



**Land and Environment  
Court**  
of New South Wales

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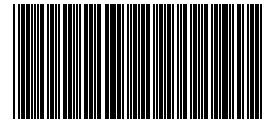
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Your Ref:



D0001FO99K

25 June 2021

### NOTICE OF ORDERS MADE

Case number 2020/00065271  
Case title Pace Development Group Pty Ltd v Byron Shire Council

On 25 June 2021 the following orders (and/or directions) were made:

The Court orders that:

- (1) The applicant's written request dated 7 May 2021 pursuant to cl 4.6 of the Byron Local Environmental Plan 2014 seeking variation of the development standard relating to the height of buildings contained in clause 4.3 is upheld.
- (2) The applicant's written request dated 13 May 2021 pursuant to cl 4.6 of the Byron Local Environmental Plan 2014 seeking variation of the development standard relating to floor space ratio contained in clause 4.4 is upheld.
- (3) The appeal is upheld.
- (4) The development described as:
  - (a) demolition/removal of existing building; and
  - (b) construction of a Mixed Use Development comprising hotel accommodation with ancillary swimming pool, rooftop open space, ground floor retail premises and basement health spa, being a 3 storey building above 2 levels of basement,for the land legally described as Lot 9 Section 26 DP 758307 and located at 7 Marvell Street, Byron Bay is approved subject to the determination at Annexure "A".

For the Registrar

## Annexure A

### DETERMINATION OF A DEVELOPMENT APPLICATION BY GRANT OF CONSENT

**Development Application No:** DA 10.2019.576.1

**Development**

The development described as:

- (a) demolition/removal of existing building; and
- (b) construction of a Mixed Use Development comprising hotel accommodation with ancillary swimming pool, rooftop open space, ground floor retail premises and basement health spa, being a 3 story building above 2 levels of basement

**Site:**

Lot 9 Section 26 DP 758307 and located at 7 Marvell Street Byron Bay.

The above development application has been approved subject to the conditions specified in this approval.

**Date of determination:** 25 June 2021

**Date from which consent takes effect:** Date the consent is registered on the NSW Planning Portal.

#### TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as Lot 9 Section 26 DP 758307 and located at 7 Marvell Street Byron Bay

The conditions of consent are as follows:

Please note that on site works cannot proceed unless a Construction Certificate application for the modified proposal has been lodged with and approved by Council or an accredited certifier, and relevant conditions of the Development Application have been carried out.

## DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

### ANNEXURE #A

#### SCHEDULE 1. CONDITIONS OF CONSENT

##### Parameters of consent

1. **Development is to be in accordance with approved plans**

The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
2.02, 2.03, 2.05, 2.06, 2.07, 2.08, 2.09, 2.10	Site Plan, Development + Summary, Basement 02 Plan, Basement 01 Plan, Ground Floor, First Floor, Second floor and Roof Plan	Harley Graham Architects	30/3/2021
2.11, 2.12, 2.13	Elevation - South, Elevation - North, Elevation - East/West	Harley Graham Architects	30/3/2021
2.14, 2.15, 2.16	Long Section 01, Long Section 02, Short Section 01/02	Harley Graham Architects	30/3/2021

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. **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.

3. **Conditions prescribed by the Regulation**

This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in **Schedule 3** of this consent.

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

4. **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.

5. **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".**

6. **On-site stormwater detention (OSD) for stormwater quantity and Stormwater Quality Improvement Devices (SQIDs) for stormwater quality 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 into Council's stormwater drainage system in Marvell St and provision must be made to provide stormwater quality measures to meet the stormwater quality requirements in Council's DCP.

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.

7. **Consent required for works within the road reserve**

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

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

<b>Driveway (Fletcher Lane)</b>	A minimum 6.0m wide driveway in accordance with the approved plan and Council's standard "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".
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<b>Driveway (Marvell St)</b>	Existing driveways must be removed and replaced with kerb and gutter to match the existing kerb and gutter.
<b>Full width footpath (Marvell St)</b>	Full width foot paving for the full frontage of the site at a crossfall of 1 % or 1:100 (maximum 2.5% or 1 in 40). Foot paving in accordance with Byron DCP D4. The foot paving wave pattern must match onto the existing footpath west of the development site.
<b>Kerb &amp; gutter, road pavement and drainage (Fletcher Lane)</b>	Kerb and gutter, road pavement and associated drainage construction including any necessary relocation of services as follows: <ol style="list-style-type: none"> <li>1. across the full frontage of the site;</li> <li>2. pavement widening from the face of kerb up to the existing edge of seal;</li> <li>3. pavement widening generally in accordance with IPWEAQ-SEQ R-170;</li> <li>4. kerb and gutter to match the existing kerb and gutter west of the development site; and</li> <li>5. associated drainage and other services utilities upgrading requirement.</li> </ol>

8. **Anchor for Basement Levels**

No Anchors, temporary or permanent, for the basement levels are to extend into the road reserve of Fletcher Lane or Marvel Street, Byron Bay. Details on construction methods to be submitted with the Construction Certificate as to how this will be complied with.

