



**BYRON
SHIRE
COUNCIL**

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BSC File No: 238494D x 10.2023.277.1/#A2024/47700

Contact: Patricia Docherty

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application No.	10.2023.277.1 / PAN-354089
Applicant	Planners North
Property	9 Fingal Street BRUNSWICK HEADS, 1/9 Fingal Street BRUNSWICK HEADS, 2/9 Fingal Street BRUNSWICK HEADS, 3/9 Fingal Street BRUNSWICK HEADS LOT: 0 SP: 68652, LOT: 1 SP: 68652, LOT: 2 SP: 68652, LOT: 3 SP: 68652
Development	Mixed Use Development Comprising Two Tenancies for Business Premises or Office Premises or Shops, One Restaurant or Café and Shop Top Housing (Four Dwellings) and Parking at Ground Level
Determination	Approved / Consent Authority - Byron Shire Council
Date of determination	10 September 2024
Date from which the consent operates	12 September 2024
Date on which the consent lapses	12 September 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

Patricia Docherty

Team Leader Planning Services Commercial Industrial & Tourism

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.

Plan No.	Revision No.	Title	Drawn by	Dated
DA001	Rev 3	Site Plan	SRHA	4/7/24
DA010	Rev 2	Demolition Plan	SRHA	4/7/24
DA100	Rev 4	Ground Floor Plan	SRHA	4/7/24
DA101	Rev 4	First Floor Plan	SRHA	4/7/24
DA102	Rev 1	Roof Plan	SRHA	4/7/24
DA104	Rev 3	Adaptable Unit	SRHA	4/7/24
DA200	Rev 4	Elevation North South	SRHA	4/7/24
DA201	Rev 4	Elevations East West	SRHA	4/7/24
DA300	Rev 4	Sections	SRHA	4/7/24
DA301	Rev 3	Sections	SRHA	4/7/24
DA500	Rev 3	Materials and landscape See conditions below	SRA	4/7/24
DA900	Rev1	Take Away Food Plan	SRHA	4/7/24
230411 SWMP1	Rev B	Stormwater Plan	Lucena Civil & Structural Engineers	13/07/23
230411 SWMP2	Rev B	Typical Storage Tank Detail	Lucena Civil & Structural Engineers	13/07/23
230411 SEC1	Rev B	Erosion and Sedimentation Control Plan	Lucena Civil & Structural Engineers	13/07/23
230411 SEC2	Rev B	Erosion and Sedimentation Control Details	Lucena Civil & Structural Engineers	13/07/23

Title	Version No.	Drawn by	Dated
Acoustic report – Proposed Mixed- Use Development 9 Fingal Street Brunswick Heads	1024013 R01A 9 Fingal Street Brunswick Heads ENV.docx (Council Doc # E2024/33762)	Acoustic Works	12 March 2024
Waste Management (plus further changes to accommodate take away waste minimisation.	Final Issue B Council Doc # E2024/33760)	HMC	February 2024

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** to this consent.

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

5. **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.

6. **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.

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

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

Commercial, business, trade and industrial activities discharging or proposing to discharge to the sewer are required to notify Council and complete the Liquid Trade Waste Registration Form available at the Mullumbimby Office and from Council's website at:

[Liquid Trade Waste registration form - Byron Shire Council \(nsw.gov.au\)](#)

Liquid Trade Waste approval must be obtained prior to gaining Section 68 Part B approval to carry out water supply work and sewerage work.

8. **Compliance required with Building in the Vicinity of Underground Infrastructure Policy**

All developments must comply with Policy: Building in the Vicinity of Underground Infrastructure 2020.

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

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

A minimum horizontal clearance of 1.5m from the centre is required around existing access structures as well as minimum vertical clearance of 3m from finished ground level is required.

9. **Planning Agreement – Public Art**

Prior to the issue of a Construction Certificate, the developer/landowner must enter into a Voluntary Planning Agreement (VPA) with Council containing the following terms:

- Prior to the issue of a Construction Certificate a monetary contribution of \$75,976.00 is to be paid to Council for the provision of Public Art.
- No further security is required and registration of the VPA on the title of the Property is not required.
- The VPA will not exclude contributions levied pursuant to sections 7.11 and 7.12 of the EP&A Act.
- Vanfam may assign or transfer its interest in the VPA provided it procures a Deed signed by the assignee or transferee agreeing to comply with all relevant obligations in the VPA.

