

**NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

issued under the

***Environmental Planning and Assessment Act, 1979 Section 81(1)(a)*****Development Application No. 10.2014.743.1**Planit Consulting (NSW) Pty Ltd  
PO Box 1623  
KINGSCLIFF NSW 2487

<b>Property description:</b>	LOT: 954 DP: 241073, LOT: 12 DP: 1128095, LOT: 9 DP: 1046566, LOT: 892 DP: 241810, LOT: 893 DP: 241810, LOT: 944 DP: 241810 <b>2 Kulgun Court OCEAN SHORES, 41 Matong Drive OCEAN SHORES, 43 Matong Drive OCEAN SHORES, Pacific Highway OCEAN SHORES</b>
<b>Development</b>	<b>Proposed five (5) lots into three (3) lot consolidation, two boundary adjustments, construction and strata subdivision of thirty (30) of multi dwelling houses, a and detached dual occupancy over four (4) stages</b>
<b>Determination</b>	<b>Consent granted subject to the attached schedule of conditions</b>
<b>Date determined:</b>	29 October 2015
<b>Consent to operate from:</b>	4 November 2015
<b>Consent to lapse on:</b>	4 November 2020
<b>Concurrent approvals:</b>	Not Issued with this consent

**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 requires 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. Additional fees are payable for this application.

ALL COMMUNICATIONS TO BE ADDRESSED TO THE GENERAL MANAGER

PO Box 219 Mullumbimby NSW 2482 (70-90 Station Street)

Tel: 02 6626 7000 DX20007 Mullumbimby

Fax: 02 6684 3018 Email: [council@byron.nsw.gov.au](mailto:council@byron.nsw.gov.au)Web [www.byron.nsw.gov.au](http://www.byron.nsw.gov.au) ABN: 14 472 131 473

TRADITIONAL HOME OF THE BUNDJALUNG PEOPLE



**Staging of Construction:**

- **Stage 1 – Torrens Title Lot Consolidation. (5 Lots to 3 Lots) and Boundary Adjustment (between two lots).**
- **Stage 2 – Eight (8) Residential Units, incorporating Driveway / Carparking / Access to Mating Drive and Locked Gate for Emergency Services (locked to prevent access through the site to Kulgun Court / Brunswick Valley Way), and Strata Subdivision.**
- **Stage 3 - Eight (8) Residential Units, incorporating Driveway / Carparking / Access to Kulgun Court and Brunswick Valley Way and Strata Subdivision.**
- **Stage 4 – Nine (9) Residential Units, incorporating Driveway / Carparking and Strata Subdivision.**
- **Stage 5 - Five (5) Residential Units and, One (1) Dual Occupancy and Strata Subdivision**
- **The development must occur this sequence.**

**Parameters of this Consent**

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

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

<b>Plan No.</b>	<b>Description</b>	<b>Prepared by</b>	<b>Dated:</b>
Kulgun_Proposed_Sub	Proposed Site Subdivision Plan	Planit Consulting	02/2015
Kulgun_Proposed_Strata	Proposed Strata Boundaries	Planit Consulting	02/2015
DA00	Overall Master Plan	Leisure Brothers	April 2015 Amendment 8 25.06.2015
DA01	Part Site Plan 1	Leisure Brothers	September 2014 Amendment 4 11.09.2014
DA02	Part Site Plan 2	Leisure Brothers	April 2015 Amendment 7 25.06.2015
DA03	Part Floor Plan 1	Leisure Brothers	September 2014 Amendment 1 11.09.2014
DA04	Part Floor Plan 2	Leisure Brothers	September 2014 Amendment 1 11.09.2014
DA05	Part Floor Plan 3	Leisure Brothers	September 2014 Amendment 1 11.09.2014
DA06	Part Floor Plan 4	Leisure Brothers	September 2014 Amendment 1 11.09.2014
DA07	Part Floor Plan 5	Leisure Brothers	April 2005 Amendment 1 11.09.2014
DA08	Part Floor Plan 6	Leisure Brothers	April 2005 Amendment 1 11.09.2014
DA09	Part Floor Plan 7	Leisure Brothers	April 2005 Amendment 2 25.06.2015

DA10	Part Floor Plan 8	Leisure Brothers	April 2005 Amendment 2 25.06.2015
DA11	Part Floor Plan 9	Leisure Brothers	April 2005 Amendment 1 11.09.2014
DA12	Part Floor Plan 10	Leisure Brothers	April 2005 Amendment 1 11.09.2014
DA13	Part Floor Plan 11	Leisure Brothers	April 2005 Amendment 2 09.06.2015
DA14	Part Floor Plan 12	Leisure Brothers	April 2005 Amendment 3 09.06.2015
DA15	Sections	Leisure Brothers	April 2005 Amendment 1 11.09.2014
DA16	Site Plan - Type A	Leisure Brothers	April 2005 Amendment 2 11.09.2014
DA17	Floor Plan – Type A	Leisure Brothers	April 2005 Amendment 4 11.09.2014
DA18	Elevations – Type A	Leisure Brothers	April 2005 Amendment 3 11.09.2014
DA19	Sections	Leisure Brothers	April 2005 Amendment 3 11.09.2014
DA20	Site Plan – Type B	Leisure Brothers	April 2005 Amendment 2 11.09.2014
DA21	Floor Plan – Type B	Leisure Brothers	April 2005 Amendment 4 11.09.2014
DA22	Elevations	Leisure Brothers	April 2005 Amendment 3 11.09.2014
DA24	Floor Plan – Type BA	Leisure Brothers	April 2005 Amendment 1 11.09.2014
DA25	Elevations	Leisure Brothers	April 2005 Amendment 1 11.09.2014
DA27	Matong Avenue Ocean Shores, NSW Type C	Leisure Brothers	September 2014 Amendment 2 11.09.2014
DA28	Floor Plan	Leisure Brothers	September 2014 Amendment 4 11.09.2014
DA29	Elevations	Leisure Brothers	September 2014 Amendment 3 11.09.2014
DA30	Sections	Leisure Brothers	September 2014 Amendment 3 11.09.2014
DA31	Floor Plan	Leisure	September 2014

