



BSC File No: 60550D x 10.2023.465.1/#A2024/63447Contact: Gregory Yopp

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application No.	10.2023.465.1 PAN-394926
Applicant	PROPEL INVESTMENT MANAGEMENT PTY LTD
Property	56B Bangalow Road BYRON BAY, 58 Bangalow Road BYRON BAY, 60 Bangalow Road BYRON BAY LOT: 14 DP: 792128, LOT: 1 DP: 525896, LOT: 11 DP: 593328
Development	Demolition of two (2) Existing Dwellings and Multi Dwelling Housing comprising of twenty four (24) Dwellings including three (3) Affordable Dwellings
Determination	Approved Consent Authority - Council
Date of determination	14 November 2024
Date from which the consent operates	20 November 2024
Date on which the consent lapses	20 November 2029

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

Chris Larkin
Manager Sustainable Development

Schedule 1. 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	Plan No.	Drawn by	Dated
Site Plan	DA-26, Rev IR7	Raunik Design Group Architects	12/07/2024
Extended Site Plan	DA-26a, Rev IR7	Raunik Design Group Architects	12/07/2024
Level 1 Ground	DA-27, Rev IR7	Raunik Design Group Architects	12/07/2024
Level 2	DA-28, Rev IR7	Raunik Design Group Architects	12/07/2024
Level 3	DA-29, Rev IR7	Raunik Design Group Architects	12/07/2024
Overall Roof	DA-30, Rev IR7	Raunik Design Group Architects	12/07/2024
House Types A, B & C	DA-31, Rev IR7	Raunik Design Group Architects	12/07/2024
House Types D, E & F	DA-32, Rev IR7	Raunik Design Group Architects	12/07/2024
Elevations E & S	DA-33, Rev IR7	Raunik Design Group Architects	12/07/2024
Elevations W & N	DA-34, Rev IR7	Raunik Design Group Architects	12/07/2024
Sections A & B	DA-35, Rev IR7	Raunik Design Group Architects	12/07/2024
Sections C & D	DA-36, Rev IR7	Raunik Design Group Architects	12/07/2024
Sections E & F	DA-37, Rev IR7	Raunik Design Group Architects	12/07/2024
Communal Open Space	DA-38, Rev IR7	Raunik Design Group Architects	12/07/2024
Deep Soil Zone	DA-39, Rev IR7	Raunik Design Group Architects	12/07/2024
Landscape Plan	Project 1744	Blackwood Ecological Services	29/09/2023
Intersection - Unnamed St/Bangalow Rd (Annotated by Council)	11836 SK01 Rev A	Ardill Payne and Partners	04/07/2024
Stormwater Management Plan	11836 – SK04 Rev C	Ardill Payne and Partners	05/08/2024
Stormwater Management Plan Report	11836 Rev 3	Ardill Payne and Partners	August 2024

Demolition Plan Report	N23038	Zone Planning Group	November 2023
Noise Impact Assessment	ATP231015-R-NIA-01	ATP Consulting Engineers	October 2023
Acid Sulfate Soil Management Plan for Minor Works	-	Jarrold Gillies (Zone Planning NSW Pty Ltd)	9/11/2023

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. 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	In accordance with the current fees and charges .

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

3. 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.

4. 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 a **Schedule** of this consent.

5. 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 NSW Rural Fire Service conditions provided in a **Schedule** of this consent.

6. Essential Energy Requirements

The development is approved subject to the requirements of Essential Energy provided in a **Schedule** of this consent.

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

7. Subdivision Certificate required

Prior to the issue of a Construction Certificate, a Subdivision Certificate creating Lot 15 and Lot 16 under Development Consent 10.2023.473.1, must be issued.

8. 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.

9. 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 landslip or subsidence either above or below the works; and
- c) adequate drainage has been provided.

10. Plans of retaining walls and drainage

The application for a Construction Certificate is to include plans and specifications that indicate retaining walls or other approved methods of preventing movement of the soil, where any excavation or filled area exceeds 600mm in height. Adequate provision must be made for drainage.

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

11. Geotechnical Report required – Soil Classification

A soil report is to be provided to the Principal Certifying Authority from a professional Engineer experienced in Geotechnical Science as to the classification of the soil type on the site, consistent with the requirements of AS2870.