- e. Vanfam to pay Council's legal costs (if any) relating to reviewing and executing the VPA up to a maximum amount of \$1,500.00 (incl GST).
- f. Any disputes under the VPA to be the subject of attempted resolution by mediation prior to Court proceedings being commenced, and if circumstances occur that materially affect the operation of the VPA, the parties will discuss those changes in good faith.

Note. This condition is in accordance with the terms in a letter of offer to enter a future planning agreement received by Council dated 12 August 2024 Record # E2024/94367

Once submitted, the draft planning agreement will be required to be advertised for a period of at least 28 days in accordance with the Byron Shire Community Participation Plan, approved by Council and executed (signed by both parties) in accordance with the statutory framework for planning agreements.

The applicant should familiarise themselves with the timeframes associated with this statutory process and submit documents to council as soon as possible to minimise any delays to planned works.

10. **Developer Contributions to be paid**

Contributions set out in the schedule at the end of this consent are to be paid to Council prior to the release of a construction certificate for the secondary dwelling. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended).

The [Developer Contribution Plan](#) can be viewed online or using the Customer Kiosk 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.

Contact Council for payment options.

11. **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

12. 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.

13. Essential Energy

Power pole to Fingal Street to be removed and new underground power connection provided to new development.

In addition to the proposed undergrounding of power on Fingal Street, the proposed development is located within the safety clearance area on Balun Lane.

Prior to issue of a construction certificate, an application is required to be made on the Network Encroachment Form via Essential Energy's website [Encroachments \(essentialenergy.com.au\)](http://Encroachments.essentialenergy.com.au) and provide supporting documentation. Such arrangements are to be made to the satisfaction of Essential Energy.

Note. Applicants are advised that fees and charges will apply where Essential Energy provides this service.

Attention is also drawn to Section 49 of the Electricity Supply Act 1995 (NSW). Relevantly, Essential Energy may require structures or things that could destroy, damage or interfere with electricity works, or could make those works become a potential cause of bush fire or a risk to public safety, to be modified or removed.

14. Privacy screening – shop top housing

Upper terraces with views into adjoining lots to the west are to be fitted with privacy screening. The plans submitted for approval of the Construction Certificate must be amended to include a privacy screen constructed on the west side of the side of the veranda on the first floor.

The screen 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 dwelling. The screen must be a minimum of 1.8m high.

15. Clothes drying – shop top housing

Outdoor clothes drying facilities must be provided and located to facilitate privacy and sunlight access. The clothes drying area must be sited to be screened from view from the street.

16. Shared services - shop top housing

Mailboxes must be provided for each dwelling, located to ensure convenient access for residents and Australia Post. The gate location on the western side will need to be moved further north to provide unimpeded access to the mailboxes by Australia Post. The street number must be clearly displayed and all mailboxes must be clearly identified with the unit number. Where an Owners' Corporation or equivalent is created an additional mailbox must be provided for Corporation correspondence.

If the approved building is strata subdivided pedestrian access is to be identified as common property to maintain unimpeded access to and from both streets (Fingal Street and Balun Lane)

All dwellings must be wholly independent of the commercial portion of the building in respect of such amenities and facilities as toilets, laundries, kitchens, bathrooms and the like.

Common television antennae and/or dishes must be provided to meet the needs of residents.

A separate water meter must be provided for each dwelling.

A lockable storage facility of 8 cubic metres for each dwelling must be provided. This may form part of a garage.

If provided, car washing areas must not cause undue conflict of use and must have water and electricity available and must be drained by on site disposal.

17. Waste Collection Vehicle

Prior to the issue of a Construction Certificate submission of plans for approval by Council demonstrating the feasibility to accommodate the manoeuvring and collection of refuse using a specialised refuse collection vehicle suitable to remove a maximum bin size of 1100 litre within the loading bay area. The plans should include dimensions, finished levels, grades and turning paths demonstrating compliance with Section 2 of AS 2890.2.

All bins greater than 240L MGB are to be collected on-site.

18. 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".

19. Improvement Devices (SQIDs) in accordance with the approved plans

The following must be included: -

- Minimum pipe under the road reservation to be 375mm diameter;
- Maintenance of SQIDs - Maintenance Contract
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 SQIDs

Note: Reduction and or replacement of the number and types of SQID with an alternate manufacturer's product will require lodgement of Section 4.55 application to Council for the amendment of the consent

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 contained in Council's Development Control Plan, Stormwater Guideline and Local Approvals Policy; and

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.