		Brothers	Amendment 1 11.09.2014
DA32	Elevations	Leisure Brothers	September 2014 Amendment 1 11.09.2014
DA33	Section	Leisure Brothers	September 2014 Amendment 1 11.09.2014
DA34	Floor Plan	Leisure Brothers	September 2014 Amendment 1 11.09.2014
DA35	Elevation	Leisure Brothers	September 2014 Amendment 1 11.09.2014
DA36	Section	Leisure Brothers	September 2014 Amendment 1 11.09.2014
DA37	Floor Plan	Leisure Brothers	September 2014 Amendment 2 07.07.2014
DA38	Elevation	Leisure Brothers	September 2014 Amendment 1 07.07.2014
DA39	West Elevation – Section	Leisure Brothers	September 2014 Amendment 1 11.09.2014
07368/1-B	<i>Report on Geotechnical Investigation, Slope Stability, Landslip Kulgan Court Ocean Shores</i>	Shaw & Urquhart	14 December 2007
Crgref:14083a	Environmental Noise Impact Report	CRG Acoustics	17 <sup>th</sup> September 2014
	'Roads & Maritime Services' letter of approval.	RMS	25/8/2015
Figure 1	Lot 892 DP241810 & Lot 893 DP241810 Tree Survey Plan	unsigned	undated

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) **Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989**

- (1) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
  - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia ,
  - (b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (2) This clause does not apply:

- (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
  - (b) to the erection of a temporary building.
- (3) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

### 3) Erection of signs

- (1) For the purposes of section 80A (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

**Note: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).**

### 4) Notification of Home Building Act 1989 requirements

- (1) For the purposes of section 80A (11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989 .
- (2) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - (a) in the case of work for which a principal contractor is required to be appointed:
    - (i) the name and licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work to be done by an owner-builder:
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

**5) Land to be consolidated**

All five (5) separate parcels of land are to be consolidated into three (3) allotments and registered with the NSW Department of Lands. Provide documentary evidence to the Principal Certifying Authority that the Lots have been consolidated and registered.

**STAGE 1 CONDITIONS.**

**The following conditions must be complied with prior to issue of a Subdivision Certificate (Stage 1).**

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**6) Subdivision Certificate application required**

An application for a Subdivision Certificate must be made on the approved form. The Subdivision Certificate fees, in accordance with Council's adopted schedule of fees and charges, must accompany such application.

**NOTE: The application must address ALL those conditions of consent required to be complied with "Prior to the issue of a subdivision Certificate" with a clear explanation how that condition has been complied with, together with supplying ALL the relevant information/documents/certificate and/or plans that is required by that condition.**

**The application MUST be one complete, concise package, addressing all those conditions. Failure to provide the abovementioned information in one package, will likely result in the application being refused/rejected and returned to you.**

**7) Plan of Subdivision**

The final plan of subdivision must be in accordance with the approved plan/s. A Deposited Plan Administration Sheet (original plus one (1) copy), two (2) copies of the plan of subdivision and any necessary section 88B instrument (original plus one (1) copy) are to be submitted with the application for a subdivision certificate. An additional copy of the final plan of subdivision is to be submitted showing the location of all buildings and/or other permanent improvements including any fences, internal access driveways/roads, effluent disposal areas and where relevant, the 1 in 100 year flood and flood planning level extents on land within or adjacent to a flood planning area. Where the building/s or improvements are close to boundaries, offset distances are to be included on the additional copy of the plan. This plan must be endorsed by a Registered Surveyor. Any encroachments must be removed or relocated wholly within the allotment.

**8) Certificate of Compliance – Water Management Act 2000 (All Stages)**

A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of a Subdivision Certificate.

Application forms are available from Council's administration building or online at [http://www.byron.nsw.gov.au/files/Forms/Section\\_305\\_Certificate.pdf](http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf) to be submitted for a Certificate of Compliance with the required payment .

## **STAGES 2 – 5 CONDITIONS.**

**Stage 2** – Construction of 8 townhouses and associated infrastructure

**Stage 3** – Construction of 8 townhouses and associated infrastructure

**Stage 4** – Construction of 9 townhouses and associated infrastructure

**Stage 5** – Construction of 5 townhouses and associated infrastructure

**The following conditions are to be complied with prior to issue of a Construction Certificate for each stage unless indicated for a specific stage.**

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### **9) Notice of Modification of Development Consent to be submitted. (Stage 2)**

A Notice of Modification of a Development Consent, prepared in accordance with Clause 97(1) of the Environmental Planning and Assessment Regulation 2000, must be submitted prior to the issue of a construction certificate for Stage 2, with respect to Development Consent No. **DA 10.2008.757.1**, the notice is to provide amended plans with Stages 2 & 3 shown deleted. All areas, including internal driveways of Stage 1 of 10.2008.757.1 are also to be made consistent with those plans approved under Condition 1 of this determination for Stage 2 of 10.2014.743.1

### **10) Ecological Restoration Plan required (Stage 2, 3, 4 & 5 )**

The construction certificate is not to be issued until Council is satisfied that adequate measures can be implemented to ensure that the native vegetation to be removed can be adequately compensated in accordance with Clause 5.9 of Byron LEP 2014; Byron DCP Chapter B2 *Preservation of trees and other vegetation* and Byron Biodiversity Conservation Strategy; and that the native vegetation to be retained can be adequately protected during the pre-construction, construction and operational phases of the development.

