



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application No.	10.2022.371.1 PAN-257305
Applicant	The Trustee for The 29 Shirley Street Trust
Property	4 Milton Street BYRON BAY, 29 Shirley Street BYRON BAY, 2 Milton Street BYRON BAY, 1 Cavvanbah Street BYRON BAY LOT: 1 DP: 582819, LOT: 2 DP: 582819, LOT: 8 DP: 841611, LOT: 12 DP: 1138310, LOT: 8 SEC: 52 DP: 758207, LOT: 9 SEC: 52 DP: 758207, LOT: 1 DP: 780935, LOT: 9 DP: 841611, LOT: 11 DP: 1138310, LOT: 7 DP: 841611
Development	Demolish existing development and clear the site, including existing buildings and trees to facilitate a residential flat building development comprising of 25 three-bedroom dwellings distributed across four separate two and three-storey buildings with basement car parking, associated landscaping and amenities
Determination	Approved Consent Authority - Northern Regional Planning Panel
Date of determination	16 October 2023
Date from which the consent operates	18 October 2023
Date on which the consent lapses	18 October 2028

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

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.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.



Signed on behalf of the Consent Authority

A handwritten signature in blue ink that reads "SDENIZE". The letters are stylized and connected.

Steven Denize
Senior Planner

CONDITIONS OF CONSENT

Parameters of consent

1. **Approved plans and supporting documentation**
Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Title	Version No.	Drawn by	Dated
29 Shirley Street & 2-4 Milton Street Byron Bay Development Application Pages 27 to 47 inclusive	Project No 2555	Hayball	12.9.2023
Preliminary Engineering Services Layout Plan (Annotated by Council)	DA04 Rev D	ADG	11/08/23
Preliminary Road Widening Layout Plan and Sections Milton St	DA10 Rev C	ADG	11/08/23
Preliminary Driveway Crossover Details Milton St	DA12 Rev C	ADG	11/08/23
Preliminary Driveway Crossover Details Cavvanbah St (Annotated by Council)	DA13 Rev C	ADG	27/03/23
Preliminary Stormwater Management Layout Plan	DA17 Rev A	ADG	11/08/23
ATP211137-R-NIA-01	Noise Impact Assessment Report, 29 Shirley St, Byron Bay	ATP Consulting Engineers	August 2022
Statement of Landscape Intent	Statement of Landscape Intent	Urbis / Hayball	September 2023
Letter and attachments from Sodiq Azeez of Greg Alderson and Associates addressing Internal Access and Manoeuvring	Ref: 22381 – Response To Council RFI	Sodiq Azeez – Greg Alderson and Associates	4 October 2023
Letter from Anthony from Anthony	Ref: 22381_RFI Response 1 & 2_03	Anthony Mallam - Greg Alderson and	3 October 2023

Mallam of Greg Alderson and Associates RE Assessment of Proposed Ramp in Relation to Wheel Slippage for Waste Vehicles – 29 Shirley St,	10 23	Associates	
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In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

2. **Coastal erosion – consent to cease**

The development consent must cease if at any time the erosion escarpment, as defined by Byron Shire Council comes to within 50 metres of any building associated with the development. The owner of the land must then remove that building/s. Note condition 26 below requiring the imposition of an 88E positive covenant to be placed on the title pursuant to the Conveyancing Act 1919.

3. **Payment of security deposits**

Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the certifier:

Security deposit	\$10,000
Inspection fee	\$200

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property.

Note: The inspection fee includes Council's fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the *Roads Act 1993*). The amount payable must be in accordance with council's fees and charges at the payment date.

4. **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.

5. **Conditions prescribed by the Regulation**

This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in **Schedule 2** of this consent.

6. **Bush fire safety measures**

This land is identified as being designated bush fire prone land and under section 4.14 of the Environmental Planning and Assessment Act 1979, Council must be satisfied prior to making a determination for development on bush fire prone land that the development complies with "Planning for Bush Fire Protection 2019".

The development is approved subject to the development complying with the requirements of Revised Bush Fire Assessment Report – Multi-storey Residential Development (version 2) prepared by Melanie Jackson (BPAD-Level 3 Accredited Practitioner & Member of FPA Australia) of Bushfire Risk Pty Ltd dated 20 September 2023

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

7. **Construction site management plan**

Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:

- location and materials for protective fencing and hoardings to the perimeter on the site
- provisions for public safety
- pedestrian and vehicular site access points and construction activity zones
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures
- location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

8. **Environmental Management Plan**

An Environmental Management Plan (EMP) must be submitted to Council for approval prior to the issue of the Construction Certificate. The EMP must be prepared by a suitably qualified professional and contain details of measures to be undertaken to ensure that demolition works do not result in any off-site impacts that could interfere with neighbourhood amenity by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise.

All works must be in accordance with NSW WorkCover Authority and include a dilapidation report.

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

Amended plans must be submitted with the Construction Certificate to show :

- (a) **Maximum height of the northern building.** As per the requirements of BLEP 1988 Clause 40 Height (2) (b) (ii) the vertical distance of the topmost part of the northern building, including any balustrades shall not exceed 9 metres above the existing ground level below with the floor to ceiling height on levels 1 and or 2 both reduced to achieve compliance.
- (b) **Northern building roof top landscaping.** Each roof top deck area on the northern building shall be shown as having a maximum trafficable area of 40sqm only with the remainder of these deck areas to be a landscaped green roof. Plans and details of the landscaped green roof areas to include:
 - Detail of the medium to be used for the landscaped green roof areas including depth and composition. Note – other than around the periphery of each individual deck this landscaping and its associated medium is not to be provided in pots or planters.
 - A planting schedule detailing the native species to be used for roof top landscaping, including the green roof areas. The location and dimensions of any pots or planters be used around the periphery of each deck and the native plant regime to be used in these planters / pots.
 - A maintenance plan detailing the ongoing maintenance and servicing of the roof top deck landscaped areas.
- (c) **Electric vehicle charging points.** A minimum 240-volt power outlet being provided on the basis of 1 for each and every residential unit in the basement carpark to enable electric vehicle charging.

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

10. **Amended Noise Impact Assessment Report**

An amended Noise Impact assessment addressing road traffic noise impact from Shirley Street onto the development must be submitted to Council for approval prior to the issue of the Construction Certificate. The amended assessment must include recommendations for acoustic treatment to affected dwellings facing Shirley Street, including appropriate measures to ensure that the following LAeq levels are not exceeded:

- (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10pm and 7am,
- (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

Such treatments must then be included in the Construction Certificate plans for approval.