20. **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) **Kerb & gutter and Stormwater pit Upgrade in Balun Lane**
The existing kerb & gutter and stormwater pit must be removed and replaced with an upright kerb & gutter and side entry stormwater pit in accordance with NRLG drawing R-03 and SW-01 respectively.
- b) **Driveway Upgrade**
The existing driveway must be removed and upgraded to comply with the approved drawing, Council's current standards, in accordance with Council's Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings.
- c) **No Parking Signs and Line Marking**
Provision must be made to install no parking and stopping signs and a solid yellow no stopping line for the full frontage of the site in Balun Lane. This requires a report and approval from the Local Traffic Committee.

21. **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.

22. **Traffic Guidance Scheme (TGS)**

Prior to issue of the construction certificate, consent from Council must be obtained for a Traffic Guidance Scheme (TGS) 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. The TGS 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 plan shall 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 TGS must be prepared by a suitably qualified Transport for NSW accredited person.

23. **Car parking layout, vehicle circulation and access plans required.**

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

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

- a) Details to demonstrate compliance and certification by a suitably qualified engineer to clause 3.2.4 of AS2890.1;
- b) 3 x bicycle spaces;
- c) 4 x user class 3 parking;
- d) 2 x user class 4 parking;
- e) 1 x SRV loading bay (fully linemarked);
- f) 4 x 2 bay garage including 1 x garage with accessible parking in accordance with AS4299;
- g) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- h) site conditions affecting the access;
- i) existing and design levels;
- j) longitudinal section from the road centreline to the car space(s);
- k) cross sections every 15 metres;
- l) drainage details;
- m) turning paths of the largest commercial vehicle including refuse collection vehicle; and
- n) line marking and signage.

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

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

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

24. **Flood Planning Level**

The flood planning level for this development is 3.44m 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 up to 0.3m above, the flood planning level unless a greater floor level has been

shown on the plans approved by the development consent.

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

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

25. Café storage facilities above floor level

The application for a Construction Certificate is to include the plans and specifications that indicate secure storage facilities, within the approved proposal, above the flood planning level. Such space is to be equivalent to at least one cubic metre per square metre of floor space that is subject to flooding. Such space must accommodate goods or fittings that are not flood compatible. The nominated space may be used for purposes other than storage when flooding is not expected, provided the space is readily available and can be made secure during the period of flooding.

26. Design and Layout Plans - Food Premises

Detailed plans prepared by a suitably experienced person showing the design and layout of the premises to be used as a food business must be submitted to Council. The design details are to be drafted in accordance with relevant legislation and standards, including:

- a) Food Act 2003;
- b) Food Regulation 2015;
- c) Food Standards Code, Chapter 3.2.3;
- d) Relevant Australian Standards:
 - i. AS 4674 – 2004 Design, Construction and Fit-Out of Food Premises;
 - ii. AS 1668.1 & AS 1668.2 Mechanical Ventilation;
 - iii. Other relevant standards.
- e) The Building Code of Australia.

Such plans must be approved by Council's Environmental Health Department prior to the issue of a construction certificate for building works. Plans are to be submitted in duplicate and accompanied by fees as described in Council's adopted Fees and Charges.

Advisory note:

Application forms are available from Council's Environmental Health department. The following document [Food premises design, construction and fit-out guide](#) on Council's website can provide guidance about the design requirements of a food premises based on the Food Safety Standard 3.2.3 (Food Premises and Equipment) and the Australian Standard 4674-2004 (Design, construction and fit-out of food premises).

27. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. 1393920M_03, dated 19 Jul 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.

28. Building materials and colours to be specified

The application for a Construction Certificate is to include plans and specifications that indicate the proposed building materials and colours consistent with the provisions of Development Control Plan 2014 – Chapter 1.2.6 – Character and Visual Impact. Please note that roof colours must be non-reflective earth tone colours and that the use of white and near white roof colours is not permissible.

The surfmest roof and solid white rendered wall on the eastern elevation colours are not approved. A warmer earth tone shade is acceptable. e.g. colorbond dune or shale grey. Bright white is not permissible.

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

29. 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.