To satisfy Council in this matter, a detailed **Ecological Restoration Plan** is to be submitted to Council and approved. The plan must be prepared by a suitably qualified ecologist with bush regeneration qualifications and experience, or a qualified and experienced bush regenerator and must include:

1. Detail of all native vegetation requiring removal to enable the development as approved including a description of each numbered tree/vegetation community detailing its' species (common and botanical name); location identified on a map using GPS coordinates; approximate height and diameter at breast height; and whether any of the following is applicable to the species/community:
  - a) Large locally indigenous trees of over 60 cm diameter at breast height,
  - b) Trees identified in Appendix B2.1 – Significant Tree Register (Primary Koala Food trees),
  - c) Trees within an area of high conservation value vegetation and habitats,
  - d) Trees (whether dead or alive) containing tree hollow(s),
  - e) Threatened species,
  - e) Endangered Ecological Communities on or adjoining the subject site.
  - g) Within an identified wildlife corridor
  - h) Threatened fauna habitat
  - k) Within waterways, wetlands or riparian vegetation
2. The location of compensatory plantings in plan and word form at a minimum ratio of 10 gained: 1 lost for Tallowwoods and other native species within High Conservation Value Vegetation or mapped Wildlife Corridors or with a diameter at breast height of >60cm,

and a minimum of 5 gained: 1 lost for other native trees. The plan must include as a minimum:

- a. Detail to include plant species, height or area covered where a vegetation community is recognised;
- b. a map at a scale of 1:200 or better illustrating the location and extent of retained vegetation on the site in accordance with the plan endorsed by this consent. This map should also identify all areas where weeds exist in the vicinity of the development and the area(s) where plantings are proposed;
- c. provision for specific adequate plantings of plant species native to the local vegetation community(s) to compensate for loss of native vegetation from the site, including a list of species and the number of each species proposed to be planted in rehabilitation work;
- d. provision of a list of environmental weeds to be addressed on the site, specific methods of weed removal strategies and a clear identification of responsibility for the weed removal and rehabilitation
- e. a plan for independent audit and annual reporting to Council of weed management in retained vegetation on the site;
- f. the means of protection of existing vegetation within and adjoining the site to be preserved during the construction and operational phases of the development in accordance with AS 4970-2009: Protection of Trees on development sites.
- g. the means of replacing connectivity between vegetation communities in the 7(k) zoned part of the site with the Council reserve to the west of Lot 493.
- h. identification of all service connection locations within the site demonstrating that all services must be located independently of and will not be detrimental to any trees to be preserved.
- i. a detailed works plan including cost estimates and team days required to achieve effective habitat restoration; and
- j. performance criteria against which restoration works will be measured.
- k. erection of habitat boxes to off-set the loss of natural hollows.
- l. adaptive management provisions in case of failure to meet performance criteria.
- m. Inclusion of a statement that restoration works are to be undertaken by a qualified and experienced bush regenerator(s) over a period of no less than five years to ensure weeds are adequately controlled and native vegetation has sufficiently recovered.

In satisfying Council as to the above Council must be furnished with **Ecological Restoration Plan**. The plan must be prepared by a suitably qualified ecologist with bush regeneration qualifications and experience, or a qualified and experienced bush regenerator.

#### 11) Landscaping plan required (Stages 2, 3, 4 & 5)

The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9.12.5 of Development Control Plan 2014. The landscaping plan must indicate:

- That the majority of the plantings comprise locally occurring rainforest trees, shrubs and ground covers,
- proposed location for planted ground covers, shrubs and trees,
- botanical name of shrubs and trees to be planted
- mature height of trees to be planted

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. The Landscaping where suitable may add to the compensatory biodiversity plantings required by **Condition 10**.

**The landscaping is to be in accordance with Appendix 5 of Planning for Bushfire Protection 2006**

**12) Details of acoustic treatments and ventilation measures for building construction (All Stages)**

The application for a Construction Certificate is to include plans and specifications that demonstrate the inclusion of acoustic treatments and ventilation measures for building construction recommended in Section 6 of the Environmental Noise Impact Report prepared by CRG Acoustics dated 17<sup>th</sup> September 2014. Such plans and specifications must be approved as part of the Construction Certificate for building works.

**13) Acid sulfate soils management plan (All relevant stages)**

Acid Sulfate Soils Management Plan is required for earthworks or works where a total volume of soil disturbed exceeds 1000 tonnes. The Plan must be prepared by a suitably qualified Environmental / Soil Scientist and in accordance with the Acid Sulfate Soil Manual (ASSMAC 1998), and approved prior to the issue of a construction certificate for those works.

**14) Geotechnical Report required – Engineering Works (All Stages)**

A certificate from a professional Engineer experienced in soil mechanics is to be provided to the Principal Certifying Authority, certifying that:

- a) the design of the civil engineering works, including retaining walls and/or cut & fill batters, has been assessed as structurally adequate,
- b) the civil engineering works will not be affected by landslip or subsidence either above or below the works; and
- c) adequate drainage has been provided.

**15) Sediment and Erosion Control Management Plan required (All Stages)**

The application for a Construction Certificate is to include plans and specifications that indicate the measures to be employed to control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as filter fences and sedimentation basins, and shake down areas at all vehicle access points to the development site.

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".**

**16) Water and Sewerage - Section 68 approval required (All Stages)**

An **Approval** under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.

**17) On-site stormwater detention - Section 68 approval required (All Stages)**

An approval under Section 68 of the Local Government Act 1993 to carry out on-site detention drainage system and connection to a Council approved drainage system. The drainage design is to provide for the following, but not limited to, works:

- The system for the central catchment/northern portion of the site must be designed to match the post developed ARI 100 year flows to the pre-developed ARI 5 year flows.
- The On-Site detention basin/infrastructure must discharge via the existing stormwater drainage pipe through Lot 686 DP 240398 to Aloomah Crescent. This pipe line must be within an easement.

- An overland flow path for up to Q100 events within the easement.

The design is to facilitate stand alone operational compliance for each stage of the development.