12. 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”.

13. 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.

14. **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.

15. **On-site stormwater detention required**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. All stormwater drainage for the development must be conveyed via an on-site stormwater detention system and bioretention basin by gravity to the wetland inside future Lot 16 west (DA10.2023.473.1) of the site.

The approved plan must be amended to include the following in the detailed design and construction of the bioretention basin: -

- (i) Bioretention media specification shall be in accordance with the Facility for Advancing Biofiltration "Guidelines for Soil Filter Media in Bioretention Systems". Bioretention hydraulic conductivity shall be in accordance with the Facility for Advancing Biofiltration 'Practice Note 1: In Situ Measurement of Hydraulic Conductivity'. The number of samples to be tested shall be in accordance with the "Water Sensitive Urban Design Construction and Establishment Guidelines - Swales, Bioretention Systems and Wetlands (Water by Design).
- (ii) Under-drain: slotted rigid pipe (uPVC or similar to AS 2439.1) or approved equivalent, 0.5% MIN. grade. Refer project drawings for diameter and invert level (Typically Ø100-150). Pipe should not be installed with a filter sock surrounding pipe. Under-drainage pipes shall be sealed into pits using grout or other approved watertight seal.
- (iii) Plant specification and density shall be in accordance with the "Water Sensitive Urban Design Technical Design Guidelines" (Water by Design).
- (iv) The base of the trench is to be at least 1.0 m above the underlying watertable or rock stratum if present.
- (v) The underdrain outlet discharging into the wetland must be provided with energy dissipater and a method in dispersion of concentrated flows.
- (vi) Preparation of a Maintenance Plan including lifecycle of the device.

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.

16. 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) Driveway

A driveway in No-name Rd in accordance with Council's Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings.

b) Driveway Removal

The existing driveways in Bangalow Rd must be removed and the kerb and footpath area reinstated to Council's satisfaction

c) Bangalow Rd and No-name Rd Upgrade

The Bangalow Rd and No-name Rd intersection and turning area in No-name Rd must be upgraded including 4 indented parallel parking spaces and pedestrian crossing and regulatory and directional signage generally in accordance with the annotated drawing SK01 and to comply with Council's current standards, in accordance with Council's Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings.

Please Note: Regulatory devices, linemarkings and signage must be referred to Local Traffic Committee and approved by Council Resolution.

17. Access & Parking

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

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

- a) 30 carparking spaces including 3 accessible spaces and 6 visitors spaces
- b) All parking spaces other than the undercover garages must be clearly linemarked and sign posted.
- c) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment including suitably designed permeable pavements;
- d) site conditions affecting the access;
- e) existing and design levels; and
- f) longitudinal section from the road centreline to the car space(s).

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

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

18. Fibre-ready Facilities and Telecommunications Infrastructure

Unless exempted from Part 20A of the Telecommunications Act 1997, evidence satisfactory to the Certifying Authority must be submitted prior to the issue of the Construction Certificate in connection with a development, that the developer (whether or not a constitutional corporation) has made arrangements for:

- (i) 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
- (ii) 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.

Notes:

- a) real estate development project has the meanings given in section 372Q of the Telecommunications Act; and
- b) exemptions only apply if published on the Register of developments exempted from Part 20A of the Telecommunications Act 1997 issued by the NSW Government Department of Infrastructure, Transport, Regional Development, Communications and the Arts, or similar.

19. Flood Planning Level for new buildings

The flood planning level for this development is 2.96m A.H.D. The plans and specifications to accompany the construction certificate application are to indicate a minimum habitable floor level that is at or above the flood planning level.

The plans and specifications to accompany the construction certificate application are to also indicate:

- a. a minimum floor level of 2.62m A.H.D for non-habitable building or room (eg. Shed, carport, garage, laundry, shelter, etc.); and
- b. the use of flood compatible materials and services below the flood planning level in accordance with the requirements of Council's Development Control Plan 2014 – Chapter C2 – Areas Affected by Flood; and

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

20. Adaptable Housing

The application for a Construction Certificate is to include plans and specifications for Dwelling Numbers 6, 18 and 24 consistent with AS4299-1995 Adaptable Housing.

