



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION
issued under the
Environmental Planning and Assessment Act, 1979 Section 81(1)(a)

Development Application No. 10.2017.101.1

Newton Denny Chapelle
PO Box 1138
LISMORE NSW 2480

Email: office@newtondennychapelle.com.au

Property description:	LOT: 60 DP: 835249 88-94 Centennial Circuit BYRON BAY
Development	Mixed Use Development Comprising a Child Care Centre, Four (4) Industrial Retail Outlets, Six (6) Light Industry units and Two (2) Take-away Food and Drink Premises, an Ancillary Caretakers Dwelling and Parking Area
Determination	Consent granted subject to the attached schedule of conditions
Date determined:	14 November 2017
Consent to operate from:	15 November 2017
Consent to lapse on:	14 November 2022
Concurrent approvals:	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 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. Additional fees are payable for this application.

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:
DA 01 B	Drawing List / Location / Site Plan	Harley Graham Architects & Local Office Architecture	16.03.2017
DA 02 B	Area and Uses	Harley Graham Architects & Local Office Architecture	16.03.2017
DA 03 D	Level 00	Harley Graham Architects & Local Office Architecture	08.11.2017
DA 04 D	Level 01	Harley Graham Architects & Local Office Architecture	08.11.2017
DA 05 D	Parking and Access	Harley Graham Architects & Local Office Architecture	08.11.2017
DA 06 B	Sections	Harley Graham Architects & Local Office Architecture	16.03.2017
DA 07 B	Elevations	Harley Graham Architects & Local Office Architecture	16.03.2017
SLI-1 A	Statement of Landscape Intent	Scenetics	17.03.2017
SLI-2 A	Statement of Landscape Intent	Scenetics	17.03.2017

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

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

2. Support for neighbouring buildings

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

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

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

3. Acid Sulfate Soils Management Plan

An Acid Sulfate Soils (ASS) Management Plan must be prepared for works at or below 1.5m below pre-development ground levels. Such a plan must be submitted for approval

prior to the issue of a construction certificate for building works to include.

- a) Description of the site, including maps;
- b) Area of the site and area(s) of disturbance;
- c) Site attributes, including site landform and geology, details of any native vegetation, depth to watertable and likely seasonal variation;
- d) Maximum depth of excavation and level in AHD, volume of soil to be excavated, timing of works, water quality testing, calculated cone of depression;
- e) Plan showing locations of all boreholes, details of all sampling equipment, evidence of good materials handling procedures and laboratory certification;
- f) Full details of calculations used to determine the liming rate or any other ameliorant;
- g) Details of all measures to avoid/minimise any disturbance of ASS and dewatering of excavations;
- h) Details of measures to minimise the oxidation exposure times of all ASS excavations and stockpiles;
- i) Details of measures to segregate, stockpile, treat and dispose of ASS and acid drainage waters, including the provision of associated leachate and sediment control measures and procedures;
- j) Details of measures to ensure that acid drainage waters are not discharged to Council's stormwater system nor any watercourse or drainage channel;
- k) Details of measures to ensure that management of ASS will be undertaken in accordance with the *Acid Sulfate Soil Manual* (ASSMAC, 1998);
- l) Details of measures to ensure that any off-site disposal of ASS will be in accordance with the 'NSW DECC (2008) *Waste Classification Guidelines*';
- m) Details of validation testing to confirm that sufficient ameliorant has been incorporated into the ASS to prevent any future acidification;
- n) Names and contact details of persons responsible;
- o) Monitoring strategy; and
- p) Contingency procedures.

The Plan must be prepared by a suitably qualified Environmental / Soil Scientist and in accordance with the *Acid Sulfate Soil Manual* (ASSMAC 1998).

4. **Food Safety Standards**

The applicant must provide a to-scale detailed floor plan and cross-sections plans demonstrating compliance with Food Safety Standard 3.2.3. Reference to minimum requirements can be found in the document AS4674-2004 Design, Construction and Fit-out of Food Premises, and Food Premises Design, Construction and Fit-out Guide [file:///fapmho2/users\\$/EHolt/Downloads/Food-Premises-Design-Construction-and-Fitout-Guide%20\(1\).pdf](file:///fapmho2/users$/EHolt/Downloads/Food-Premises-Design-Construction-and-Fitout-Guide%20(1).pdf).