**Note: The plans must be in compliance with Council's Development Control Plan 2002, Part N and Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings". Refer to Council's website for copies of these documents.**

**18) Consent required for works within the road reserve – Kulgun Court, Matong Drive & Brunswick Valley Way.**

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 Specification for Engineering Works and are to provide for the following works at the specific Stages of development:

**MATONG DRIVE: (Stage 2).**

**Driveway.**

A concrete driveway, to facilitate two way traffic flows for Residential, Delivery and Refuse Collection vehicles, in accordance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

**KULGUN COURT: (Stage 3 )**

**Driveway.**

A concrete driveway, to facilitate two way traffic flows for Residential, Delivery and Refuse Collection vehicles, in accordance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

**Stormwater Drainage.**

Stormwater drainage works, pipes, pits, as required and approved under the Section 68 Stormwater Drainage approval.

**Adjustment of Services**

Any roadworks are to include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities and to ensure that the services are constructed flush with the finished surface levels.

**Road Pavement AC Seal.**

The existing road pavement seal for the full length and area of Kulgun Court is to have a new overlay of Open Graded Asphaltic Concrete seal.

**BRUNSWICK VALLEY  
WAY. (Stage 3 to accord  
with RMS approval dated  
25/8/15)**

**Unrestricted Driveway.**

A bitumen sealed (AC) unrestricted driveway, which facilitates two way traffic flows, designed for Residential, Delivery and Refuse Collection vehicles. The design is to be in general accordance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings", and,

AustRoads standards for driveway design and sight distances. The design is also to provide for, as required, drainage culvert/infrastructure, pavement works to Brunswick Valley Way, signage and/or linemarking (new and relocation), and any reconstruction works to the existing guard rail. The driveway design and construction is also to comply with the Roads & Maritime Services' letter of approval dated 25/8/2015.

**NOTE: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".**

**19) Traffic Management Plan. (All relevant Stages ).**

Consent from Council must be obtained for a Traffic Management Plan pursuant to Section 138 of the Roads Act 1993.

The plans and specifications are to include:

- The measures to be employed to control traffic (inclusive of construction vehicles for the duration of the construction of the development and haulage trucks for the earthworks phase) during construction of the development, during the Earthworks phase of the development and during any construction works within the public road reserves.
- The haulage route, frequency and size of trucks, and duration of operations for the Earthworks phase.
- A traffic control plan is to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'; and
- Incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The traffic control plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

**20) Car Parking layout, Vehicle circulation and Internal Driveway/Access plans required. (All Relevant Stages).**

The application for a Construction Certificate is to include plans and specification that indicate internal access, car parking and vehicle turning/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 Council's DCP2014 B4: Parking facilities, Part 1: Off-street car parking and AS 2890.2 – 2002 - Parking facilities, Part 2: Off-street commercial vehicle facilities. Plans are to include, but not be limited to, the following items:

- a) pavement description, the pavement of the internal access road/driveway from Kulgun Court through to the internal roundabout/island is to be of a smooth surface to reduce vehicle/tyre noise;
- b) pavement description, the pavement of the internal access road/driveway from Matong Drive, inclusive of vehicle turning bay, and, a locked gate with signage at the southern end of the internal driveway that services the 8 units in Stage 1 to prevent access through to Kulgun Court/Brunswick Valley Way.
- c) The internal access road from Matong Drive, through No 43 Matong Drive, is to be designed so that the driveway comes no closer than 3 metres from the large trees circled

in red on Figure 1 'Lot 892 DP241810 & Lot 893 DP 241810 Tree Survey Plan', i.e. a minimum TPZ of 3.0 metres is to be provided.

- d) The driveway to the dual occupancy at No 41 Matong Drive is to be via a ROW through No 43 Matong Drive.
- e) the required number of car spaces for residents, deliveries, buses, and visitors for each stage of the development;
- f) existing and design levels;
- g) longitudinal section from the road centreline to the car space(s);
- h) cross sections;
- i) drainage (pipes, pits, on-site detention, etc.);
- j) turning paths for all design vehicles up to and including the 10m. Refuse Collection Vehicle ;
- k) vehicle turning areas at the end of the internal access/driveway for each stage of the development for all design vehicles up to and including the 10m. Refuse Collection Vehicle.
- l) linemarking and signage.

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

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".**

## **21) Flood Planning Level for new buildings (All Stages)**

The flood planning level for this development is **R.L. 4.9m A.H.D.**

The plans and specifications to accompany the construction certificate application are to indicate a minimum floor level that is at/above this flood planning level.

This affects the southern portion of the site, south of the Kulgun Court entrance driveway.

The plans and specifications to accompany the construction certificate application are also to indicate the use of flood compatible materials, fixtures and power outlets where used in the building below the flood planning level.

## **22) Bond required to guarantee against damage to public land (All Stages)**

A bond of **\$10,000.00** 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/repaired to pre development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths etc.

## **23) Public liability insurance cover required (Stages 2, 3).**

The developer and/or contractor must produce evidence to the Principal Certifying Authority of public liability insurance cover for a minimum of \$10 million. Council is to be nominated as an interested party on the policy.

**24) Long Service Levy to be paid (All Stages).**

A Long Service Levy must be paid to the Long Service Payments Corporation. This is a State Government Levy and is subject to change.

These payments may be made online at [www.lspc.nsw.gov.au](http://www.lspc.nsw.gov.au) or at Council's Administration Office, Station Street, Mullumbimby. Where paying to Council, cheques are to be made payable to 'Byron Shire Council'.

For further information regarding the Long Service Payment please refer to the website above.

**25) Water and Sewerage - Section 68 approval required (Stages 2, 3, 4 & 5).**

An **Approval** under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.

**26) Certificate of Compliance – Water Management Act 2000 (All Stages)**

A Certificate of Compliance will be issued on completion of construction of water management works to serve the development and/or on payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous Water Development Servicing Plans.

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

**Note:** Copies of the application forms for Certificates of Compliance are available on Council's website [http://www.byron.nsw.gov.au/files/Forms/Section\\_305\\_Certificate.pdf](http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf) or from Council's Administration Office. Copies of Byron Shire Council's Development Servicing Plans are available at Council's Administration Office.