21. Access – Continuous Accessible Path of Travel

The application for a Construction Certificate is to include plans and specifications for a continuous accessible path of travel in accordance with AS1428 or an inclinators/lift/hoist (in accordance with AS1735) as appropriate must be provided between the main street entrance to the adaptable houses, access or car parking spaces, letter boxes, garbage storage area, recreation areas, swimming pool and clothes drying areas.

22. Amendments to the Plans Required - Privacy Controls

The second level – verandah/deck on the southern side of Dwelling No. 12 has the potential to reduce the level of privacy enjoyed by the occupants of the adjoining dwellings to the south.

The plans submitted for approval of the Construction Certificate must include privacy screens on the southern side of the deck.

The screens could be constructed from lattice, vertical slats or other similar non-transparent screenings. Where slats are used, they are to be angled to ensure the line of sight is directed away from the adjoining dwellings. The screen must be a minimum of 1.8m high above the floor level of the verandah/deck.

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

23. Location of External Pipes and Vents and TV Antennae

Plans submitted for the Construction Certificate need to include: a) concealed external pipes and vents in accordance with DCP 2014 Section D1.6.8; and b) a common television reception system for each housing block in accordance with DCP 2014 Section D1.6.9.

24. Vegetation Management Plan

A detailed **Vegetation Management Plan** is to be submitted to and approved by Council.

The plan is to generally be in accordance with the compensatory restoration works outlined within the Ecological Assessment prepared by Blackwood Ecological Services dated September 2023.

However, compensatory planting as detailed in Figure 8 of the report adjacent to the coastal wetland and outside of the subject allotment is not required. Instead, a larger area of the edge of the coastal wetland, stretching 70m into the forest, is to be the subject of ongoing weed management.

Details and the location of fauna nesting boxes/micro bat boxes/native bee boxes are also required. The plan must be prepared by a suitably qualified person and must include:

- a) a map at a scale of 1:200 or better illustrating the location and extent of the area that is subject to weed management in generally in accordance with the Ecological Assessment prepared by Blackwood Ecological Services dated September 2023. This map should also identify all areas where weeds exist in the vicinity of the development.
- b) provisions for the clear identification of the Coastal Wetland on the property and measures to minimise the potential for accidental incursions during APZ maintenance.
- c) a clear identification of responsibility for the weed removal and rehabilitation concentrating of the eastern edge (70m in) of the Coastal Wetland.
- d) a list of weed species proposed for removal with specific methods detailed of removal strategies (e.g. herbicides used, disposal of propagules in green waste, retention of native seedbank).
- e) means of protection of existing vegetation within and adjoining the site to be preserved during the construction and operational phases of the development.
- f) identification of all service connection locations within the site demonstrating that all services must be located independently of and will not be detrimental to any native vegetation in the coastal wetland.
- g) All compensatory planting within the subject allotment containing the multi dwelling housing (24 dwellings) is to be completed prior to the issue of the final occupation certificate, in accordance with the approved Landscape Plan.
- h) The weed management program and installation of fauna boxes in the adjacent Coastal Wetlands is to be undertaken over a five year period, with the first year of the program to be completed prior to the issue of the final Occupation Certificate. Annual weed management works are also required in the second, third, fourth and fifth year. Documentary evidence is to be submitted to and approved by Council for the final four (4) years of weed management works four (4) years after the issue of the final Occupation Certificate.

- i) The weed management program may include works that have been undertaken prior to the issue of development consent in accordance with SEPP (Resilience and Hazards) 2021 Clause 2.7(5).

25. Water and Sewerage - Section 68 Part B approval

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.

Water metering to be in accordance with Byron Shire Council's water metering requirements See: <https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications>

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

26. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. 1377058M_05, dated 4 October 2024.

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.

27. 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.

28. 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.

29. Water and Sewerage - Section 68 Part B approval

If required, an **Approval** under Section 68 Part B of the Local Government Act 1993 to carry out sewerage work must be obtained where the pool backwash is to be connected to the sewer via a new overflow relief gully.

30. Site Waste Minimisation and Management Plan

Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

A template is provided on Council's website to assist in providing this information
www.byron.nsw.gov.au/files/publication/swmmp-pro-forma.doc

31. Tree Removal

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

32. Demolition

Demolition not to commence prior to the issue of a Construction Certificate.