Plans must be submitted for approval prior to the issue of a construction certificate for building works.

5. **Environmental Management Plan**

An Environmental Management Plan (EMP) must be submitted to Council for approval prior to the issue of the construction certificate for building works. The EMP must detail the methods that will be implemented for the whole project and:

- a) be prepared by a suitably qualified professional;
- b) contain details of measures to be undertaken to ensure that construction works do not result in any off-site impacts, including those that could interfere with neighbourhood amenity;
- c) include a Waste Management Strategy that details the management of building

- wastes created as a result of the construction including on-site storage and disposal of building wastes;
- d) include a Noise Management Plan detailing measure to be employed to mitigate and manage construction noise;
 - e) include details of complaints handling process; and
 - f) name and qualifications of person who prepared the report.

Note: Refer to DECC's 'Interim Construction Noise Guideline' (2009) for more information (see <http://www.environment.nsw.gov.au/noise/constructnoise.htm>)

6. **Dewatering Management Plan required**

Prior to the issue of a construction certificate, the applicant must provide a Dewatering Management Plan, which must include the following:

- a) copy of licence from the NSW Department of NSW Office of Water for the dewatering of excavations and any associated groundwater monitoring bores;
- b) proposed location for the discharge of water;
- c) estimated flow rates and how these rates were determined;
- d) details of proposed water monitoring including locations, methodologies and frequencies;
- e) details of water quality criteria for discharged waters, to be derived from ANZECC / ARMCANZ (2000) Fresh and Marine Water Quality Guidelines 95% species protection trigger levels for freshwaters, or similar. Parameters to include, but not be limited to, pH, electrical conductivity, dissolved oxygen, total suspended solids, turbidity, ammonia, oxidised nitrogen (NO_x), Total Nitrogen (TN), Filterable Reactive Phosphorus, Total Phosphorus, Total Petroleum Hydrocarbons, Benzene, toluene, ethyl benzene, xylene (BTEX), Polycyclic Aromatic Hydrocarbons (PAHs) and Aluminium;
- f) full details of the methods of water treatment required prior to discharge, to ensure compliance with the above water quality criteria, including those that are manual and automated;
- g) site plan that demonstrates the location of all dewatering equipment and tanks;
- h) likely environmental effects and mitigation measures for each, including but not limited to noise and odour; and
- i) name and contact details, including a 24 hour contact number, of a suitably qualified person employed to oversee dewatering activities.

7. **Acoustic treatments for building construction**

The application for a Construction Certificate is to include plans and specifications that demonstrate the inclusion of acoustic treatments for building construction recommended in Sections 6.1 and Section 6.2 of Environmental Noise Impact Report, prepared by CRG Acoustics dated 23rd January 2017 (crgref: 16186). Such plans and specifications must be approved as part of the Construction Certificate for building works.

8. **Garbage storage area to be provided**

The application for a Construction Certificate is to include plans and specifications that indicate the proposed garbage store area. The proposed garbage store area is to be designed and constructed in accordance with the requirements of Chapter B8.3.3 of the Byron Shire Council Development Control Plan 2014. The enclosure must incorporate a concrete base with enclosure of suitable materials to provide adequate site and top screening and visual integration with the buildings and landscape treatment.

9. **Section 94A Levy to be paid**

Prior to the issue of a construction certificate the section 94A levy required by the Byron

Developer Contributions Plan 2012 shall be paid to Council.

The levy will be calculated as follows:

Levy payable = %C x \$C

Where: %C is the levy rate applicable as set out in the latest Ministerial Direction issued under section 94E.

\$C is the proposed cost of carrying out the development.