9. **Public Safety Management Plan required**

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.

10. **Traffic Management Plan**

Consent from Council must be obtained for a Traffic Management Plan 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 traffic management plan is to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.

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 traffic management plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

11. **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, AS 2890.2 – 2010 - Parking facilities, Part 2: Off-street commercial vehicle facilities, AS 2890.6 – 2009 - Parking facilities, Off-street parking for people with disabilities and Building Code of Australia (BCA). Plans are to include, but not be limited to, the following items:

- a) generally in accordance with the approved drawings;
- b) basement car park in accordance with Section B4.2.6 of Chapter B4 of BDCP 2014;
- c) twenty seven (27) parking spaces including one (1) carshare space designed in accordance with user Class 2;
- d) seven (7) parking spaces designed in accordance with user Class 3A;
- e) minimum of two (2) parking spaces in accordance with user Class 4, subject to a performance based assessment and recommendation by a registered building certifier;
- f) provision of blind aisle extension;
- g) signals provided at bottom ramp to manage traffic along ramp;
- h) grades and transitions to comply with AS 2890.1;
- i) pavement description;
- j) site conditions affecting the access;
- k) existing and design levels;
- l) longitudinal section from the road centreline to the to the base of each ramp;
- m) cross sections every 15 metres;
- n) drainage details;
- o) turning paths; and
- p) line marking and signage.
- q) Minimum of eight spaces to be allocated for staff parking

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".

12. **Car Share Management Plan**

A Car Share Management Plan must be submitted to the Council for approval prior to the issue of the Construction Certificate. The car is:

- to be owned and maintained by the Hotel at all times;
- be able to accommodate a minimum of four adults;
- be for available **only** for guest staying at the hotel;
- be no more than 5 years in age from the time of manufacture;
- be an automatic;
- be suitable for use on sealed and unsealed roads;
- be registered and appropriately comprehensively insured for guest use including public liability; and

- parked in the Basement of Level 1 with the space reserved and signposted at all times for the car share vehicle .

The Management Plan to address the above requirements and include the following detail:

- a) Type of vehicle;
- b) Reserved Parking location in the Basement;
- c) Booking arrangements and measures for guests residing at the Hotel;
- d) Measures to promote the car share vehicle to Hotel Guests;
- e) Refuelling measures;
- f) Maintenance and cleaning regime; and
- g) Monitoring to enable data to be collected as to the effectiveness of the Car Share arrangements and sharing of that detail with Council if requested.

13. **Flood Planning Level**

The flood planning level for this development is R.L. 3.44m A.H.D. The plans and specifications to accompany the construction certificate application are to 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.

14. **Public liability insurance cover required**

The developer and/or contractor must produce evidence to the Principal Certifying Authority of public liability insurance cover for a minimum of \$20 million. Council is to be nominated as an interested party on the policy.

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

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

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

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

16. **Details of on-site mechanical plant design to be submitted for approval**

Mechanical plant must be designed and installed to comply with noise levels recommended in the report entitled *Pace Development Group Pty Ltd 7 Marvell Street Byron Bay Acoustic Assessment* No. 20E-19-0308-TRP-8551516-0 prepared by VIPAC Engineers & Scientists Limited dated 26 September 2019 and relevant Australian Standards. The application for a construction certificate must include plans and specifications that demonstrate compliance with report and approved as part of the Construction Certificate for building works.

17. **Details of acoustic treatments for building construction to be submitted for approval**

The application for a construction certificate must include plans and specifications that demonstrate the inclusion of acoustic treatments recommended in the report entitled *Pace Development Group*

*Pty Ltd 7 Marvell Street Byron Bay Acoustic Assessment* No. 20E-19-0308-TRP-8551516-0 prepared by VIPAC Engineers & Scientists Limited dated 26 September 2019. Such plans and specifications must be in accordance with BCA and Australia Standard requirements and approved as part of the Construction Certificate for building works.

18. **NSW Office of Water Licence - Dewatering**

A licence must be obtained from the NSW Office of Water for the dewatering of excavations and any associated groundwater monitoring bores.

19. **Details for construction dewatering management plan required**

The contracting Engineer must demonstrate to Council that the methodology and equipment employed to undertake dewatering conforms to the approved report entitled *Report on Dewatering Management Plan for Proposed Development at No. 7 Marvell Street Byron Bay No. GI 2183-D* prepared by Geotech Investigations Pty Ltd dated June 2016. The plan must include the following:

- a) copy of licence from the NSW Department of NSW Office of Water for the dewatering of excavations and any associated groundwater monitoring bores;
- b) water quality criteria for waters to be discharged to the stormwater system, to be derived from ANZECC / ARMCANZ (2000) Fresh and Marine Water Quality Guidelines 95% species protection trigger levels for freshwaters, or similar. Parameters to include, but not be limited to, pH, electrical conductivity, dissolved oxygen, total suspended solids, turbidity, ammonia, oxidised nitrogen (NO<sub>x</sub>), Total Nitrogen (TN), Filterable Reactive Phosphorus, Total Phosphorus, Total Petroleum Hydrocarbons, Benzene, toluene, ethyl benzene, xylene (BTEX), Polycyclic Aromatic Hydrocarbons (PAHs) and Aluminium;
- c) details of proposed water treatment prior to discharge to ensure compliance with the above water quality criteria, including those that are manual and automated;
- d) site plan that demonstrates the location of all dewatering equipment and tanks;
- e) details of water sampling methodologies and frequencies for each parameter;
- f) details of disposal methods if water does not comply with above criteria; and
- g) details of a 24-hour contact person and telephone number for complaints.