33. 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.

34. Provision of Affordable Housing

From the date of the issue of approval of this consent, three (3) two-bedroom dwellings are to be used only for the purposes of 'affordable housing' (as defined in the *Environmental Planning and Assessment Act 1979* and *State Environmental Planning Policy [Affordable Rental Housing] 2009*), and these dwellings are to be managed by a registered community housing provider (*registered community housing provider* has the same meaning as in the *Housing Act 2001*).

A restriction will be registered, prior to the issue of a Construction Certificate, against the title of the property, in accordance with section 88E of the *Conveyancing Act 1919*, that will ensure that these requirements of this condition are met.

35. Developer Contributions to be paid for Dwellings (not including the three (3) Affordable Dwellings)

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.

36. Developer Contributions deferred for three (3) Affordable Dwellings

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

These Contributions are not payable if whilst ever the three (3) two-bedroom dwellings are permanently used for the provision of affordable housing as defined by clause 6 of State Environmental Planning Policy (Affordable Rental Housing) 2009.

Should these dwellings cease to be used for affordable housing then all contributions owing under this condition shall become payable and shall be indexed to the date of payment.

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.

37. Easement required over pipelines

In all new subdivisions and/or developments, an easement in gross benefitting Byron Shire Council shall be provided for all pipelines in accordance with the Council Policy: Building in the Vicinity of Underground Infrastructure 2020.

Easement documentation shall be prepared in accordance with NSW Land Registry Services requirements over the pipeline/s within the allotment/s. Easement documentation must be submitted to Council for execution, together with a survey showing location, size and depth of the pipeline/s and payment of fees in accordance with Council's adopted fees and charges.

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

The minimum width of the required easement shall be 3 metres centred over the pipeline.

38. Swimming Pool controlled discharge rate

The discharge pipe (sized – maximum 50mm) shall not discharge at a flow rate greater than one litre per second (< 1.0L/s). The discharge of swimming pool backwash water shall not be carried out during rain periods.

39. Certificate of Compliance – s307 Water Management Act 2000

Prior to issue of any Construction Certificate, a Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous County Council Development Servicing Plans. Where staging of the Construction Certificate occurs, a separate s307 Compliance Certificate must be obtained for each stage.

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

Note: For issue of the Certificate of Compliance, an application form and associated fee must be lodged via Council's website. Copies of Byron Shire Council's Development Servicing Plans are available via Council's website.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Utilities on 02 6626 7000. Applicable charges can also be found on Council's website:
<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.

Payment by Personal or Company Cheque will not be Accepted

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

40. Coastal Wetland Vegetation Protection

Protection fencing is to be erected along the line of the mapped Coastal Wetland prior to commencement of works to prevent vehicles and/or people from entering the mapped area.

41. Public Safety Management Plan

The approved public safety management plan is to be implemented.

42. Traffic Management Plan

The approved traffic management plan is to be implemented.

43. Erosion and Sediment Control Management Plan required

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

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

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

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

44. 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)

45. 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 demolition, building or construction works

46. 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.

47. 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.

48. 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.

- 49. Signs to be erected on building and demolition sites**
A sign must be erected in a prominent position on the work site:
- stating that unauthorised entry to the work site is prohibited, and
 - 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.
- 50. 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.
- 51. 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.**
- 52. 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.
- 53. 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.
- 54. Stormwater drainage work**
Stormwater drainage for the development must be constructed in accordance with the approved plans and specification by a suitably qualified person.
- 55. 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.
- 56. 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.

57. 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 \(2014\)](#)

58. 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](#).

59. 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.

60. 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

61. Lots to be consolidated and registered

Prior to the issue of an Occupation Certificate 58 Bangalow Road (Lot 1 DP 525896) and 60 Bangalow Road (new boundary adjusted lot registered prior to the issue of Construction Certificate as approved under DA 10.2023.473.1) are to be consolidated and registered.

61A. Restriction on use - keeping of cats and dogs for protection of native fauna species

Documentary evidence is to be provided with the application for an occupation certificate that a restriction on user, pursuant to the provisions of s88B of the Conveyancing Act 1919 has been registered on the title of the land.