11. Amended Acid Sulfate Soils Assessment

An amended Acid Sulfate Soil Assessment and (if necessary) an Acid Sulphate Soil Management Plan (ASSMP) shall be prepared by a suitably qualified person in accordance with the NSW Acid Sulfate Soil Manual. The Assessment and Management Plan shall be prepared in accordance with Acid Sulfate Soil Manual (NSW ASSMAC 1998) and shall be submitted to Council for approval prior to the issue of a Construction Certificate.

The amended report is requested to confirm that samples taken were handled in accordance with NSW ASSMAC 1998, and detail how they were handled post extraction and prior to arrival at the testing lab. In addition, the report should include results for all core samples taken (6 in total). The basement cut will be approx. 5 metres below the ground surface, and as such testing is required every .05m down to a depth of 6 metres.

See Advisory Notes below

12. Site contamination - A Detailed Site Investigation (DSI) shall be undertaken

The applicant shall submit a Detailed Site Investigation (DSI) for evaluation and approval prior to the issue of a Construction Certificate.

The DSI must be verifiable and specific to the subject property and include any supporting documentation. The DSI should address, but is not limited to, potential contamination from the rail corridor, previous uses of the site, heavy mineral sands, lead, asbestos and termiticide treatments. The DSI should also include investigation of, and sampling for, contamination resulting from the demolition of the existing buildings.

Reference should be made to the NSW EPA Consultants Reporting on Contaminated Land – Contaminated Land Guidelines 2020 with regards to detailed investigations, reporting methodology and information sources for obtaining land use history. For details refer to <https://www.epa.nsw.gov.au/your-environment/contaminated-land/statutory-guidelines>

Should the DSI find that the site is contaminated, a Remedial Action Plan (RAP) must be prepared for the management of contaminated soils in accordance with the findings of the DSI, in addition to the following requirements:

- a) The RAP must be prepared by a suitably qualified person as per the Consultants Reporting on Contaminated Land Contaminated Land Guidelines 2020 and all other statutory requirements.
- b) A Notice of Commencement must be submitted to Council no less than 30 days prior to commencement.
- c) A suitably qualified person with experience in contaminated land remediation must be engaged by the proponent to be responsible for overseeing all works.
- d) Contact details of the responsible person must be provided to Council, including a 24-hour telephone number.
- e) A validation report and notice of completion submitted to Council before any other works commence. The notice of completion must certify the site is suitable for the proposed use.
- f) All reporting must conform to the requirements of Consultants Reporting on Contaminated Land Contaminated Land Guidelines 2020 and must also include information confirming that EPA and all other regulatory requirements have been met. In particular, documentary evidence is required to confirm that any disposal of soil off-site is done in accordance with the RAP and regulatory requirements.

The RAP report/s shall be submitted to Council for approval prior to the issue of a Construction Certificate.

13. **Dewatering activities**

A detailed dewatering management plan is required that demonstrates that the methodology and equipment to be employed to undertake dewatering operations conforms with accepted environmental controls and practices. And that access to a suitable disposal route and receival area for the extracted groundwater is available.

The plan must include (but not be limited to) the following:

- a) Reference to the results of the ASS assessment and reports.
- b) Copy of a licence from the Water NSW for the dewatering of excavations and any associated groundwater monitoring (where required).
- c) Legal point of discharge and method of conveying treated waters.
- d) Measures for the protection of the surrounding stormwater system and receiving waters, water quality management, litter control, sediment control, potential acid runoff and the prevention of pollution.
- e) Identification of all potentially affected sensitive receivers and environments.
- f) Water quality criteria for waters to be discharged to the stormwater system, 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 (NOx), Total Nitrogen (TN), Filterable Reactive Phosphorus, Total Phosphorus, Total Petroleum Hydrocarbons, Benzene, toluene, ethyl benzene, xylene (BTEX), Polycyclic Aromatic Hydrocarbons (PAHs) and Aluminium.
- g) Details of proposed water treatment prior to discharge to ensure compliance with the above water quality criteria, including those that are manual and automated.
- h) Site plan that demonstrates the location of all dewatering equipment and tanks.
- i) Details of water sampling methodologies and frequencies for each parameter.
- j) Details of methods to manage noise and odour impacts to nearby receivers.
- k) Details of the expected zone of influence on the groundwater from the dewatering and expected settling impacts on neighbouring properties.
- l) Details of disposal methods if water does not comply with above criteria.
- m) Details of a 24-hour contact person and telephone number for complaints.

NOTE – See condition **55 ‘Sequencing of Works’** below requiring all stormwater upgrade works to be in place before any earthworks, building or construction works commence.

14. **Construction and Demolition impacts**

Prior to issue of construction certificate, the applicant is required to submit a Risk Assessment/Management Plan and detailed Safe Work Methods Statements (**SWMS**) of the proposed works to **UGLRL** on behalf of **TfNSW** for review and comment on the impacts on the rail corridor. Works relating to the Proposal must not commence until such time as written confirmation had been received from **UGLRL** confirming that this condition has been satisfied.

15. **Demolition of Existing Development**

Prior to issue of construction certificate, the Applicant must obtain **TfNSW’s** and **UGLRL’s** approval for demolition of existing development.

16. **Fencing**

Prior to issue of the Construction Certificate appropriated fencing must be place between the project site and the rail corridor to prevent unauthorised access. Before installing any fencing work, the applicant must obtain approval from TfNSW. The Applicant is advised to contact **UGLRL’s** Third Party Works team via thirdpartyworks@uglregionallinx.com.au for more information.

17. **Geotechnical Report required – Building Works**

A certificate from a professional Engineer experienced in Geotechnical Science is to be provided to the Principal Certifying Authority, certifying that the site is stable and will not be affected by landslide or subsidence at, above or below the site when the building is erected. The certificate must be prepared in accordance with AS 1726.

18. **Geotechnical Report required – Engineering Works**

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

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

19. **Excavation in, above, or adjacent to rail corridor**

Prior to issue of any subdivision works certificate or any preparatory, demolition or excavation works, whichever occurs first, the following documentation shall be provided for the review and endorsement of TfNSW and UGLRL:

- Final geo-technical and structural report / drawings. Geotechnical reports should include any potential impact on the CRN corridor located adjacent to the subject development site, easement and substratum;
- Final demolition and/or construction methodology with construction details pertaining to structural support during excavation or ground penetration. Any temporary components, for example, shoring systems, formwork and falsework, that are located such that their failure has the potential to affect rail infrastructure facilities or operations shall have a minimum service life of 10 years;
- If required by UGLRL or TfNSW, details of the vibration and movement monitoring system that will be in place before excavation commences
- Final cross sectional drawings showing ground surface, rail tracks, sub soil profile, any basement excavation, and structural design of sub ground support adjacent to the Rail Corridor. Cross sectional drawings should also include the accurate RL depths and horizontal distances from assets (any tracks, overhead lines, structures, and cables) to the nearest point of excavation or ground penetration works. All measurements are to be verified by a Registered Surveyor; and,
- Detailed survey plan with location of services.

