:
  - a) Internal Drainage;
  - b) External Drainage;
  - c) Sewer connection to council boundary shaft/asset;
  - d) Water Rough In; and
  - e) Final - all work completed.
2. **Prior to booking a final inspection**, a licensee is required to provide Council and the owner of the property a **Compliance Certificate** and **Sewer Services Diagram/ Works as Executed drawings THAT IS STRICTLY TO NSW FAIR TRADING REQUIREMENTS.** See link below.

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

## 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 1988.

The proposed development complies with relevant State Environmental Planning Policies

The proposed development complies with relevant provisions of Development Control Plan 2010

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. No submissions were received 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 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).

**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

A handwritten signature in dark ink, appearing to read 'Stephen Jones', with a long, sweeping horizontal line extending to the right.

Stephen Jones  
Planner

*Dated: 14 May 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.