The keeping of cats and dogs on the subject property is to be managed to ensure protection of native fauna species. The restriction on user must restrict, except as otherwise permissible by law, all of the following within the area covered by the restriction on user.

- a. Keeping of cats and dogs in any part of the property is to be managed at all times:
 - i. The erection and maintenance of dog-proof fencing enclosing the private open space for each unit.
 - ii. Dogs may only be permitted outside private fenced areas of each unit if they are on a leash and suitably controlled under the supervision of a responsible person; and
 - iii. The keeping of cats within all units unless cats are confined to suitable enclosures at all times.

The s88B Instrument must contain a provision identifying Byron Shire Council as the only person or authority having the power to revoke, vary or modify the restriction on user.

62. 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.

63. 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).

64. Council Specification

All 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

65. Works-As-Executed Plans

Following completion of works and prior to issue of the occupation certificate, 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.

66. CCTV Inspection and Report

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

- a) Sewerage Reticulation.

67. 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.

68. Record of Infrastructure

A record of infrastructure coming into Council ownership is to be submitted to Council prior to occupation of the building. 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.

69. Certificate of Compliance – s307 Water Management Act 2000

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

A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of an Occupation Certificate. Where staging of the Subdivision occurs, a separate s307 Compliance Certificate must be obtained for each stage.

Note: For issue of the Certificate of Compliance, an application form and associated fee must be lodged via Council's website. Copies of Byron Shire Council's Development Servicing Plans are available via Council's website.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Utilities on 02 6626 7000. Applicable charges can also be found on Council's website:

<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>

70. Floor Levels – Certification for Flooding

Prior to the issue of an Occupation Certificate, a certificate from a registered surveyor must be submitted to the Principal Certifying Authority confirming the height of habitable and non-habitable floors. An Occupation Certificate must not be issued unless the floor levels are at or above the relevant flood planning levels.

71. Roadworks, access and parking areas to be completed.

The roadworks, access and parking areas are to be constructed in accordance with the engineering plans required by this consent and the Roads Act consent. Certification that the driveway 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 an occupation certificate.

72. On-site Stormwater Detention and Bioretention Basin – Certification of works

All stormwater drainage works, including on-site stormwater detention works and bioretention basin, 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](#).

73. Acoustic compliance report

An acoustic compliance report prepared by a suitably qualified person shall be submitted to Council and approved. The report shall certify that the development has been designed and constructed in accordance with the established noise criteria specified within Section 4.2 of the approved acoustic report and the recommendations outlined in the approved acoustic report.

- 74. Completion of ecological restoration works in accordance with approved Vegetation Management Plan**
Prior to the issue of the final Occupation Certificate, documentary evidence, prepared by an ecologist/bush regeneration worker is to be submitted to and approved by Byron Shire Council confirming that at least year one (1) of weed management has been completed in accordance with the approved Vegetation Management Plan. Written approval of the restoration works is required from Council prior to the issue of the final Occupation Certificate.
- 75. 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.”
- 76. Stormwater disposal**
Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:
- a. Clear of buildings and infrastructure,
 - b. Clear of effluent disposal areas,
 - c. Not concentrated so as to cause soil erosion,
 - d. Not directly to a watercourse, and
 - e. Not onto adjoining land.
- 77. Site Location Survey**
A final survey of the structures showing setbacks to boundaries to be submitted to the Private Certifier with the Occupation Certificate demonstrating compliance with the approved plans.
- 78. Swimming pool fencing**
Swimming pool fencing is to comply with the requirements of the Swimming Pools Act 1992 and Regulations.
- 79. Swimming pool backwash**
Pool backwash to be connected to a sewer overflow relief gully.
- 80. 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.
- 81. 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.
- 82. Protection of Coastal Wetland**
A rear boundary fence, at least 1m away from the mapped coastal wetland, is to be erected. The fence is to be no higher than 1.8m. Durable Information signage (powder coated aluminium or similar, resistant to corrosion) is to be attached to the rear fence to inform residents of the coastal wetlands and to protect the ecological asset.

The following conditions are to be complied with at all times

83. Non-hosted STRA – 60 day precinct

The property must not be used for non-hosted short-term rental accommodation (STRA) for more than 60 days within a 365-day period.