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, Water on 02 6626 7081. Applicable charges can be found on Council's website:

<http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>

**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**

**27) Compliance with BASIX Certificate requirements (All Stages)**

The development is to comply with BASIX Certificate No.575291M, dated 23 September 2014. 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 energy efficiency measures may be undertaken without the issue of an amendment under Section 96 of the Act, provided that the changes do not affect the form, shape or size of the building.

Proposed external colours/materials must be consistent with those shown on the approved plans referred to in Condition No.1 of this consent. Such plans and specifications must be approved as part of the Construction Certificate.

**28) Clothes drying (All Stages)**

Plans accompanying the application for construction certificate are to show the provision of external clothes drying areas in accordance with Byron Development Control Plan 2014 Chapter D1.6.6.

### 29) Long Service Levy to be paid (All Stages)

A Long Service Levy must be paid to the Long Service Payments Corporation. This is a State Government Levy and is subject to change.

These payments may be made online at [www.longservice.nsw.gov.au](http://www.longservice.nsw.gov.au) or at Council's Administration Office, Station Street, Mullumbimby. Where paying to Council, cheques are to be made payable to 'Byron Shire Council'.

For further information regarding the Long Service Payment please refer to the website above.

### 30) Site Waste Minimisation and Management Plan (All Stages)

Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. 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/publications/swmmp\\_-\\_pro-forma-.doc](http://www.byron.nsw.gov.au/files/publications/swmmp_-_pro-forma-.doc)

### 31) Developer Contributions to be paid for Stage 2 (8 Townhouses).

Contributions set out in the schedule below are to be paid to Council prior to the release of a construction certificate for this stage. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at <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 credit for the 5 existing lots have been allocated to this stage.

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.

**PAYMENTS WILL ONLY BE ACCEPTED BY CASH OR BANK CHEQUE.**

Section 94 contributions Schedule for Ocean Shores Catchment						
This schedule was calculated in spreadsheet #E2015/28112						
1 bedroom units =	0	@	0.55 SDU	=		0
2 bedroom units =	0	@	0.75 SDU	=		0
3 bedroom units/dwellings =	8	@	1 SDU	=		8
Allotments =	0	@	1	=		0
Less Site Credits =	4	@	-1	=		-4
Total SDU				=		4
Schedule valid until			24/10/2015	After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-OS)	4.00	SDU @	\$ 1,632.24	=	\$ 6,528.96
LGA Wide Open Space & Recreation	(OS-SW)	4.00	SDU @	\$ 706.51	=	\$ 2,826.04
LGA wide Community Facilities	(CF-SW)	4.00	SDU @	\$ 1,034.77	=	\$ 4,139.08
Local Community Facilities	(CF-OS)	4.00	SDU @	\$ 1,409.27	=	\$ 5,637.08
Bikeways & Footpaths	(CW-OS)	4.00	SDU @	\$ 445.02	=	\$ 1,780.08
Shire Wide Bikeways & Footpaths	(CW-SW)	4.00	SDU @	\$ 75.90	=	\$ 303.60
Urban Roads	(R-OS)	4.00	SDU @	\$ -	=	\$ -
LGA Wide Roads	(R-SW)	4.00	SDU @	\$ 213.79	=	\$ 855.16
Rural Roads	#N/A	4.00	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	4.00	SDU @	\$ 1,068.66	=	\$ 4,274.64
<b>Total</b>				<b>\$ 6,586.16</b>	<b>=</b>	<b>\$ 26,344.64</b>

### 32) Developer Contributions to be paid for Stage 3 (8 Townhouses)

Contributions set out in the schedule below are to be paid to Council prior to the release of a construction certificate for this stage. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at <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.

**PAYMENTS WILL ONLY BE ACCEPTED BY CASH OR BANK CHEQUE.**

Section 94 contributions Schedule for Ocean Shores Catchment						
This schedule was calculated in spreadsheet #E2015/28112						
1 bedroom units =	0	@	0.55 SDU	=		0
2 bedroom units =	0	@	0.75 SDU	=		0
3 bedroom units/dwellings =	8	@	1 SDU	=		8
Allotments =	0	@	1	=		0
Less Site Credits =	0	@	-1	=		0
Total SDU				=		8
Schedule valid until			24/10/2015	After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-OS)	8.00	SDU @ \$ 1,632.24	=	\$	13,057.92
LGA Wide Open Space & Recreation	(OS-SW)	8.00	SDU @ \$ 706.51	=	\$	5,652.08
LGA wide Community Facilities	(CF-SW)	8.00	SDU @ \$ 1,034.77	=	\$	8,278.16
Local Community Facilities	(CF-OS)	8.00	SDU @ \$ 1,409.27	=	\$	11,274.16
Bikeways & Footpaths	(CW-OS)	8.00	SDU @ \$ 445.02	=	\$	3,560.16
Shire Wide Bikeways & Footpaths	(CW-SW)	8.00	SDU @ \$ 75.90	=	\$	607.20
Urban Roads	(R-OS)	8.00	SDU @ \$ -	=	\$	-
LGA Wide Roads	(R-SW)	8.00	SDU @ \$ 213.79	=	\$	1,710.32
Rural Roads	#N/A	8.00	SDU @ \$ -	=	\$	-
Administration Levy	(OF-SW)	8.00	SDU @ \$ 1,068.66	=	\$	8,549.28
<b>Total</b>			<b>\$ 6,586.16</b>	=	<b>\$</b>	<b>52,689.28</b>

### 33) Developer Contributions to be paid for Stage 4 (9 Townhouses)

Contributions set out in the schedule below are to be paid to Council prior to the release of a construction certificate for this stage. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at <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.