20. **Sediment and Erosion Control Management Plan required**

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

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

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

21. **Stormwater Quality Improvement Device/s (SQIDs) required (Off-street)**

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 treated to meet the retention criteria in Table 3.2 of Chapter B3 of DCP 2014.

Any proprietary product must be included supporting documentation but not limited to: -

- Modelling to demonstrate compliance to the retention criteria in Table 3.2 of Chapter B3 of DCP 2014.

Claimed stormwater treatment performance of proprietary product must be described, including:

- Reduction of pollution concentrations
- Reduction of flow (if any)
- Design treatment flow rate (TFR)
- Recommended maintenance frequency (and associated activities)
- Documentation that the assumed pollutant concentration reductions up to the treatment flow rate (TFR) meets the retention criteria and no removal efficiencies are claimed for the bypass flow. The TFR is defined as $Q_{0.25}$ of half of Q_1 .
- Maintenance Plan including supporting calculations to demonstrate that the proprietary product has sufficient storage volume to store the collected sediments and gross pollutant between projected maintenance intervals.
- Minimum 5 years maintenance agreement. Written evidence to be provided that the owner/developer has entered into a minimum five (5) year signed and endorsed maintenance contract with a reputable and experienced cleaning contractor for the maintenance of the proprietary product.

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:

- (a) comply with any requirements for the disposal of stormwater drainage and on-site stormwater detention contained in Council's Development Control Plan, Stormwater Guideline and Local Approvals Policy; and
- (b) unless exempt from obtaining an approval under section 68 of the Local Government Act 1993 by a Local Approvals Policy, an approval must be obtained under that Act prior to issue of a Construction Certificate.

22. **Consent required for Works within Road Reserve**

Consent from Council must be obtained for works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve.

Such plans are to be in accordance with Council's current Design & Construction Manuals and are to provide for the following works:

- a) **Milton St upgrade (north)**
 - Carriageway of width 7.0m
 - Upgrade the pedestrian crossing in accordance with Figure 4 of TfNSW Technical Direction no TDT 2011/01a. (See approved annotated ADG drawing D04)

Note: Carriageway widening, road widening, line marking and signage, concrete island,

proposed driveway to the basement, kerb & gutter, footpath and other services must be adjusted and proposed on-street parking deleted.

- The proposed drainage swale running along the side boundary with Lot 10 DP1153734 must be deleted and replaced with a new stormwater pit and pipe as shown on the approved annotated ADG drawing D04. Minimum pipe in the road reserve to be 375mm RCP.

b) Milton St upgrade (south of Shirley St)

i. Roadworks

- Resealing and the provision of concrete edge strips on both sides of the carriageway
- Carriageway to be 7.5m

ii. Stormwater

The following must be included in the design and construction:

- Final pipe sizing of the downstream stormwater drainage design to include all contributing catchments
- 100 year HGL of the final pipe design to remain below the surface in accordance with the approved design plans.
- Potholing is required to determine the final alignment of the stormwater drainage extension.
- Construction of stormwater drainage system line C, D, E & F in ADG drawing D17 Rev A
- Provision of flood control device at the pipe discharge point

c) Driveway upgrades

The driveway proposal in ADG drawing DA13 Rev C must be updated in accordance with Council's Northern Rivers Local Government Development Design & Construction Manuals unless details are submitted to demonstrate that the vertical gradients create scraping issues for a B99 vehicle and stormwater calculations demonstrate the capacity of the design is adequate for 1% AEP flows to be maintained in the kerb.

- The driveway proposal in ADG drawing DA12 Rev C must be updated in accordance with Council's Northern Rivers Local Government Development Design & Construction Manuals and Figure 3.1 of AS2890.2. Minimum driveway width of 6.0m in accordance with AS2890.2. Longitudinal grade of driveway along the road reserve in accordance with Council's standard drawing R06.

Note: Vehicles must enter and leave the driveway without infringing the boundaries of the roadway. Exiting vehicles movement across the centre-line of the roadway is not permitted.

d) Driveway Removal

The existing driveway must be removed and the kerb and footpath area reinstated to Council's satisfaction

23. Access & Parking

The application for a Construction Certificate is to include plans and specification that indicate access, parking, the provision of electric vehicle charging point connections as required in Condition 9 above, 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, AS 2890.6-2009: Parking facilities, Part 1: Off-street parking for people with disabilities and AS 2890.2-2002: Parking facilities, Part 2: Off-street commercial vehicles. Plans are to include, but not be limited to, the following items:

- a) The ramp servicing the basement carpark must be designed to accommodate the largest commercial vehicle required to service the site e.g. the garbage truck, with certification provided by the waste contractor that they can access and exit the basement and empty all garbage receptacles within the basement.
- b) Basement parking module must be designed to meet the specification and requirements specified in Chapter B4.2.6 of Byron DCP 2014
- c) The path of vehicular travel from the car park entrance to all parking spaces for people with disabilities and from those spaces to the car park exit shall have a minimum headroom of 2200 mm.
- d) The headroom above each dedicated space and adjacent shared area for accessible parking, measured from the level of the dedicated space, shall be a minimum of 2500 mm.
- e) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment including suitably designed permeable pavements;
- f) site conditions affecting the access;
- g) existing and design levels; and
- h) longitudinal section from the road centreline to the car space(s).

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

Prior to issue of the construction certificate, written evidence prepared by a suitably qualified engineer must be obtained that demonstrates, to the certifier's satisfaction, the plans for ramp servicing the basement carpark comply with conditions above.

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

24. **Public Safety Management Plan required**

Prior to issue of the construction certificate, consent from Council must be obtained for a Public Safety Management Plan for those works within the road reserve pursuant to Section 138 of the Roads Act 1993. This public safety management plan is to include provision for (but not be limited to):

- a) a pedestrian barrier, alternative footpaths and ramps as necessary;
- b) an awning sufficient to prevent any substance from, or in connection with, the work falling into the road reserve;
- c) lighting of the alternative footpath between sunset and sunrise;
- d) the loading and unloading of building materials;
- e) parking space for tradesman's vehicles, where such vehicles must be located near the site due to tools and equipment contain within the vehicle;
- f) Removal of any such hoarding, fence or awning as soon as the particular work has been completed.