STRA must only be undertaken in accordance with the following:

- a. must be registered on the NSW Planning Portal.
- b. must comply with the mandatory Code of Conduct for the STRA industry.
- c. must comply with fire safety standards.

Council conducts regular audits to ensure compliance. Penalties may apply if non-compliance is detected.

84. Use of Communal Recreation Area and Pool

The use of the communal recreation area and swimming pool is limited to the hours of 6.00am to 10.00pm on weekdays and 6.00am to 12.00pm on weekends and public holidays. Lighting outside of these hours is to be limited to low brightness security lights.

85. Rain Water Supply

All rain water supply tanks are required to divert water from the first rainfall using a first flush or bypass device.

86. Site Waste Minimisation and Management

All works must comply with the objectives of waste minimisation and waste management of Part B8.1.2 of DCP 2014.

87. Completion of ecological restoration works in accordance with approved VMP

Documentary evidence, prepared by an ecologist/bush regeneration worker is to be submitted to Byron Shire Council, upon the completion of the annual five (5) year weed management program and installation of fauna boxes has been completed in accordance with the approved Vegetation Management Plan. This documentary evidence is to be submitted to Council no later than four (4) years after the issue of the final Occupation Certificate.

88. Protection of Coastal Wetland

The occupiers of the dwellings must not dump lawn clipping or any other material into the Coastal Wetland area or create any tracks or trails throughout that area without prior approval of Council.

The rear boundary fence and signage is to be maintained at all times.

89. 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.

- 90. 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.
- 91. Swimming pool backwash and overflow**
Pool overflow and backwash to discharge to the overflow relief gully.
- 92. 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.
- 93. Swimming Pool Fencing**
Swimming pool fencing is to comply with the requirements of the Swimming Pool Act 1992 and Regulations at all times.
- 94. 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.
- 95. Visitors Parking spaces are to be available for the approved use**
Visitors parking spaces are not to be reserved for any tenant at all times.
- 96. Vehicles to enter/leave in a forward direction**
All vehicles 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.
- 97. Bioretention Basin and On-site Detention Basin (OSD)**
Bioretention and OSD must be maintained in accordance with the approved plan.

Schedule 2. 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
- [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>.

Schedule 3. NSW RURAL FIRE SERVICE CONDITIONS



Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (CNR-64747) 10.2023.465.1
Our reference: DA20240414001451-Original-1

ATTENTION: Greg Yopp

Date: Thursday 6 June 2024

Dear Sir/Madam,

Development Application
s4.14 - Multiple Dwelling - Multi Dwelling Housing
56B BANGALOW ROAD BYRON BAY 2481, 14//DP792128

I refer to your correspondence dated 09/04/2024 seeking advice regarding bush fire protection for the above Development Application in accordance with section 4.14 of the *Environmental Planning and Assessment Act 1979*.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and provides the following recommended conditions:

Asset Protection Zones

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

1. From the commencement of building works and in perpetuity, the property around the dwelling must be maintained as an inner protection area to the following distances and aspects in accordance with the following requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*:

- west / northwest for a distance of 10 metres as an inner protection area and a further 10 metres as an outer protection area;
- east, south and north to the boundary.

When establishing and maintaining an inner protection area, the following requirements apply:

- a. tree canopy cover should be less than 15% at maturity;
- b. trees at maturity should not touch or overhang the building;
- c. lower limbs should be removed up to a height of 2m above the ground;
- d. tree canopies should be separated by 2 to 5m; and
- e. preference should be given to smooth-barked and evergreen trees
- f. create large discontinuities or gaps in the vegetation to slow down or break the progress of fire towards buildings should be provided;
- g. shrubs should not be located under trees;
- h. shrubs should not form more than 10% ground cover; and

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au



RFS



- i. clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- j. grass should be kept mowed (as a guide, grass should be kept to no more than 100mm in height); and
- k. leaves and vegetation debris should be removed.

Construction Standards

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

2. New construction of blocks B and C (except the eastern elevation) must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 'Construction of buildings in bushfire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.

3. New construction of the eastern elevation of blocks B and C must comply with section 3 and section 6 (BAL 19) Australian Standard AS3959-2018 'Construction of buildings in bushfire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.

4. New construction of block A (except the eastern elevation) must comply with section 3 and section 6 (BAL 19) Australian Standard AS3959-2018 'Construction of buildings in bushfire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.