Section 94 contributions Schedule for Ocean Shores Catchment						
This schedule was calculated in spreadsheet #E2015/28112						
1 bedroom units =	0	@	0.55 SDU	=		0
2 bedroom units =	0	@	0.75 SDU	=		0
3 bedroom units/dwellings =	9	@	1 SDU	=		9
Allotments =	0	@	1	=		0
Less Site Credits =	0	@	-1	=		0
Total SDU				=		9
Schedule valid until			24/10/2015	After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-OS)	9.00	SDU @ \$ 1,632.24	=		\$ 14,690.16
LGA Wide Open Space & Recreation	(OS-SW)	9.00	SDU @ \$ 706.51	=		\$ 6,358.59
LGA wide Community Facilities	(CF-SW)	9.00	SDU @ \$ 1,034.77	=		\$ 9,312.93
Local Community Facilities	(CF-OS)	9.00	SDU @ \$ 1,409.27	=		\$ 12,683.43
Bikeways & Footpaths	(CW-OS)	9.00	SDU @ \$ 445.02	=		\$ 4,005.18
Shire Wide Bikeways & Footpaths	(CW-SW)	9.00	SDU @ \$ 75.90	=		\$ 683.10
Urban Roads	(R-OS)	9.00	SDU @ \$ -	=		\$ -
LGA Wide Roads	(R-SW)	9.00	SDU @ \$ 213.79	=		\$ 1,924.11
Rural Roads	#N/A	9.00	SDU @ \$ -	=		\$ -
Administration Levy	(OF-SW)	9.00	SDU @ \$ 1,068.66	=		\$ 9,617.94
<b>Total</b>			<b>\$ 6,586.16</b>	=		<b>\$ 59,275.44</b>

### 34) Developer Contributions to be paid for Stage 5 (5 Townhouses and Dual Occupancy)

Contributions set out in the schedule below are to be paid to Council prior to the release of a construction certificate for this stage. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at <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.



Section 94 contributions Schedule for Ocean Shores Catchment						
This schedule was calculated in spreadsheet #E2015/28112						
1 bedroom units =	0	@	0.55 SDU	=		0
2 bedroom units =	0	@	0.75 SDU	=		0
3 bedroom units/dwellings =	6	@	1 SDU	=		6
Allotments =	0	@	1	=		0
Less Site Credits =	0	@	-1	=		0
Total SDU				=		6
Schedule valid until			24/10/2015	After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-OS)	6.00	SDU @ \$ 1,632.24	=	\$	9,793.44
LGA Wide Open Space & Recreation	(OS-SW)	6.00	SDU @ \$ 706.51	=	\$	4,239.06
LGA wide Community Facilities	(CF-SW)	6.00	SDU @ \$ 1,034.77	=	\$	6,208.62
Local Community Facilities	(CF-OS)	6.00	SDU @ \$ 1,409.27	=	\$	8,455.62
Bikeways & Footpaths	(CW-OS)	6.00	SDU @ \$ 445.02	=	\$	2,670.12
Shire Wide Bikeways & Footpaths	(CW-SW)	6.00	SDU @ \$ 75.90	=	\$	455.40
Urban Roads	(R-OS)	6.00	SDU @ \$ -	=	\$	-
LGA Wide Roads	(R-SW)	6.00	SDU @ \$ 213.79	=	\$	1,282.74
Rural Roads	#N/A	6.00	SDU @ \$ -	=	\$	-
Administration Levy	(OF-SW)	6.00	SDU @ \$ 1,068.66	=	\$	6,411.96
<b>Total</b>			<b>\$ 6,586.16</b>	=	<b>\$</b>	<b>39,516.96</b>

### 35) External lighting plan to be submitted for approval (All Stages)

The application for a Construction Certificate is to include plans and specifications that demonstrate that safe minimum standards of lighting (min. 0.2 Lux) can be provided without generation of undue glare and nuisance from the lighting installations. Lighting assessment and design should be undertaken by a suitably qualified professional with competence in the fields of illuminating engineering and environmental design in accordance with AS4282-1997: Control of the obtrusive effects of outdoor lighting and NSW Workcover OH&S requirements.

### The following conditions are to be complied with prior to commencement of building works

#### 36) Traffic Management Plan (All Relevant Stages)

The approved traffic management plan is to be implemented.

#### 37) Public safety requirements (All Relevant Stages)

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. The public liability insurance cover, for a minimum of \$10 million, is to be maintained for the duration of the construction of the development. Council is not held responsible for any negligence caused by the undertaking of the works.

#### 38) Dilapidation Reports required (All Relevant Stages).

Prior to the commencement of any excavation works requiring rock drilling, blasting or breaking, a pre-construction Dilapidation Report is to be submitted to Council detailing the current condition of all adjoining buildings, infrastructure and roads.

This report is also advisable prior to any earthworks.

A second Dilapidation Report shall be submitted to Council, prior to occupation of the building (whole or partial), to ascertain if any structural damage has occurred to any adjoining building, infrastructure or roads.

**39) Environmental Noise Impact Report (All Stages)**

All controls and measures must be in place in accordance with the approved Environmental Noise Impact Report.

**40) Acid sulfate soils management (All Stages)**

If required acid sulfate soil controls must be in place in accordance with any approved Acid Sulfate Soils Management Plan.

**41) Erosion and Sediment Control Management Plan implemented (All Stages).**

Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.

Sediment and erosion control measures in accordance with the approved Erosion and Sedimentation Control plan/s must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

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

**42) Plumbing Standards and requirements. (All Stages)**

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. The changes made are from Plumbers and Drainage Regulation 2012 NSW Government.

- a) 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:
  - i) Pre-start and Sediment Control;
  - ii) Internal Drainage;
  - iii) External Drainage;
  - iv) Water Rough In;
  - v) Fire Services;
  - vi) Stackwork;
  - vii) Final - all work completed. - \* Note below.
- b) A licensee is required to provide to Council and owner of the property after completion of the work and within 48 hours, a Compliance Certificate and Sewer Services Diagram / Works as Executed drawings.

**43) Imported Fill Material (All Stages)**

All fill material imported to the site for the purpose of the development must be from a clean source. Documentation must accompany the material certifying it as clean or virgin material. A copy of the certification must be provided to the certifying authority prior to any building work or construction commencing.