The temporary use of Council land/road reserve to enable construction work or an event is subject to fees in accordance with Council's adopted fees and charges. The use fee must be paid upfront prior to use and will generally be required to be paid prior to issue of the Council's consent for such use.

25. **Traffic Management Plan (TMP)**

Prior to issue of the construction certificate, consent from Council must be obtained for a Traffic Management Plan (TMP) pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development. The TMP is to be designed in accordance with the requirements of the current version of the Transport for NSW *Traffic Control at Work Sites Technical Manual*.

The report must incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The TMP and associated traffic guidance scheme/s must be prepared by a suitably qualified Transport for NSW accredited person

26. **S.88E Public Positive Covenant to be placed on title – Coastal erosion**

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

The development granted via development consent number 10.2022.371.1 must cease if at any time the coastal erosion escarpment comes within 50 metres of the building subject of the consent. The development the subject of this consent must be demolished immediately, and the landowner must suitably revegetate the land.

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

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

27. **Fibre-ready Facilities and Telecommunications Infrastructure**

Prior to the issue of the Construction Certificate in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

- a) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose; and
- b) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

28. **Land to be consolidated**

All separate parcels of land are to be consolidated into one allotment and registered with NSW Land Registry Services.

Prior to issue of the construction certificate, proof of lodgement to NSW Land Registry Services must be provided to the Principal Certifying Authority.

29. **Engineering Construction Plans**

Three (3) copies of engineering construction plans and specifications must accompany the construction certificate application. Such plans are to provide for the following works in accordance with Council's current Design and Construction Manuals and Specifications. The submission of the design plans must be accompanied by Northern Rivers Local Government Design and Construction Manual Design Checklist.

30. **Sewerage and Water Mains**

An approval is to be obtained under Section 68 of the Local Government Act 1993 to carry out water supply and sewerage works.

All Council gravity sewerage mains are to be a minimum 150 mm diameter and water mains are a minimum 100mm diameter.

Water supply and sewerage works are to comply with Council's latest Standards and Policies including but not limited to:

- Development Design and Construction Manuals, Northern Rivers Local Government
- Development Servicing Plans for Water Supply and Sewerage, Byron Shire Council
- Fire Flow Design Guidelines, Water Directorate
- Water and Sewer Equivalent Tenements Policy, Byron Shire Council
- Pressure Sewerage Policy, Byron Shire Council
- Private Sewer Pump Station Policy, Byron Shire Council

31. **Sewer Easements - Section 88B Instrument**

A Section 88B Instrument and one (1) copy are to be submitted to Council. The final plan and accompanying Section 88B Instrument are to provide for:

a) Sewer Easements

The creation of easements for drainage of sewage over all sewage pipelines and structures located within the proposed allotments in accordance with the Policy: Building in the Vicinity of Underground Infrastructure 2020.

The minimum width of the required easement shall be 4 metres centred over the pipeline.

32. **Certificates for engineering works**

The submission of all test certificates, owners manuals, warranties and operating instructions for civil works, mechanical and/or electrical plant, together with a certificate from a suitably qualified engineer certifying that all works have been constructed in accordance with the approved plans and Council's current "Northern Rivers Local Government Design and Construction Manuals and Specifications".

33. **Works-As-Executed Plans**

Following completion of works, Work-as-Executed Drawings, together with a Work-As-Executed Certification Report, in accordance with Council's requirements are to be submitted to Council. Two categories of Work-as-Executed Drawings are to be submitted to Council, being Amended Design Work-as-Executed Drawings and Summary Work-as-Executed Drawings.

Amended Design Work-as-Executed Drawings, being certified copies of all approved design plans with as constructed departures, deletions and additions clearly noted and detailed on the plans, are to be submitted to Council in the following formats:-

- a) One (1) paper copy at the same scale and format as the approved design plans, but, marked appropriately for as constructed information and with original signatures; and
- b) An electronic copy of above in PDF format and provided to Council on CD, DVD or via email.

Summary Work-as-Executed Drawings are to be prepared on a background plan of lot layout and kerb lines with a set of separate plans for stormwater drainage, sewerage, water supply and site works. The site works drawing/s shall include the 1 in 100 year flood and flood planning level extents and levels, where relevant. Such drawings are to be submitted to Council in the following formats:-

- a) One (1) paper copy of each drawing with original signatures and in accordance with Council's requirements.
- b) Electronic copy of the above in AutoCAD DWG or DXF format and provided to Council on CD, DVD or via email. The AutoCAD (DWG or DXF) files are to be spatially referenced to MGA Zone 56.
- c) Electronic copy of above in PDF format and provided to Council on CD, DVD or via email.

Note: Council's requirements are detailed in Council's adopted engineering specifications, currently the Northern Rivers Local Government Development Design and Construction Manuals, and on Council's website.

34. **CCTV Inspection and Report**

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

- a) Sewerage Reticulation.

35. **Certificate for services within easements**

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

36. **Record of Infrastructure**

A record of infrastructure coming into Council ownership, upon registration of the final plan of construction, is to be submitted to Council. The information is to be submitted in the form of Council's Standard Form titled "Asset Creation Record". This form is available from Council's Local Approvals Section.

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

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

38. **Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No 1288442M_02 Dated 11 October 2023

The commitments indicated in the Certificate are to be indicated on the plans submitted for approval of the Construction Certificate.

The plans submitted must clearly indicate all windows numbered or identified in a manner that is consistent with the identification on the Basix Certificate.

Minor changes to the measures may be undertaken without the issue of any amendment under Section 4.55 of the Act, provided that the changes do not affect the form, shape or size of the building.

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

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

In accordance with Section 6.8 of the Environmental Planning and Assessment Act 1979 (as amended), a Construction Certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid (as applicable).

These payments can be made online at www.longservice.nsw.gov.au. Proof of payment is required to be submitted with the Construction Certificate application.

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

40. **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.

41. **Waste Management Plan**

Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

a. Council's Waste Management Development Control Plan

OR

b. details the following:

- the contact details of the person(s) removing the waste
- an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill

- the address of the disposal location(s) where the waste is to be taken

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

42. **Tree Removal**

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

43. **Insect screening required**

The application for a Construction Certificate is to include plans and specifications that provide effective insect screening to all windows, doors and other openings to all parts of the development used for habitable purposes.

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

44. **Developer Contributions to be paid**

Contributions set out in the schedule below are to be paid to Council prior to the release of a construction certificate. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at www.byron.nsw.gov.au or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

The contributions in the schedule are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The schedule contains a date for which the schedule remains valid, after this date you will have to contact Council for an updated schedule.