5. New construction of the eastern elevation of block A must comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 'Construction of buildings in bushfire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.

6. Fences and gates must comply with Section 7.6 of Planning for Bush Fire Protection 2019. New fences and gates are to be made of either hardwood or non-combustible material. Where a fence or gate is constructed within 6m of a dwelling or in areas of BAL-29 or greater, they must be made of non-combustible material only.

7. Roofing shall be gutterless or guttering and valleys are to be screened to prevent the build-up of flammable material. Any materials used shall be non-combustible.

Access – Property Access

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

8. Property access roads must comply with the following requirements of section 5.3.2 of 'Planning for Bush Fire Protection 2019';

- a. property access roads are two-wheel drive, all-weather roads;
- b. the capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes), bridges and causeways are to clearly, indicate load rating;





RFS



- c. there is suitable access for a Category 1 fire appliance to within 4m of the reticulated hydrant supply;
- d. minimum 4m carriageway width;
- e. a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;
- f. property access must provide a suitable turning area in accordance with Appendix 3;
- g. curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;
- h. the minimum distance between inner and outer curves is 6m;
- i. the cross fall is not more than 10 degrees;
- j. a sealed footpath is to be provided on the western side of Unit 24 to enable unimpeded access for firefighting around the building in lieu of a perimeter road;
- k. maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

Water and Utility Services

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

9. The provision of water, electricity and gas must comply with the following in accordance with Table 7.4a of 'Planning for Bush Fire Protection 2019':

- reticulated water is to be provided to the development;
- fire hydrant spacing, design and sizing comply with the relevant clauses of AS 2419.1:2021;
- hydrants are not located within any road carriageway;
- fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2021;
- all above-ground water service pipes external to the buildings are metal, including and up to any taps,
- where practicable, electrical transmission lines are underground,
- where overhead, electrical transmission lines are proposed as follows:
 - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas, and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used,
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side,
- connections to and from gas cylinders are metal,
- polymer-sheathed flexible gas supply lines are not used, and
- above-ground gas service pipes are metal, including and up to any outlets.

General Advice - Consent Authority to Note

The recommendations are based on the plans prepared by Raunik Architects, titled 'Site Plan', dated 17/11/2023 (Revision DA5) and the 'Bushfire Assessment Report' prepared by Firetech Bushfire Consulting dated 8 May, 2024.

For any queries regarding this correspondence, please contact Scott Sewell on 1300 NSW RFS.

Yours sincerely,

Alan Bawden
Supervisor Development Assessment & Plan



Schedule 4. ESSENTIAL ENERGY REQUIREMENTS

Strictly based on the documents submitted, Essential Energy has the following comments to make as to potential safety risks arising from the proposed development:

- As the plans provided do not show the distances from Essential Energy's infrastructure and the development, there may be a safety risk. A distance of 3.3m from the nearest part of the development to Essential Energy's infrastructure (measured horizontally) is required to ensure that there is no safety risk.
- Existing low voltage services will need to be removed prior to demolition. Please engage the services of a Level 1, 2 or 3 Accredited Service Provider (ASP). Please refer to <https://www.energy.nsw.gov.au/households/guides-and-helpful-advice/being-more-energy-efficient/understand-your-energy-bill/altering-supply> for further information. Installing or altering electricity supply to your property | NSW Climate and Energy Action. If you need a new electricity service or want to alter or upgrade your existing setup, you will need to contact the distributor in your area.
- It is also essential that all works comply with SafeWork clearance requirements. In this regard it is the responsibility of the person/s completing any works to understand their safety responsibilities. The applicant will need to submit a [Request for Safety Advice](#) if works cannot maintain the safe working clearances set out in the [Working Near Overhead Powerlines Code of Practice](#), or [CEOP8041 - Work Near Essential Energy's Underground Assets](#).

Information relating to developments near electrical infrastructure is available on our website [Development Applications \(essentialenergy.com.au\)](#). If the applicant believes the development complies with safe distances or would like to submit a request to encroach then they will need to complete a Network Encroachment Form via Essential Energy's website [Encroachments \(essentialenergy.com.au\)](#) and provide supporting documentation. Applicants are advised that fees and charges will apply where Essential Energy provides this service.