30. Tree pruning – limited removal

No trees or vegetation to be cleared or removed until a Construction Certificate has been issued. Any pruning of trees on adjoining Council land required to be undertaken to remove overhanging lower branches adjacent to the proposed building will be required to be at the expense of the developer.

Consultation with Council Open Spaces Technical Officer to establish any potential impacts, mitigation and compensatory measures must also be agreed and in place.

31. Trees to be protected

Trees to be retained are to be protected by a fence so as to minimise disturbance to existing ground conditions within the dripline of the trees. The fence is to be constructed:

a. with a minimum height of 1.2 metres,

- b. outside the dripline of the tree,
- c. of steel star pickets at a maximum distance of 2metres between pickets,
- d. using a minimum of 3 strands of steel wire,
- e. to enclose the tree, and
- f. with orange barrier mesh, or similar, attached to the outside of the fence and continuing around its perimeter

The fence is to be maintained for the duration of the site clearing, preparation and construction works.

32. 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.

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

33. Public Safety Management Plan

The approved public management plan is to be implemented.

34. Traffic Management Plan

The approved traffic management plan is to be implemented.

35. 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 to be nominated as an interested party on the policy. Council is not held responsible for any negligence caused by the undertaking of the works.

36. Dilapidation Reports required

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

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

37. 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.

38. 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 and building heights and floor levels.

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

39. 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.

40. 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.

41. Maintenance of fencing to protect trees

Fencing required to protect trees to be retained is to be maintained for the duration of the site clearing, preparation and construction works. During site works and construction all measures are to be taken to prevent damage to trees and other vegetation (including root systems) to be retained.

No building materials or other items are to be placed or stored within the fenced off areas.

42. 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.

43. 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) 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.

44. **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.

45. **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.

46. **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.

47. **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.

48. **Stormwater drainage work**

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

49. **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.

50. **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.

51. **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 \(2014\)](#)

52. **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](#).

53. 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.

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

54. 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.

55. Site Location Survey

A final survey of the structures showing setbacks to boundaries, height of building to be submitted to the Private Certifier with the Occupation Certificate demonstrating compliance with the approved plans.

56. 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.

57. Roadworks, access and parking areas to be completed

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

58. Stormwater Quality & Quantity - Certification of works

All stormwater drainage works, including on-site stormwater detention works, internal drainage system 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.

59. Floor Levels – Certification for Flooding

Prior to the issue of any 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. A copy of the floor level certification from the registered surveyor must also be submitted to Council for the attention of Council's Drainage and Flood Engineer.

60. 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 and recommendations outlined in the approved acoustic report.

61. Construction - Food Premises

Prior to the issue of the occupation certificate the food premises must be constructed in accordance with design and layout plans approved by Council.

Advisory note:

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

62. Trade Waste

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

63. Exhaust System

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

64. Airlock

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

The following conditions are to be complied with prior to commencing operations

65. Notification – Food Business

In accordance with Section 100 of the Food Act 2003, the operator of the food business must submit a completed [Food Business Registration form](#) five (5) working days prior to trading. The notification must occur before the food business commences any food handling operations.

66. Council Inspection required – Food Premises

The operator of the food premises shall obtain a satisfactory pre-operational inspection from Council's Environmental Health Officer prior to trading.

Advisory note:

Inspections by Council's Environmental Health Officers can be arranged during the fit-out stage and the final pre-operational inspection. Inspection fees are levied as per Council's adopted Fees and Charges. Note requests for a final inspection must be made with at least five (5) working days notice.

The following conditions are to be complied with at all times

67. Use of shop top housing

The shop top housing is not to be holiday let or used as tourist and visitor accommodation or as **short-term rental accommodation**.

68. Hours of operation

Two (2) tenancies for business premises or office premises or shops, located on the ground floor facing Fingal Street.

The hours of operation proposed are 7am – 8pm with deliveries between 9am – 6pm.

One (1) take away premises located on the ground floor facing Balun Lane.

The hours of operation proposed are 7am – 6pm

69. Sustainable waste minimisation - take away

Take away operations are to;

- Provide education about correct waste disposal of packaging;
- Provide reusable options for patrons consuming food and beverage on site or in close proximity;
- Sign up to an established reuse scheme;
- Encourage BYO of cups and containers - Extra charge for single-use (e.g. 50 cents extra charge for disposable).