The rate of %C is:

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001–\$200,000	0.5 percent
More than \$200,000	1.0 percent

The cost of development shall be calculated in accordance with clause 25J of the regulation. The Cost Summary Report (copy attached) as set out in schedule 2 of the Section 94A contributions plan shall be submitted to Council with the payment. Copies of Cost Summary Report are available at Council's main office or may be downloaded from <http://www.byron.nsw.gov.au/>

10. **Water and Sewerage - Section 68 approval required**

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

11. **Trade Waste - Section 68 Part C approval required**

An **approval** under Section 68 Part C of the Local Government Act 1993 to discharge trade waste into Council's sewer must be obtained in accordance with NSW Office of Water Liquid Trade Waste Regulations Guidelines 2009, Council's Liquid Trade Waste Policy and Liquid Trade Waste Guidelines.

Commercial, business, trade and industrial activities discharging or proposing to discharge to the sewer are required to notify Council and complete the Trade Waste Registration Form available at the Mullumbimby Office and from Council's website at: http://www.byron.nsw.gov.au/files/publications/liquid_trade_waste_application_form_0.pdf

Trade Waste approval is required prior to gain Section 68 Part B approval to carry out water supply work and sewerage work.

12. **On-site stormwater detention - Section 68 approval required**

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 plans must be in compliance with the Northern Rivers Local Government Development Design and Construction Manuals, Byron Shire Council Comprehensive Guidelines for Stormwater Management and relevant Australian Standards. Refer to Council's website for copies of Council documents.

13. **Consent required for works within the 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 (commercial areas)	A driveway in accordance with Council's standard "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".
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14. **Car parking layout, vehicle circulation and access plans required.**

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

The access, parking and manoeuvring for the site is to comply with the requirements of Council's Development Control Plan 2014, AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking and AS 2890.2 – 2010 - Parking facilities, Part 2: Off-street commercial vehicle facilities. Plans are to include, but not be limited to, the following items:

- a) Pavement description;
- b) Site conditions affecting the access;
- c) Existing and design levels;
- d) Longitudinal section from the road centreline to the car space(s);
- e) Typical cross sections;
- f) Drainage (pipes, pits, on-site detention, etc.);
- g) Turning paths for cars and MRV service vehicles. Turning paths for occasional service HRV vehicles reversing onto the street with cars parked along both sides of Centennial Circuit are to be submitted as well;
- h) Line marking and signage;
- i) A minimum of 42 car spaces (1 being pick-up/ drop/off for child care);
- j) 21 car spaces marked and signed for Industrial Units, Retail & Take-Away components;
- k) 1 car space marked and signed for care takers residence;
- l) 20 car spaces marked and signed for child care centre;
- m) A maximum of 19 are to have a maximum width of 2.4m.

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".

15. **Flood Planning Level for new buildings**

The flood planning level for this development is 3.4m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate a minimum habitable floor level that is at or above the flood planning level.

The plans and specifications to accompany the construction certificate application are to also indicate the use of flood compatible materials and services below the flood planning level in accordance with the requirements of Council's Development Control Plan 2014 – Chapter C2 – Areas Affected by Flood; and

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

16. **Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No. Cert no 805057M, dated 16/03/2017

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 any amendment under Section 96 of the Act, provided that the changes do not affect the form, shape or size of the building.

Proposed colours must be consistent with the provisions of Section D2.2.3 of Council's Development Control Plan 2014. White colours are not permissible.

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

17. **Long Service Levy to be paid**

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 or at Council's Administration Office, Station Street, Mullumbimby. When 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.

18. **Certificate of Compliance – Water Management Act 2000**

A Certificate of Compliance will be issued upon 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 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

19. Public liability insurance cover required

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.

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

20. Erosion and Sediment measures

Erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. A copy may be downloaded from Council's web site at http://www.byron.nsw.gov.au/pdfs/stormwater/sediment_erosion_pdf. Particular attention is to be given to the provision of the following sediment and erosion control measures:

- a) Temporary driveway from the edge of road to the building site;
- b) Temporary downpipes immediately installed after the roof has been erected;
- c) Silt fence or sediment barrier.

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

Note: Council may impose on-the-spot fines for non-compliance with this condition. Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

21. Approved Environmental Plans of Management must be implemented

The works engineer must certify to the Principal Certifying Authority that all requirements contained in the following have been implemented:

- Acid Sulfate Soils Management Plan;
- Environmental Management Plan
- Noise Management Plan
- Dewatering Management Plan

The applicant is required to ensure that the construction management and all construction staff must be made aware of their responsibility to abide by the plans.

