



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

Development Application No. 10.2017.478.1

Mrs A Reilly & Mr C P Reilly
21 Frazer Street
LILYFIELD NSW 2040

Email: fantasticplumbing@outlook.com

Property description:	LOT: 1 DP: 518077 71 Bangalow Road BYRON BAY
Development	Demolition of Existing Dwelling House, New Dwelling House, Secondary Dwelling and Swimming Pool
Determination	Consent granted subject to the attached schedule of conditions
Date determined:	15 December 2017
Consent to operate from:	19 December 2017
Consent to lapse on:	19 December 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:
A3_01	Site Plan	WB Architecture	18.10.17 (B)
A3_02	Site Plan (Landscape Plan)	WB Architecture	18.10.17 (B)
A3_03	Ground Floor Plan	WB Architecture	18.10.17 (B)
A3_04	First Floor Plan	WB Architecture	18.10.17 (B)
A3_05	Roof Floor Plan	WB Architecture	18.10.17 (B)
A3_06	Secondary Dwelling	WB Architecture	18.10.17 (B)
A3_07	Elevations	WB Architecture	18.10.17 (B)
A3_08	Elevations	WB Architecture	18.10.17 (B)
A3_09	Elevations	WB Architecture	18.10.17 (B)
A3_10	Sections 1+2	WB Architecture	18.10.17 (B)
A3_11	Section	WB Architecture	18.10.17 (B)
A3_01	Pool Section	WB Architecture	18.10.17 (B)
1017ass-cr01	Preliminary Acid Sulfate Soil Assessment	Tricend Design & Engineering	24 October 2017
-	Site Waste Minimisation and Management Plan	Alifya Reilly & Conor Reilly	24/08/17

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.

2. Use of Dwellings

The subject dwellings are not to be used as Tourist and Visitor Accommodation or holiday let at any time.

3. 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.

4. 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.

5. **Swimming pool health requirements**

The swimming pool water is to be re-circulated, filtered and disinfected in accordance with the requirements of Council's Senior Environmental Health Officer and the Health Department of New South Wales. The swimming pool water is to be maintained at satisfactory levels of purity for bathing at all times.

6. **Swimming Pool Fencing**

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

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

7. **Stormwater Drainage – Connection to Public or Inter-allotment Drainage**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. All stormwater drainage for the development must be conveyed by a gravity system to:

- (a) a public drainage system, or
- (b) an inter-allotment drainage system.

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

All stormwater drainage systems within the lot and the connection to a public or an inter-allotment drainage system must:

- (c) comply with any requirements for the disposal of stormwater drainage contained in Council's Development Control Plan, Stormwater Guideline and Local Approvals Policy, and
- (d) if an approval is required under section 68 of the *Local Government Act 1993*, be approved under that Act prior to issue of a Construction Certificate.

Note 1.

The **relevant Australian Standard** is currently AS/NZS 3500.3:2015, *Plumbing and drainage, Part 3: Stormwater drainage*.

Note 2.

A **Local Approvals Policy** specifies the circumstances (if any) in which a person would be exempt from the necessity to obtain a particular approval of the Council.

8. **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".

9. **Access & Parking**

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

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

- a) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- b) site conditions affecting the access;
- c) existing and design levels; and

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".

10. **Easement required over pipelines**

In all new developments, an easement shall be provided for all pipelines as per Clause 3.4 of the Policy 4.20. The easement is required to protect Council's sewer and the associated boundary riser servicing 2-4 Cooper Street (

Pursuant to Section 88B of the Conveyancing Act, 1919 an Instrument shall be prepared for each lot with creation of the easement.

11. **Compliance required with Building Over Pipelines Policy**

All developments must comply with Policy 4.20. Swimming pools are classed as buildings and are required to comply with this policy.

The use of displacement and screw pile construction methods will require approval by Council.

Any brick / masonry fence crossing a pipeline requires Council approval. The fence must be supported such that it does not cause loading on the pipes zone-of-influence.

12. **Water and Sewerage - Section 68 Part B approval required**

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

Each Torrens title lot of land shall have an individual service tapped from the main and extending 300mm inside the lot boundary. Each dwelling/unit/shop capable of being subdivided under the Strata or Community Title Schemes shall have a separate water meter. Any new water service and meter will be at the applicants cost.

13. **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.

14. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No.671647M_03, dated 15/08/2017

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.

15. 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.

16. Site Waste Minimisation and Management

All works must be completed in accordance with the approved waste minimisation and waste management of Part B8.1.2 of DCP 2014.

17. 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.

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

18. **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).

19. **Disconnection of existing water and sewer prior to demolition**

Existing water and sewer services must be located on site and be properly capped at the main by a licenced plumber. All water and sewer disconnections must be inspected by the Byron Shire Council inspectors prior to backfilling.

- If a property is demolished and no longer needs water supply and/or a sewerage service, a licensed plumber must disconnect the service at the main (also known as 'capping the service'). The plumber must also return the water meter to Council's inspector at the time of inspection.
- If your development involves consolidating lots and you don't need all the existing services, you must correctly disconnect them. This ensures that you aren't billed for unused services and helps avoid future hidden leaks.

Your Plumber must obtain a **Plumbing Permit** at least **two (2) working days prior to commencing work**. Please forward an Application for a Plumbing Permit to your plumber to complete and to return to Council prior to commencement of disconnection works. Refer to http://www.byron.nsw.gov.au/files/Forms/Plumbing_Drainage_Permit.pdf.

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

20. **Demolition**

Any required demolition works must be undertaken in accordance with the relevant requirements of Australian Standard AS 2601–1991: The Demolition of Structures published by Standards Australia, and the WorkCover Authority of NSW.

21. **Removal of asbestos 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 Licensed Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with *NSW DECC Waste Classification Guidelines (2014)* www.environment.nsw.gov.au/resources/waste/08202classifyingwaste.pdf

22. **Construction times**

Construction/demolition 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/demolition 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.

23. **Construction Noise**

Construction/Demolition noise is to be limited as follows:

- a. For construction/demolition 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/demolition 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/demolition 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.

24. **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.

25. **Site Waste Minimisation and Management**

Site waste is to be managed in accordance with the Site Waste Minimisation and Management Plan referred to in Condition No.1 of this development consent.

26. **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.

27. **Acid Sulfate Soil Management**

Any acid sulphate soils unearthed during excavation are to be managed in accordance with the recommendations of the Preliminary Acid Sulfate Soils Assessment referred to in Condition No.1 of this development consent.

28. **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.

29. **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.
30. **Stormwater drainage work**
Stormwater drainage for the development shall be constructed in accordance with the approved plans and specification by a suitably qualified person.

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

31. **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.
32. **Swimming pool fencing**
Swimming pool fencing is to comply with the requirements of the Swimming Pools Act 1992 and Regulations.

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. This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 3 NOTES

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	0.6 ET
Bulk Water	0.6 ET
Sewer	0.75 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.

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.

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



Paul Mills
Senior Planner