Note. Operator is encouraged to use reusable containers and reduce the ongoing impacts of take away (single use) packaging. Single use packaging comes at a cost to the community, particularly in relation to public place bins, cost for collection, transport, landfilling, cost for litter clean up, impacts to local wildlife etc. To minimise substantial impact from single use packaging, Council require that plans to manage this in the vicinity of the premises, taking into account that public place bins are not installed or for use to subsidise take away businesses, within reason.

70. Waste Collection

The following must be adhered to at all times: -

- 240 litre and smaller capacity bins are to be placed within the frontage of Balun Lane, the night before waste collection day and must be removed immediately after the bins are emptied;
- bins greater than 240 litre capacity are to be collected on-site;
- bins are not to be placed at the carriageway of the road (i.e. in-front of the face of the kerb);
- bins are not to obstruct access driveway;
- bins are to be placed 50 cm apart;
- completely close lids;
- do not overfill bins. Maximum lifting capacity of truck is 50kg;
- do not place items next to the bin; and
- bins are not to be left permanently on the roadside.

71. **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.

72. **Car Parking spaces are to be available for the approved use**

6 x commercial car parking spaces and 4 x 2 bay garage are to be provided and maintained, together with all necessary access driveways and turning areas, to the satisfaction of Council.

Tenants and customers of the development must have unrestricted access to the car parking spaces on a daily basis during business hours of the development.

No car parking spaces are to be reserved (generally or specifically) for any tenant or customer. Only carparking spaces required for the residential component of the development are to be reserved and made available for particular residents.

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

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

74. **Vehicles to be parked or garaged within premises**

All vehicles connected with the premises to be parked or garaged within the premises at all times.

75. **Tables and chairs**

Tables and chairs must not encroach outside the boundaries of the development at all times.

76. **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.

77. **Trade Waste**

All trade waste pre-treatment devices shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.

78. **Mechanical Plant**

New mechanical plant and equipment must be designed to comply with the criteria stated in Section 6 of approved acoustic report prepared by Acoustic Works dated 12 March 2024 (reference: 1024013 R01A). An assessment must be undertaken by a qualified acoustic consultant prior to installation of new mechanical plant and an acoustic compliance report shall be submitted to Council and approved.

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
- [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>.

Schedule 3. 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 4. 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.

Enclosed public places (smoke-free environment)

Environment Act 2000 and the Smoke-Free Environment Regulation 2000 and the guidelines in the Regulation for determining what an enclosed public place is. Enquiries may be directed to the NSW Department of Health. The legislation may be viewed on:

<http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>

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.

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.

Essential Energy General Comments

Essential Energy makes the following general comments:

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;
- Any activities in proximity to electrical infrastructure 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;
- 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); the location of overhead and underground powerlines are also shown in the Look Up and Live app essentialenergy.com.au/lookupandlive.

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						
Brunswick Heads						
Catchment						
This schedule was calculated in spreadsheet #E2024/55327						
1 bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		0	@	0.75 SDU	=	0
3 bedroom units/dwellings =		4	@	1 SDU	=	4
Allotments =		0	@	1	=	0
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	3
Schedule valid until	30-October-2024			After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-BH)	3.00	SDU @	\$ 3,088.40	=	\$ 9,265.20
LGA Wide Open Space & Recreation	(OS-SW)	3.00	SDU @	\$ 907.44	=	\$ 2,722.32
LGA wide Community Facilities	(CF-SW)	3.00	SDU @	\$ 1,329.05	=	\$ 3,987.15
Local Community Facilities	(CF-BH)	3.00	SDU @	\$ 252.97	=	\$ 758.91
Bikeways & Footpaths	(CW-BH)	3.00	SDU @	\$ 686.67	=	\$ 2,060.01
Shire Wide Bikeways & Footpaths	(CW-SW)	3.00	SDU @	\$ 97.49	=	\$ 292.47
Urban Roads	(R-BH)	3.00	SDU @	\$ 3,354.47	=	\$ 10,063.41
LGA Wide Roads	(R-SW)	3.00	SDU @	\$ 274.59	=	\$ 823.77
Rural Roads	#N/A	3.00	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	3.00	SDU @	\$ 1,372.59	=	\$ 4,117.77
Total						\$ 34,091.01

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	2.65 ET
Bulk Water	2.65 ET
Sewer	3.45 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.

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.