The urban road developer contributions set out in the schedule below may be offset against the cost of the construction of drainage lines C, D, E, and F as specified in item b) of the condition that requires the approval of works under section 138 of the Roads Act 1993. Council will offset up to the full value of the urban road contribution subject to the developer providing the cost of these works on the asset creation sheet.

45. **Revised Site Waste Minimisation and Management Plan – Demolition**

A revised Site Waste Minimisation and Management Plan (SWMMP) and site plans must be submitted with development applications seeking consent for demolition. The revised SWMMP must demonstrate that the proposed development will:

1. Pursue adaptive reuse opportunities of buildings/structures.
2. Identify all waste likely to result from the demolition, and opportunities for reuse of materials.
3. Facilitate reuse/recycling by using the process of 'deconstruction', where various materials are carefully dismantled and sorted.
4. Reuse or recycle salvaged materials onsite where possible.
5. Allocate an area for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation, and access and handling requirements).
6. Provide separate collection bins or areas for the storage of residual waste.

7. Clearly 'signpost' the purpose and content of the bins and storage areas.
8. Implement measures to prevent damage by the elements, odour and health risks, and windborne litter.
9. Minimise site disturbance, limiting unnecessary excavation.

46. **Revised Site Waste Minimisation and Management Plan – Construction of Buildings or Structures**

A revised Site Waste Minimisation and Management Plan (SWMMP) and site plans must be submitted with development applications seeking consent for construction of buildings or structures. The revised SWMMP must:

- Estimate volumes of materials to be used and incorporate these volumes into a purchasing policy so that the correct quantities are purchased. For small-scale building projects see the rates in **Appendix I Waste/Recycling Generation Rates** for a guide.
- Identify potential reuse/recycling opportunities of excess construction materials.
- Incorporate the use of prefabricated components and recycled materials.
- Specify arrangements for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage.
- Consider organising to return excess materials to the supplier or manufacturer.
- Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation).
- Nominate proposed arrangements to ensure appropriate transport, processing and disposal of waste and recycling; and to ensure that all contractors are aware of the legal requirements for disposing of waste.
- Promote separate collection bins or areas for the storage of residual waste.
- Clearly 'signpost' the purpose and content of the bins and storage areas.
- Specify intended implementation measures to prevent damage by the elements, odour and health risks, and windborne litter.
- Minimise site disturbance and limit unnecessary excavation.
- Ensure that all waste is transported to a place that can lawfully be used as a waste facility.
- Require retention of all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, DECC or WorkCover NSW.

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

47. 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*. 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).

48. 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.

49. 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.

50. Sequencing of Works

Before the commencement of any earthworks on site, all road and stormwater upgrading works in Milton St (south) must be constructed in accordance with the engineering plans required by this consent and the Roads Act consent.

Certification that all works (road & stormwater) in Milton St (south) has been constructed in accordance with the engineering plans and Work-As-Executed (WAE), prepared by a suitably qualified engineer, together with a final completion letter from Council for the Roads Act works, must be submitted to the Principal Certifying Authority prior to the issue of construction certificate.

51. Public safety requirements

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. The public liability insurance cover, for a minimum of \$20 million, is to be maintained for the duration of the construction of the development. Council is not held responsible for any negligence caused by the undertaking of the works.

52. Traffic Management Plan

The approved traffic management plan is to be implemented.

53. **Dilapidation Reports required**

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

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

The engineers are to be Corporate Members of the Institution of Engineers Australia.

54. **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 or be a building and construction site portable chemical toilet.

Only one (1) such portable chemical toilet may be used during construction, should additional toilets be required during the construction they must be either:

- a. Connected to an accredited sewage management system approved by the Council. or
- b. Not installed or used until such time that approval under Section 68 of the Local Government Act 1993 is obtained for the installation of a human waste storage facility.

Note: The chemical toilet must be installed and serviced by a licensed contractor (including pump-outs)

55. **Acid Sulfate Soils**

Acid sulfate soil controls are to be in place in accordance with the approved Detailed Acid Sulfate Soils Management Plan.

56. **Water service to be connected**

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

Any new water service will be at the applicants cost.

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

57. **Hours of work**

The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

- 7am to 6pm on Monday to Friday.
- 8am to 1pm on Saturday.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction

vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

58. **Construction Noise**

While building work is being carried out, and where a noise and vibration management plan is approved under this consent, the applicant must ensure that any noise generated from the site is controlled in accordance with the requirements of that plan.

OR

While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

59. **Supervision of all excavation, shoring and piling works within 25m of the rail corridor**

Unless advised by UGLRL on behalf of TfNSW in writing, all excavation, shoring and piling works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects and who holds current professional indemnity insurance.

60. **Cranes and Equipment**

1. If required, the applicant must submit an application to UGLRL for approval of TAHE prior to any use of cranes and equipment in the air space over the rail corridor other than the leased premises.

2. If required, the applicant is required to provide a safety assessment of the works necessary for the development assessing any potential impact or intrusion on the Danger Zone (as defined in the UGLRL Network Rules and Procedures and that any works are undertaken by a qualified Protection Officer.

3. The use of Equipment must be in accordance with the AS 2550 series of Australian Standards, Cranes, Hoist and Winches, including AS2550 15-1994 Cranes – Safe Use – Concrete Placing Equipment.

61. **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.

62. **Stormwater drainage work**

Stormwater drainage for the development must be constructed in accordance with the approved plans and specification by a suitably qualified person.

63. **Implementation of BASIX commitments**

While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

64. **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.

65. **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.

66. **Earthworks**

All earthworks must not encroach onto any adjoining land.

67. **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.

68. **Removal of asbestos**

All asbestos wastes associated with removal of the existing dwelling to be disposed of in accordance with the requirements of the Workcover Authority. The applicant/owner is to produce documentary evidence that this condition has been met.

Please note the Byron Resource Recovery Centre can not accept asbestos. You will need to arrange disposal at an alternate landfill site.

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

All wastes, including asbestos and lead-contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licenced Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with the NSW EPA Waste Classification Guidelines (2014) <https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines>

70. **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.

71. **All excavated soils to be disposed of off-site**

All excavated soils to be disposed of off-site and in accordance with NSW EPA *Waste Classification Guidelines* (2014) and approved environmental management plans.

72. **Excavated natural materials and demolition waste disposal**

Any and all excavated natural materials and demolition and builders waste transported from the site must be accompanied (a copy kept with the transporter) by a NSW Protection of The Environment Operations Act s143 Notice.