Schedule 5. 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 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 Environmental Planning & Assessment Regulation 2021 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.

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.

Schedule 6. 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.

Protection of the Environment Operations Act 1997:

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

Penalties apply for failure to comply with development consents

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

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).

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 five 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.

Water payments under the Water Management Act 2000

Charges will be calculated based on the additional water and sewerage load that the proposed development generates, shown in Equivalent Tenements (ET) by the following table:

ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT
(ET Policy 2022)

Water	11.8 ET
Bulk Water	11.8 ET
Sewer	15.5 ET

NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>).

These charges will enable you to calculate the total contribution charges payable when you are ready to pay them. Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment.

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 based on the contribution rates that are applicable at the time of payment.

The current contribution rates are available from Council offices during office hours.

Developer Contributions to be paid for Dwellings (not including the three (3) Affordable Dwellings)

Section 7.11 contributions Schedule						
Byron Bay Suffolk Park						
Catchment						
This schedule was calculated in spreadsheet #E2024/55327						
1 bedroom units =		2	@	0.55 SDU	=	1.1
2 bedroom units =		19	@	0.75 SDU	=	14.25
3 bedroom units/dwellings =		0	@	1 SDU	=	0
Allotments =		0	@	1	=	0
Less Site Credits =		2	@	-1	=	-2
Total SDU					=	13.35
Schedule valid until		30-October-2024		After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-BB)	13.35	SDU @	\$ 5,041.62	=	\$ 67,305.63
LGA Wide Open Space & Recreation	(OS-SW)	13.35	SDU @	\$ 907.44	=	\$ 12,114.32
LGA wide Community Facilities	(CF-SW)	13.35	SDU @	\$ 1,329.05	=	\$ 17,742.82
Local Community Facilities	(CF-BB)	13.35	SDU @	\$ 1,497.62	=	\$ 19,993.23
Bikeways & Footpaths	(CW-BB)	13.35	SDU @	\$ 1,660.27	=	\$ 22,164.60
Shire Wide Bikeways & Footpaths	(CW-SW)	13.35	SDU @	\$ 97.49	=	\$ 1,301.49
Urban Roads	(R-BB)	13.35	SDU @	\$ 3,631.13	=	\$ 48,475.59
LGA Wide Roads	(R-SW)	13.35	SDU @	\$ 274.59	=	\$ 3,665.78
Rural Roads	#N/A	13.35	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	13.35	SDU @	\$ 1,372.59	=	\$ 18,324.08
Total						\$ 211,087.54

Developer Contributions deferred for three (3) Affordable Dwellings

Section 7.11 contributions Schedule						
Byron Bay Suffolk Park						
Catchment						
This schedule was calculated in spreadsheet #E2024/55327						
1 bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		3	@	0.75 SDU	=	2.25
3 bedroom units/dwellings =		0	@	1 SDU	=	0
Allotments =		0	@	1	=	0
Less Site Credits =		0	@	-1	=	0
Total SDU					=	2.25
Schedule valid until		30-October-2024	After this date contact Council for CPI update.			
Local Open Space & Recreation	(OS-BB)	2.25	SDU @	\$ 5,041.62	=	\$ 11,343.65
LGA Wide Open Space & Recreation	(OS-SW)	2.25	SDU @	\$ 907.44	=	\$ 2,041.74
LGA wide Community Facilities	(CF-SW)	2.25	SDU @	\$ 1,329.05	=	\$ 2,990.36
Local Community Facilities	(CF-BB)	2.25	SDU @	\$ 1,497.62	=	\$ 3,369.65
Bikeways & Footpaths	(CW-BB)	2.25	SDU @	\$ 1,660.27	=	\$ 3,735.61
Shire Wide Bikeways & Footpaths	(CW-SW)	2.25	SDU @	\$ 97.49	=	\$ 219.35
Urban Roads	(R-BB)	2.25	SDU @	\$ 3,631.13	=	\$ 8,170.04
LGA Wide Roads	(R-SW)	2.25	SDU @	\$ 274.59	=	\$ 617.83
Rural Roads	#NA	2.25	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	2.25	SDU @	\$ 1,372.59	=	\$ 3,088.33
Total						\$ 35,576.56

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.