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**The following conditions are to be complied with during construction**

**44) Construction times (All Stages)**

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 Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

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

**45) Construction Noise (All Stages)**

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.**

**46) Environmental Noise Impact Report (All Stages)**

All works to be carried out in accordance with the approved Environmental Noise Impact Report.

**47) Building construction to incorporate acoustic treatment (All Stages)**

Approved plans and specifications for acoustic treatment and ventilation measures must be incorporated during construction for building works.

**48) Acid sulfate soils management (All Stages)**

Acid sulfate soils must be managed and disposed of in accordance with the approved Acid Sulfate Soils Management Plan. A copy of this report must be kept on the property at all times during construction and made available to any person.

**49) Any excavated ASS soils to be disposed of off-site (All Stages)**

Any soils to be disposed of off-site to be in accordance with NSW DECC *Waste Classification Guidelines* (2008) and Approved Acid Sulfate Soils Management Plan.

**50) Signs to be erected on building and demolition sites (All stages)**

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.

**51) Builders rubbish to be contained on site (All Stages)**

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.

**52) Protection of Native Trees (All Stages)**

All trees nominated to be retained by notation or condition as a requirement of the development consent shall be maintained and protected during demolition, excavation and construction on the site in accordance with AS 4970-2009 – Protection of Trees on Development Sites.

**53) Protection of koalas and other native fauna from disturbance (Stages 2 & 4)**

- (i) Clearing of native vegetation and/or earthworks as part of any development approval from Council must be temporarily suspended within a range of 25m from any tree which is concurrently occupied by a koala and must not resume until the koala has moved from the tree of its own volition;
- (ii) Any clearing of land must not commence until the area proposed for clearing has been inspected for the presence of all fauna species using the site;
- (iii) Should fauna be present at the time of proposed clearing, relevant fauna spotter/catcher protocols must be followed to prevent injury to wildlife;
- (iv) Approval to proceed with the clearing of vegetation in accordance with this section is only valid for the day on which the inspection has been undertaken.
- (v) The individual referred to in (ii) above, or a nominated representative, must remain on site during any approved clearing of vegetation.

**54) Prevention of water pollution (All Stages)**

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.

**55) Maintenance of Sediment and Erosion Control Measures (All Stages)**

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

**56) External Lighting (All Stages)**

All lighting installations must be installed in accordance with the approved lighting plans and specifications.

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

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**57) Occupation Certificate required (All Stages)**

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

**58) Works to be completed prior to issue of a Final Occupation Certificate (All Stages)**

All of the works, indicated for Stage 1, on the plans and approved by this consent, including any other consents that are necessary for the completion of this development, is 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.

**59) Car parking areas, Internal & External Driveways, Roadworks and Drainage to be completed. (All Relevant Stages).**

The car parking areas, internal and external driveways, roadworks and drainage works are to be constructed in accordance with the approved plans. Signs are to be erected clearly indicating the availability of off-street parking and the location of entry/exit points, visible from both the street and the subject site.

**60) Stormwater disposal (All Stages)**

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,

- c) Not directly to a watercourse, and
- d) Not onto adjoining land,
- e) Discharged from the site via approved public piped drainage infrastructure and overland flow paths.

**61) Environmental Noise Impact Report (All Stages)**

The applicant must confirm in writing that all works were carried out in accordance with the approved Environmental Noise Impact Report.

**62) Sewer and water to be connected (All Stages)**

A Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Council prior to the issue of an Occupation Certificate.

**63) Stormwater drainage – Certification of works (All Stages)**

- a) Stormwater must be collected and disposed of in a controlled manner in accordance with the approval granted to an application under Section 68 of the Local Government Act 1993.
- b) Certificates, such as 'hydraulic/hydrological compliance' and 'structural adequacy' must be submitted to the Principal Certifying Authority (PCA) prior to occupation.
- c) The certificates are to be from a suitably qualified engineer certifying that all works have been constructed in accordance with the approved plans, Council's current 'Design & Construction Manuals, Section 68 Approvals and Part B3.2.3 of DCP 2014.

**64) Insect screening (All Relevant Stages).**

All windows and doors of the proposed dwellings are to incorporate fly/insect screens.

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

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**65) No Interference with Amenity of Neighbourhood (All Relevant Stages).**

The proposed use of the premises shall not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) The noise level emanating from the use of the premises must comply with the New South Wales Industrial Noise Policy.
- b) Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
- c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- d) All waste storage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.

**66) Waste (All Relevant Stages).**

All wastes removed from the site must be managed and disposed on in accordance with NSW DECC *Waste Classification Guidelines* (2008)', or similar.

**67) Prohibiting/Restricting Vehicular Access between former Lot 9 DP 1046566 & Lot 893 DP 241810 (All Stages)**

The vehicular access to/from former Lot 9 DP 1046566 and Lot 893 DP 241810 is to restricted to emergency/fire vehicles only. The access is to have a locked gate with signage displaying restricted access.

**The following conditions must be complied with prior to commencement of subdivision works**

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**68) Metered Stand Pipe required**

Prior to the commencement of any civil works requiring water from Council water main, a metered Stand Pipe for temporary water supply must be supplied and installed by Council. Contact Council's Water and Recycling Department to arrange for this requirement on 02 6626 7081.

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

**The following conditions must be complied with during construction of subdivision works**

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**69) Council Specification**

All works to be constructed to at least the minimum requirements of the "Northern Rivers Local Government Design and Construction Manual"

- Development Design and Construction Manuals, Northern Rivers Local Government, 2009;
- Development Servicing Plan for Water Supply Services, Byron Shire Council, 2011;
- Development Servicing Plan for Sewerage Services, Byron Shire Council, 2011;
- Fire Flow Design Guidelines, Water Directorate, 2011;
- Water and Sewer Equivalent Tenement Policy (13/005), Byron Shire Council, 2013;
- Pressure Sewerage Policy (12/014), Byron Shire Council, 2012.
- Private Sewer Pump Station Policy (12/015), Byron Shire Council, 2012.