73. **Aboriginal Relics**

While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - a. relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - b. is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

74. **Site Location**

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

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

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

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

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

76. **Roadworks, Access and parking areas to be completed.**

The roadworks, access, stormwater and parking areas are to be constructed in accordance with the approved plans and Roads Act consent.

77. Stormwater – Certification of works

All stormwater drainage works, including, internal drainage, external drainage system upgrades and stormwater quality improvement devices for the development must 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.

78. Plumbing Works

All works in relation to any associated Section 68 Water and Sewerage approval must be fully complied with and have a Final Plumbing Certificate issued prior to the issue of an Interim or Final Occupation Certificate.”

79. Common TV antenna to be provided.

Each building shall be provided with a common TV antenna with connections from each dwelling unit to this antenna shall be provided.

80. Swimming pool fencing

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

81. Swimming pool backwash

Pool backwash to be connected to a sewer overflow relief gully.

82. Compliance with bushfire conditions

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

83. New Street number (if required)

The street addressing for this property must be approved by Council. A written request seeking approval of street addresses is to be submitted to Council's Land Information Officer with an appropriate plan showing dwellings/units approved for separate occupation and pedestrian access to each dwelling/unit from the public road servicing the development. The approved street number must be displayed in a prominent location near the approved main point of access prior to issue of any occupation certificate.

84. Landscaping

All landscaping to be completed in accordance with the approved landscape plans.

85. Site Location Survey and Height of Building

A final survey from a Registered Surveyor, of the structures showing setbacks to boundaries and height of buildings, to be submitted to the Certifier with the Occupation Certificate demonstrating compliance with the approved plans.

86. **Easement required over pipelines**

The easement over Council pipelines required by conditions of this consent must be registered on title and a copy of the title search and registered easement documentation, including plan of easement, must be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate (including Interim Occupation Certificates).

87. **Location of waste storage room**

The waste storage room must be located in accordance with Basement Plan prepared by MRA Environmental Figure 2, Rev.A dated August 2022, and the following requirements:

- Fire rated and ventilated in accordance with the '*National Construction Code – Building Code of Australia*'
- Insect and vermin proof
- The doors must be wide enough to allow for the easy removal of the largest container to be stored
- The walls, ceiling, floor, and equipment of each waste storage room must be designed and constructed of impervious material with a smooth finish to allow for easy cleaning
- Graded floor to fall to a drainage point/s, connected to sewer in accordance with trade waste requirements
- Adequate artificial lighting must be provided
- Refrigerated rooms must be fitted with an approved alarm device outside, but controllable only from within the room
- A hose cock must be provided immediately outside the room for cleaning bins and the room

88. **Waste Management**

Solo Resource Recovery or other approved Waste Management Contractor to certify that waste can be collected from the basement car park by their approved refuse collection vehicle prior to the issue of the Occupation Certificate. Details to be provided to the PCA.

The following conditions are to be complied with at all times

89. **Use of the dwellings**

The dwellings are not to be holiday let or used as tourist and visitor accommodation or as **short-term rental accommodation**.

90. **Vehicles to enter/leave in a forward direction**

Vehicles (cars and service vehicles) using any off-street loading/unloading and/or parking area must enter and leave in a forward direction. All driveways and turning areas must be kept clear of obstructions that prevent compliance with this condition.

91. **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 is to take place within the curtilage of the premises.

92. **Compliance with TfNSW Rail Guidelines required**

The applicant must comply with the requirements of T HR CI 12090 ST Airspace and External Developments (Link: <https://www.transport.nsw.gov.au/industry/asset-standards-authority/find-a-standard/airspace-and-external-developments-1>) and Development Near Rail Corridors and Busy Roads- Interim Guidelines (Link [development-near-rail-corridors-and-busy-roads-interim-guideline-2008.ashx](https://www.transport.nsw.gov.au/industry/asset-standards-authority/find-a-standard/development-near-rail-corridors-and-busy-roads-interim-guideline-2008) (nsw.gov.au)).

93. **Access to the rail Corridor**

The applicant must not and, must ensure its employees and all other persons do not, enter any parts of the rail land at all times unless otherwise permitted in writing in advance.

94. **Stormwater Drainage**

The Applicant must ensure that all stormwater drainage from the development is adequately disposed of and managed and not allowed to be discharge into the railway corridor unless prior written approval has been obtained from **UGLRL** on behalf of **TfNSW**.

95. **Noise & Vibration**

The proposed development is to comply with the deemed-to-satisfy provisions in the Department of Planning's document titled "Development Near Rail Corridors and busy Roads-Interim Guidelines" by UGLRL on behalf of TfNSW

96. **Must not interfere with the amenity of the neighbourhood**

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

- a. Any complaints to Council about 'offensive' noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.
- b. Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
- c. All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- d. All waste storage and sewage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- e. Goods deliveries shall be restricted to daytime operating hours.

97. **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.

98. **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.

99. **Swimming pool health requirements**

The swimming pool water is to be re-circulated, filtered and disinfected in accordance with the requirements of Council and NSW Health. The swimming pool water is to be maintained at satisfactory levels of purity for bathing at all times

100. **Waste management service**

The waste management service shall be provided by a non-standard waste collection vehicle as described in Greg Alderson and Associates letter from Sodiq Azeez, and attachments dated October 2023 and also the letter from Anthony Mallam of Greg Alderson and Associates dated 3.10.2023 addressing 'Assessment of Proposed Ramp in Relation to Wheel Slippage for Waste Vehicles – 29 Shirley Street.

A contract must be maintained at all times with a waste service provider able to provide these vehicles and the basement carpark access ramp shall be maintained in accordance with the regime described above in the letter from Anthony Mallam of Greg Alderson and Associates dated 3.10.2023 addressing 'Assessment of Proposed Ramp in Relation to Wheel Slippage for Waste Vehicles – 29 Shirley Street.

All waste collection including recycling and green waste to be collected from the basement at all times. No waste collection is permitted from the street. Should the development ever be subdivided appropriate provision to be included in the relevant management statements (whether it is Strata or Community title) to reflect this.

101. **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.

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 2, Subdivision 1 of the Environmental Planning and Assessment Regulation 2021 as at the date of this development consent as are of relevance to this development must be complied with:

- 69 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- 70 Erection of signs
- 71 Notification of Home Building Act 1989 requirements
- 72 Entertainment venues
- 73 Maximum capacity signage
- 74 Condition relating to shoring and adequacy of adjoining property
- 75 Fulfilment of BASIX commitments

Refer to the *Environmental Planning and Assessment Regulation 2021, Division 2, Subdivision 1* of for full text of the above clauses. This can be accessed at <http://www.legislation.nsw.gov.au>.

REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

Note: From July 1 2018, Council's are required to give and publicly notify reasons for a range of planning decisions where they are deciding if development should proceed to help community members to see how their views have been taken into account and improve accountability to stakeholders. A statement of reasons for the determination of this application is provided below.

Statement of Reasons

The proposed development complies with the provisions of Byron Local Environmental Plan 1988.
The proposed development complies with the provisions of Byron Local Environmental Plan 2014.
The proposed development complies with relevant State Environmental Planning Policies
The proposed development complies with relevant provisions of Development Control Plan 2014
The proposed development complies with relevant provisions of Development Control Plan 2010
The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.
The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.
The proposed development is considered suitable for the proposed site.
The development application was notified/advertised in accordance with Council's Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application.
The proposed development is unlikely to prejudice or compromise the public interest.
The proposed development will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Clause 5.10 of Local Environmental Plan 2014.
The proposed development will not have a detrimental impact on the heritage character of the precinct or the buildings contained on the site. It is considered consistent with the heritage provisions contained within Development Control Plan 2014.

How community views were addressed

The DA was advertised in accordance with Council's Community Participation Plan. The submissions received were considered on merit and addressed during assessment of the application.

To view the considerations, please contact Council to view a copy of the assessment report relating to this DA.

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 for a Construction Certificate must be made online using the [NSW Planning Portal](#).

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.

Should an updated Acid Sulfate Assessment and subsequent Acid Sulfate Soil Management Plan (ASSMP) be required:

These plans shall be prepared so as to provide specific detail on the practical management of the acid sulfate soil risks. Any report shall be submitted to Council for approval prior to the issue of a Construction Certificate.

The ASSMP must develop the strategy outlined in the Acid Sulfate Soil Assessment and provide Council with specific details (which may not be limited to) the following:

- a) Investigation and reporting for the ASSMP must be undertaken by a suitably qualified environmental scientist.
- b) The location and address of all land, or portions of land, proposed to be used for ASS and PASS treatment.
- c) A site plan, to an appropriate scale, shall detail the exact location of all treatment, chemical storage and transport affected parts within the boundaries of each property.
- d) Details should include private owner consent and an assessment of the environmental risks and requirements under the Environmental Planning and Assessment Act 1979 where the use of such land for the treatment of contaminated soil may require separate development consent or approval.
- e) A 'designated responsible' person to be accountable for managing, monitoring, and reporting on the ASS and PASS remediation program associated with this development.
- f) Contact details and appropriate qualifications and professional indemnity insurance to be included.
- g) The specifics of all operator training, monitoring, testing, and recording to be carried out during the ASS and PASS remediation program.
- h) An emergency management plan that includes all likely eventualities where ASS and PASS soil, alkaline chemicals or other environmentally harmful substances may be washed, blown or otherwise escape from the excavation site, transport vehicle or treatment containment areas.
- i) The specifics of the final soil monitoring criteria, final waste classification and proposed final point of disposal of soil excavated from the subject property.
- j) Works involving excavations at or below the natural ground surface must not commence until the ASSMP has been prepared and approved by Council.
- k) Remediation and management of ASS and PASS must be in accordance with the Acid Sulfate Soil Manual (NSW ASSMAC 1998) and best practice methodologies.
- l) Remediation and emergency contingencies responses for incidents occurring in particular in the event of non-compliance that has potential to affect the receiving environment.

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.

Fire Ants

The importation of any of the following material from Queensland invasive ant biosecurity zones must be in accordance with the Biosecurity (Invasive Ant Carriers) Control Order 2023 (including any revised orders made under the Biosecurity Act 2015) and meet the requirements of NSW Department of Primary Industries:

- organic mulch (which includes manure, bark, wood chips, hay, straw, silage, and sugar cane bagasse);
- baled materials;
- potted plants;
- agricultural or earth-moving machinery;
- fill or soil (which includes anything with soil on it such as turf); and
- mining or quarrying materials.

Prior to the importation of each material type, the supplier must provide the receiver and the Principal Certifying Authority with the relevant Certificate as identified within the Biosecurity (Invasive Ant Carriers) Control Order 2023 or revised biosecurity control orders. All material shall meet the requirements of the relevant Certificate.

It is an offence under the Biosecurity Act 2015 if this material comes from within 5 kilometres of a known invasive ant infested area (e.g. identified Fire Ant Biosecurity Zones in Queensland), or any other place at which the person knows, or ought reasonably to know, that an invasive ant has been detected, unless the carrier material has been managed and treated to reduce the risk and meets the certification requirements listed in the Control Order.

Reasons for conditions of consent from TfNSW Rail

Construction and demolition impacts

Reason for condition

The proposal includes demolition of existing development (backpackers’ hostel accommodation building, shared facilities, two dwellings) on the project site which is adjacent to the **CRN** rail corridor. It is important for **UGLRL** to be satisfied with the proposal that it does not have any adverse impacts on the operation of the rail in future and the rail infrastructure at all times.

Demolition of existing developments

Reason for condition

It is essential for **TfNSW** and **UGLRL** to ensure that demolition of existing development (backpackers’ hostel, including accommodation buildings, shared facilities such as kitchen and dining areas, car parking area and communal open spaces as well as two dwellings) have no adverse impacts on the land and the rail corridor. As such, the applicant is advised to contact **UGLRL’s** Third Party Works team to obtain **TfNSW’s** approval to demolition of existing development via thirdpartyworks@uglregionallinx.com.au

Fencing

Reason for condition

The security of fencing along the rail corridor is essential to prevent unauthorised entry and ensure safety.

Excavation in, above, adjacent to the rail corridor

Reason for condition

The information provided with the DA and amended documents/plans provided with additional information provided clearly indicate excavation within 25m from the rail corridor. The plans also indicate structural measures to retaining of fill materials along the rail corridor boundary. Therefore, it is important for UGLRL and TfNSW to be satisfied that the works do not have any adverse impacts on the rail corridor and rail infrastructure during proposed development.

Clause 2.99 of SEPP (Transport & Infrastructure) 2021 stipulates that the consent authority must not grant consent without consulting with the rail authority and obtaining concurrence consistent with clause 2.99 (2) – (5) in the event that the development involves the penetration of ground to a depth of at least 2m below ground level on land within a rail corridor or within 25m of a rail corridor.

Supervision of all excavation, shoeing and piling works within 25m of the rail corridor

Reason for condition

The revised Statement of Environmental Effects (SEE), Architectural Plan, and Civil Engineering Plans supplied by the applicant does not provide details of the excavation activities near to the rail corridor. Therefore, it is important for UGLRL and TfNSW to be satisfied that the works do not have any adverse impacts on the rail corridor and rail infrastructure during proposed development.

