



## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

issued under the

*Environmental Planning and Assessment Act, 1979 Section 81(1)(a)*

**Development Application No. 10.2017.226.1**

Joe Davidson Town Planning  
ATTN: Joe Davidson  
PO Box 238  
BRUNSWICK HEADS NSW 2483

Email: [joe@jdtownplanning.com.au](mailto:joe@jdtownplanning.com.au)

<b>Property description:</b>	LOT: 11 DP: 1212497 <b>2 Roundhouse Place OCEAN SHORES</b>
<b>Development</b>	<b>Dwelling House and Swimming Pool</b>
<b>Determination</b>	<b>Consent granted subject to the attached schedule of conditions</b>
<b>Date determined:</b>	27 September 2017
<b>Consent to operate from:</b>	29 September 2017
<b>Consent to lapse on:</b>	29 September 2022
<b>Concurrent approvals:</b>	Not issued with this consent
<b>BCA Classification</b>	

### 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:
B1049 CC1C	Site Plan	PPDC	15.08.2017
B1049 DA2A	Ground Floor Plan	PPDC	01.05.2017
B1049 DA3A	First Floor Plan	PPDC	01.05.2017
B1049 DA4A	Elevations	PPDC	01.05.2017
B1049 DA5A	Elevations	PPDC	01.05.2017
B1049 DA6A	Construction Sections	PPDC	01.05.2017
B1049 DA7A	Roof Plan	PPDC	01.05.2017
B1049 DA8C	Section Through Driveway	PPDC	07.09.2017
DA-01	Section Plan – Swimming Pool	Joe Davidson	16.08.2017
BH17104-SW3 Rev C	Stormwater Management Plan	Hammond & Associates	08.09.17

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.

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

2.      **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.

3.      **Compliance with BASIX Certificate requirements**  
The development is to comply with Basix Certificate No. **817089S**, dated **1/05/2017**

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.

4. **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](http://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.

5. **Details of pool fence required**

The application for a Construction Certificate is to include plans and specifications that indicate the details of the fence around the swimming pool in accordance with the Swimming Pools Act 1992 and AS1926.1.

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

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

Part B: Chapter B8 of Development Control Plan 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)

7. **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 (residential areas)**

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

**Adjustment of Services**

Works in the footpath area 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.

8. **Access & Parking**

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

The access, parking and manoeuvring for the site is to comply with the requirements of Council's Development Control Plan 2014 and AS 2890.1-2004: Parking facilities, Part 1:

Off-street car parking and AS 2890.2 – 2010 - Parking facilities. Plans are to include, but not be limited to, the following items:

pavement description (all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment);  
site conditions affecting the access;  
existing and design levels; and  
longitudinal section from the road to the car space(s)

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

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

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

An approval under Section 68 of the Local Government Act 1993 to carry out stormwater drainage works and connection to a Council approved drainage system, via on-site detention 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.

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

10. **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](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).**

11. **Toilet facilities**

Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

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

**12. 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.**

**13. 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.**

**14. 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.

**15. 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.

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

Fill material must not encroach onto any adjoining land.

**17. 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.**

**18. 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.

**19. Removal of demolition and other wastes**

All wastes, including asbestos and lead-contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licenced Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with the NSW DECC Waste Classification Guidelines (2008) [www.environment.nsw.gov.au/resources/waste/08202classifyingwaste.pdf](http://www.environment.nsw.gov.au/resources/waste/08202classifyingwaste.pdf)

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

**20. 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 Council's road/footpath reserve.

**21. Sewer and water to be connected**

A 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 an Occupation Certificate for works on water and/or sewer mains.

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.

**22. Stormwater disposal**

Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

- a. Clear of buildings and infrastructure,
- b. Not concentrated so as to cause soil erosion, and
- c. Not onto adjoining land.

**23. Swimming pool fencing**

Swimming pool fencing is to comply with the requirements of the Swimming Pools Act 1992 and Regulations.

**24. Access and parking areas to be completed.**

The access and parking areas are to be constructed in accordance with the approved plans and Roads Act consent prior to issue of an occupation certificate.

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

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

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

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



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**26. Pool Safety Sign**

The occupier of the premises must ensure that there is at all times a sign in the immediate vicinity of the swimming pool bearing the words 'Young children must be supervised when using this swimming pool'. The sign is to be a prominent position and be otherwise in accordance with clause 9 of the Swimming Pools Regulation.

A pool resuscitation sign is to be installed in a conspicuous location within the pool area to the satisfaction of the Principle Certifying Authority.

**27. Swimming pool pump location**

The filter pump is to be located such that noise from its operations does not cause a nuisance to adjoining residents. If necessary an acoustic enclosure must be provided around the pump to achieve the required noise attenuation.

**28. Swimming Pool Fencing**

Swimming pool fencing is to comply with the requirements of the Swimming Pool Act 1992 and Regulations at all times.

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**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>.

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**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](http://www.byron.nsw.gov.au)

**Principal Certifying Authority:**

Work must not commence until the applicant has:-

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

**Occupation Certificate required:**

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

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

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

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

Failure to comply with conditions of development consent may lead to an on the spot fine (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.

**Swimming pool discharge (reticulated systems)**

Swimming pool waste - irrespective of the filtering system is to be disposed into the property's house drainage - sewerage system via an overflow relief gully with a 100mm visible air gap in accordance with AS/NZS 3500.2, Section 10.9 & Figure 10.2.

This activity is now an exempt activity and does not require approval under Section 68 of the Local Government Act.

If however, site conditions prevent discharge through the existing gully and a new gully is required, this activity will require an approval under S68 before this work can commence.

Note also that this activity must be carried out by a licensed plumber.

**Reason for conditions**

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

**Dial Before You Dig**

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

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



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

#### **Are you dissatisfied with conditions of consent?**

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

*Dated: 29 September 2017*