**The following conditions are to be complied with prior to issue of a Subdivision Certificate**

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**70) Section 88B Instrument**

A Section 88B Instrument and one (1) copy are to be submitted with the application for a subdivision certificate. The final plan of subdivision and accompanying Section 88B Instrument are to provide for:

**a) Sewer Easements**

The creation of easements for drainage of sewage over all sewage pipelines and structures located within the proposed allotments in accordance with Council's Building Over Pipelines Policy 4.20.

**b) Easement for Services**

The creation of suitable easements for services over the access handle(s) of proposed Lot(s)

**71) Works-As-Executed Plans**

Works-as-executed plans, being both hard copy and electronic format, certified by a suitably qualified engineer or a registered surveyor, are to be submitted with the application for a subdivision certificate. In the case where development involves filling of flood prone land, an additional copy of the works-as-executed plan relating to earthworks and final plan of subdivision must be submitted detailing the 1% flooding contour.

**72) CCTV Inspection and Report**

A Closed Circuit T.V. ('CCTV') Inspection and Report, certified by a qualified engineer, is to be submitted with the application for a Subdivision Certificate for the following works:

- a) Sewerage Reticulation.

**73) Certificate for services within easements**

The submission of a certificate from a registered surveyor certifying that all pipelines, structures, access driveways and/or services are located wholly within the relevant easements.

**74) Water service and meter to be connected to each lot**

A water service and water meter must be connected to all residential allotments in the subdivision using an approved backflow prevention device. It is the applicant's responsibility to engage a licensed plumber who shall liaise with council during this process.

Any new water service and meter will be at the applicants cost.

**75) Certificate of Compliance – Water Management Act 2000**

Water and sewer services are to be provided to the land in accordance with an approval granted under Section 68 of the Local Government Act 1993.

Payment of developer charges to Byron Shire Council for water supply and sewerage.

A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of a Subdivision Certificate.

Application forms are available from Council's administration building or online at [http://www.byron.nsw.gov.au/files/Forms/Section\\_305\\_Certificate.pdf](http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf) to be submitted for a Certificate of Compliance.

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**Approvals granted pursuant to Section 68 of the Local Government Act 1993**

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Nil

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**General Terms of Integrated Development Approval**

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**Bushfire Integrated Development for 954//241073, 12//1128095, 9//1046566 & 892, 893 & 944//241810 - 2 Kulgun Court, 41 & 43 Matong Drive and Pacific Highway, Ocean Shores**

Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

1. The development proposal is to comply with the layout identified on the following drawings:
  - a) 'Proposed Staging' plan (Revision 02), prepared by Planit Consulting, dated 2 April 2015;
  - b) 'Overall Master Plan' (Amendment No.6), prepared by Leisure Brothers, dated 7 April 2015;
  - c) 'Part Site Plan 1' (Amendment No.4), prepared by Leisure Brothers, dated 11 September 2014; and
  - d) 'Part Site Plan 2' (Amendment No.5), prepared by Leisure Brothers, dated 7 April 2015, except as modified by the following conditions.

**Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

2. At the commencement of development and in perpetuity, the entire property (proposed Lots 1, 2 and 3) except the area greater than 15 metres north of proposed 'House 22' and greater than 15 metres east of proposed 'House 29' and 'House 30' shall be managed as an inner

protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

### **Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

- 3 Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'. The reticulated water supply, including hydrants, shall extend into the development.

### **Access**

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

- 4 Access shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006', except that road widths are to comply with Table 4.1.
- 5 Temporary turning areas and/or turning circles for Stages 1, 2 and 3 shall comply with the following requirements:
  - a) turning areas or reversing bays shall be not less than 6 metres wide and 8 metres deep with an inner minimum turning radius of 6 metres and outer minimum radius of 12 metres; and
  - b) turning circles shall have a minimum outer radius of 12 metres.

### **Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- 6 New construction shall comply with Sections 3 and 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
- 7 Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build up of flammable material. Any materials used shall be non-combustible.
8. Fencing shall be non-combustible.

### **Landscaping**

- 9 Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

### **General Advice – consent authority to note**

Establishment asset protection zones may require the clearing of vegetation.

This bush fire safety authority does not authorise the clearing of any vegetation, nor does it include an assessment of potential flora and fauna impacts of clearing vegetation for the purpose of establishing asset protection zones. Approvals necessary for the clearing of vegetation should be obtained prior to the establishment of the proposed asset protection zones.

### **Notes**

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#### **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)

#### **Occupation Certificate required.**



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

### **Principal Certifying Authority.**

Work must not commence until the applicant has:-

appointed a Principal Certifying Authority (if the Council is not the PCA); and

given the Council at least two days notice of their intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.

notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

### **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.

### **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 No:13/005]**

##### **Stage 2**

Water	0.60 ET
Bulk Water	0.60 ET
Sewer	3.00 ET

##### **Stage 3**

Water	6.40 ET
Bulk Water	6.40 ET
Sewer	8.00 ET

##### **Stage 4**

Water	7.20 ET
Bulk Water	7.20 ET
Sewer	9.00 ET

##### **Stage 5**

Water	4.80 ET
Bulk Water	4.80 ET
Sewer	6.00 ET

## **Reasons**

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- To ensure access for people with access disabilities.
- To comply with the provisions of Byron L.E.P. 2014.
- To preserve the environment and existing or likely future amenity of the neighbourhood.
- To protect the environment.
- To preserve the amenity of the area.
- To ensure adequacy of services to the development.
- To ensure public health and safety.
- To ensure compliance with Section 68 of the Local Government Act 1993.

### **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 96 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 96 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 82A 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.

**NOTE:** This clause does not relate to Integrated Development Applications, applications determined by the Joint Regional Planning Panel or applications previously considered under Section 82A of the Environmental Planning and Assessment Act 1979.

**Right of Appeal**

If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.

**Signed on behalf of the Consent Authority**

Yours faithfully

Mr I R McIntosh  
Development Assessment Officer

*Dated: 4 November 2015*