22. Dewatering activities

Measures for dewatering activities must be in place as per the requirements of the approved Dewatering Management Plan, or as provided in writing by Council.

23. Notification of commencement of dewatering activities

Written notification must be made to Council's Environmental Services Team prior to the commencement of dewatering activities. Notification must include details of contact details for responsible party and nomination of a 24 hour contact person and 24 hour telephone number.

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

24. 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 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.

25. 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.

26. 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.

27. Approved Environmental Plans must be maintained

All controls and measures must be maintained in accordance with the following approved Environmental Management Plans. The applicant is required to ensure that the construction management and all construction staff must be made aware of their responsibility to abide by the plans.

28. Builders rubbish to be contained on site

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

29. Dewatering activities

- a) All controls and measures for dewatering activities must be maintained as per the requirements of the approved Dewatering Management Plan, or as provided in writing by Council.
- b) The dewatering plant shall be silenced to ensure that neighbourhood amenity is

protected. Noise from all site activities should not be heard in a habitable room in a neighbour's residence between 8.00 pm and 7.00 am weekdays; and 8.00 pm to 8.00 am weekends and public holidays. All noise complaints from neighbours will be directed to a nominated contact number (24 Hr monitored) to be actioned and recorded on a log. Any complaints to Council about 'offensive' noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.

- c) At all times the water quality being discharged into the stormwater drain (included in the definition of 'natural waters') must comply with ANZECC / ARMCANZ guidelines as specified in the approved Dewatering Management Plan. No discharge is permitted if any of the water quality fails to achieve the required minimum receiving water standard.
- d) No extracted water is permitted to be discharged into Council's public sewer system. If the extracted water quality deteriorates and / or not comply with ANZECC / ARMCANZ guidelines specified in the approved Dewatering Management Plan, all discharges from the site must cease.
- e) Copies of the above Plan must be kept on the property at all times and be made available to anyone who asks to see them.
- f) 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.

30. **Fill to be retained on the subject land**
Fill material must not encroach onto any adjoining land.

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

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

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

The following conditions are to be complied with prior to issue of the relevant occupation certificate

33. **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, 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.

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) Clear of effluent disposal areas,
- c) Not concentrated so as to cause soil erosion,
- d) Not directly to a watercourse, and
- e) Not onto adjoining land.

Prior to issue of occupation certificate for takeaway:

35. **New South Wales Food Act 2003 and Food Regulation 2015**

The takeaway shall be constructed to comply with the New South Wales Food Act 2003 and Food Regulation 2015.

Requirements of Food Standard Code 3.2.3 and Australian Standard AS4674 – 2004 “Design, construction and fit-out of food premises” to be considered to achieve the necessary construction standards for the food business.

The operator shall obtain a satisfactory inspection from Councils Environmental Health officer prior to commencing the operation of the takeaway.

A minimum of twenty-four hours notice is required prior to inspection. Inspections can be arranged by telephoning 6626 7050 during normal office hours. A fee is levied upon the operator for such inspections.

36. **Council Inspection required**

The operator of the takeaway shall demonstrate to Councils’ Environmental Health officers’ satisfaction that adequate waste disposal facilities are available on the premises, and that such facilities can be maintained to prevent environmental harm or public nuisance. Provision must be made for cleaning and maintaining waste storage appliances.

37. **Trade Waste**

An approved trade waste device shall be installed, inspected by Council and maintained to ensure that all relevant environment protection and plumbing code standards are satisfied.

38. **Exhaust System**

On completion of the kitchen exhaust-hood installation, provide a certificate and system specifications detailing the air flow velocity readings to Council. The certificate should be completed by a suitably qualified professional and shall ensure that the installation satisfies AS1668.2 “Mechanical ventilation for acceptable indoor-air quality”

39. **Airlock**

An airlock shall be constructed between the toilet facilities and internal workspaces to prevent the transfer of contaminants into the food business and comply with the Building Code of Australia.