Cranes and Equipment

Reason for condition

Should such equipment be required to be used in the air space over the rail corridor other than the proposed development area, the applicant must submit an application to **UGLRL** for its endorsement and **TAHE**'s approval in advance. The applicant is advised to contact **UGLRL**'s Third Party

Access to rail corridor

Reason for condition

The site is located adjacent to the rail corridor. As such, it is essential that access to the rail land must be permitted in advance **by TfNSW and UGLRL**.

It is also noted that there is an existing informal pedestrian access from the northern eastern corner of existing Lot 12 DP 1138310 (and ultimately the north-eastern corner of proposed development) to Belongil Beach. The Applicant must provide information on the legality and authorization of this existing access. Furthermore, clarification on the permissibility or closure of this existing pedestrian access once development is completed should also be provided.

Stormwater drainage

Reason for condition

The Applicant must obtain written approval that the development of any drainage, and surface runoff paths would not be discharged into the rail corridor and cause no risk to the rail corridor. As such, it is essential for **TfNSW** and **UGLRL** to satisfy that the proposal does not have any adverse impact on the rail corridor.

Noise and vibration

Reason for condition

The development is proposed for residential flat building for residential purpose. Therefore, if the railway line does become operational in the future, rail noise and vibration should be

considered for the proposed residential development. It is essential to maintain the acoustic amenity of the future occupants of the residential properties.

Contamination of the rail land

TfNSW is currently conducting an environmental assessment to identify contamination on the **CRN**. All railway corridors are generally deemed to be contaminated unless proven otherwise by sample testing. Contamination risk arises from both the construction (e.g., unknown fill used in rail construction) and operations (e.g., transportation of contaminated material, spills) of the railway. Potential contaminants could include, but are not limited to, heavy metals, PAHs, phenolics (boiler ash), Organochlorine Pesticides (**OCPs**) and Organophosphorus Pesticides (**OPPs**). Although, TfNSW is committed to ensure the health and wellbeing of the community, TfNSW is not aware of whether there are contaminants found in the rail corridor or on the common boundaries with the development site.

Furthermore, in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021-Section 4.6 'Contamination and remediation to be considered in determining development application' (Previously State Environmental Planning Policy No. 55 – Remediation of Land) the consent authority (Council) must consider whether the land is contaminated.

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine being issued pursuant to section 4.2(1) of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 9.50 of the Environmental Planning & Assessment Act 1979.

Essential Energy

1. Prior to any demolition works commencing, any service line/s to the property/s must be disconnected.
2. The Applicant will need to engage the services of an Accredited Service Provider to ensure adequate provision of power is available to the development in accordance with *NSW Service and Installation Rules*. This may mean that the existing service lines will need to be relocated, at the Applicant's expense. A Level 2 Electrician will be able to advise on these requirements and carry out the required work to ensure compliance.
3. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW).
4. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines* and *Code of Practice – Work near Underground Assets*.
5. Essential Energy's records indicate there is electricity infrastructure located within close proximity of the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
6. If the proposed development changes, there may be potential safety risks and it is

recommended that Essential Energy is consulted for further comment.

7. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.

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.

Relics Provisions- Advice

Attention is directed to the NSW Heritage Act 1977 and the provisions of the Act in relation to the exposure of relics. The Act requires that if:

- a) a relic is suspected, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation; and/or
- b) any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation;

Those responsible for the discovery must notify nominated management personnel who will in turn notify the Heritage Council of New South Wales or its delegate, the Office of Environment and Heritage, NSW Heritage Branch, and suspend work that might have the effect of disturbing, damaging or destroying such relic until the requirements of the NSW Heritage Council have been satisfied (ss139, 146).

S7.11 Schedule of Development Contributions

The following contributions are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The current contribution rates are available from Council offices during office hours. **Payments will only be accepted by cash or bank cheque.**

Section 7.11 contributions Schedule						
Byron Bay Suffolk Park						
Catchment						
This schedule was calculated in spreadsheet #E2021/99005						
1 bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		0	@	0.75 SDU	=	0
3 bedroom units/dwellings =		25	@	1 SDU	=	25
Allotments =		0	@	1	=	0
Less Site Credits =		5	@	-1	=	-5
Total SDU					=	20
Schedule valid until	25-October-2023		After this date contact Council for CPI update.			
Local Open Space & Recreation	(OS-BB)	20.00	SDU @	\$ 4,809.66	=	\$ 96,193.20
LGA Wide Open Space & Recreation	(OS-SW)	20.00	SDU @	\$ 865.69	=	\$ 17,313.80
LGA wide Community Facilities	(CF-SW)	20.00	SDU @	\$ 1,267.90	=	\$ 25,358.00
Local Community Facilities	(CF-BB)	20.00	SDU @	\$ 1,428.71	=	\$ 28,574.20
Bikeways & Footpaths	(CW-BB)	20.00	SDU @	\$ 1,583.88	=	\$ 31,677.60
Shire Wide Bikeways & Footpaths	(CW-SW)	20.00	SDU @	\$ 93.00	=	\$ 1,860.00
Urban Roads	(R-BB)	20.00	SDU @	\$ 3,464.06	=	\$ 69,281.20
LGA Wide Roads	(R-SW)	20.00	SDU @	\$ 261.96	=	\$ 5,239.20
Rural Roads	#N/A	20.00	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	20.00	SDU @	\$ 1,309.43	=	\$ 26,188.60
Total						\$ 301,685.80

General Advisory Notes

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 1800 810 443.

The Environmental Planning and Assessment Act 1979 requires you to:

1. For building works, obtain a **Construction Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate.

For subdivision works, obtain a **Subdivision Works Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Subdivision Works Certificate.

An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the above Certificates.

All applications must be lodged via the [NSW Planning Portal](#).

2. Nominate a **Principal Certifier** which may be either Council or a registered certifier and notify Council of that appointment. You **cannot lawfully commence works** without complying with this requirement. Appointment must be made through the [NSW Planning Portal](#)
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.

All applications must be lodged via the [NSW Planning Portal](#).

You may also need to:

5. Lodge an Application for Subdivision to obtain a Subdivision Certificate if a land (including stratum) subdivision is proposed and an Application for Subdivision to obtain Strata Title Subdivision under the relevant Strata Titles Act if strata title of the development is proposed.
6. Carry out critical stage inspections in accordance with Section 6.5 of the EP&A Act 1979 and clauses 61, 63 and 65 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.