Prior to issue of occupation certificate for childcare centre:

40. **New South Wales Food Act 2003 and Food Regulation 2015**

The childcare centre shall be operated to comply with the New South Wales Food Act 2003 and Food Regulation 2015. The following must be provided:

- a) all surfaces must be smooth, impervious and able to be easily cleaned;
- b) kitchen areas must have double-bowled sinks and hot water;
- c) water used for any activities involved in the preparation of food, personal hygiene, cleaning and sanitising must be potable.

Prior to issue of the occupation certificate the operator of the childcare centre shall demonstrate to Councils' Environmental Health officers' satisfaction that adequate waste disposal facilities are available on the premises, and that such facilities can be maintained to prevent environmental harm or public nuisance. Provision must be made for cleaning and maintaining waste storage appliances.

The following conditions are to be complied with at all times

41. **Loading and unloading not to occur on the street**
The loading and unloading bay must be available at all times for the loading and unloading of goods for the development. All loading and unloading to is take place within the curtilage of the premises.
42. **Vehicles to enter/leave in a forward direction**
Vehicles using any off-street loading/unloading and/or parking area must enter and leave in a forward direction with the exception of HRV occasional once per week servicing. All driveways and turning areas must be kept clear of obstructions that prevent compliance with this condition.
43. **New South Wales Food Act 2003 and Food Regulation 2015**
The takeaway and child care centre shall be operated and maintained to ensure that the requirements of the Food Act 2003 and Food Regulation 2015 (incorporating Food Standard Code) are satisfied at all times. Access to the Food Standard Code is available at <http://www.foodstandards.gov.au>. The operator is required to ensure that the business is registered with the NSW Food Authority. Notification may be carried out or updated when required at <http://www.foodnotify.nsw.gov.au>.
44. **Hours of operation**
The development must not unreasonably interfere with the amenity of the neighbourhood. In particular operating noise, when audible on adjoining residential premises, can only occur:

Takeaway / Retail:

Monday to Sunday, from 7.30 am to 6.30 pm.
School holiday period extended hours to 10 pm.

Child Care Centre:

Monday to Friday, from 6.30 am to 6.30pm.
No operations to take place on Saturday, Sundays or Public Holidays.
45. **Work Health and Safety Act 2011**
The operator of the takeaway and child care centre shall comply with the Work Health and Safety Act 2011 statutory requirements. Staff shall be provided with adequate toilet and washing facilities.
46. **NSW Smoke-free Environment Amendment Act 2004**
The takeaway and child care centre shall comply with the provisions of the NSW Smoke-free Environment Amendment Act 2004.
47. **Public Property and Safety**
The activity and any associated structures shall not infringe upon public property without

the prior written consent of Council. All activities shall be conducted in a manner that will ensure that public safety is not placed at risk

SCHEDULE 2 PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the Environmental Planning and Assessment Regulation apply as are of relevance to this application:

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

Refer to the NSW State legislation for full text of the clauses under 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 NOTES

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website www.byron.nsw.gov.au

Principal Certifying Authority:

Work must not commence until the applicant has:-

- 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 (generally \$600) being issued pursuant to section 127A of the Environmental Planning & Assessment Act 1979 or

prosecution pursuant to section 125 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.

Dewatering Licence

As works for the development will intersect the groundwater table, any dewatering will require a licence under the Water Act 1912. As the Development Application submitted to Council was not nominated as 'Integrated Development' and did not seek a dewatering licence, separate arrangements must be made with the Department of Natural Resources for obtaining such a licence.

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)**

Water	4.2 ET
Bulk Water	4.2 ET
Sewer	7.9 ET

NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>). These charges will enable you to calculate the total contribution charges payable when you are ready to pay them. Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment.

Reason for conditions

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

Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth) Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

Are you dissatisfied with conditions of consent?

If you are unhappy with conditions of consent discuss your concerns with the officer who dealt with your application. You may submit an application to Council to modify the consent under Section 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.

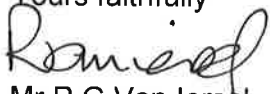
NOTE: This clause does not relate to Integrated Development Applications, applications determined by the Joint Regional Planning Panel or applications previously considered under Section 82A of the Environmental Planning and Assessment Act 1979.

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 R G Van Iersel
Planner

Dated: 15 November 2017