Plans and specifications to be approved by Council prior to the issue of a construction certificate for basement construction works.

20. **Soil and Water Management plan required**

The contracting Engineer must demonstrate to Council that the methodology and equipment employed to undertake management of acid sulphate soil and water conforms to plan entitled *Revised Acid Sulfate Soils Investigation Report No. G12183-E prepared by Geotech Investigations Pty Ltd dated 11 October 2019*.

The Plan must address (but not be limited to) the following matters:

- i) Implementation of NSW Office of Water licence conditions and recommendations.
- ii) Additional testing for the presence of acid sulfate soils during excavations and the waste classification of all soils destined for off-site disposal.
- iii) Name and address of nominated licenced waste facility for the disposal of contaminated excavated waste material.
- iv) Copy of consignment number transportation tracking required for haulage of excavated materials (see notes below).
- v) Measures for the protection of the surrounding stormwater system and receiving waters, water quality management, litter control, sediment control, potential acid runoff and the prevention of pollution.



- vi) Monitoring of groundwater levels and water quality during the construction phase to confirm predictions and to establish water quality objectives and treatment levels.
- vii) Estimates of flow rates and volumes associated with groundwater extraction and re-infiltration/discharge.
- viii) 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.
- ix) The submission of a report and certification from suitably qualified and practising geotechnical and structural engineers, certifying that the method of construction will not result in the lowering of the water table outside of the proposed excavation, and that the method of construction will not result in any off-site impacts, such as damage to surrounding buildings or infrastructure, as a result of differential sediment compaction and surface settlement during dewatering and in both the short and the long-term.  
The engineers are to be Corporate Members of the Institution of Engineers Australia.
- x) The submission of a report and certification from suitably qualified and practising geotechnical and structural engineers, certifying that the method of construction will preclude the need for any type of permanent post-construction dewatering facility or activity.

Plans and specifications to be approved by Council prior to the issue of a construction certificate for basement works.

21. **Groundwater Contingency Management Plan required**

Application for a construction certificate is to include a Groundwater Contingency Management Plan. This Plan must take into account the findings any approved Soils and Water Management Plan, Dewatering Management Plans and Acid Sulfate Soils Plan. The Plan must be prepared by a suitably qualified Environmental / Soil Scientist and approved as part of the Construction Certificate application.

22. **Detailed Environmental Management Plan – Demolition / Construction**

An Environmental Management Plan (EMP) must be submitted to Council for approval prior to the issue of the construction certificate for demolition and building works. The EMP must detail the methods that will be implemented for the whole project and:

- a) be prepared by a suitably qualified professional;
- b) contain details of measures to be undertaken to ensure that demolition and construction works do not result in any off-site impacts, including those that could interfere with neighbourhood amenity;
- c) include a Waste Management Strategy that details the management of building wastes created as a result of the demolition and construction including on-site storage and disposal of building wastes;
- d) include a Construction Management Plan that demonstrates that all construction activities can be undertaken without resulting in land-use conflicts; and include details of complaints handling process.

23. **Detailed Noise Management Plan – Demolition / Construction**

A Detailed Noise and Vibration Management Plan must be submitted to Council for approval prior to the issue of the construction certificate for building works. The Plan to have reference to *Pace Development Group Pty Ltd 7 Marvell Street Byron Bay Acoustic Assessment* No. 20E-19-0308-TRP-8551516-0 dated 26 September 2019, and detail the methods that will be implemented for the

whole project to minimise construction noise and vibration during the construction of the development.

The plan to be prepared by a suitably qualified engineer or acoustic consultant and address the following:

- a) Identification of nearby residences and other sensitive land uses and receivers;
- b) Assessment of expected and potential noise impacts and vibration impacts;
- c) Detailed examination of feasible and reasonable work practices that will be implemented to minimise noise and vibration impacts;
- d) Vibration and noise monitoring, reporting and response procedures
- e) Strategies to promptly deal with and address noise complaints and or vibration complaints;
- f) Procedures for notifying nearby residents of forthcoming works that are likely to produce noise and vibration impacts;
- g) Contingency plans, Mitigation Measures and Treatment methods to be implemented in the to control noise and vibration during construction
- h) Contingency plans to be implemented in the event of non compliance and/or complaints.
- i) Reference to relevant consent conditions; and
- j) Name and qualifications of person who prepared the report.

Note: Refer to DECC's 'Interim Construction Noise Guideline' (2009) for more information (see <http://www.environment.nsw.gov.au/noise/constructnoise.htm>)

24. **Dilapidation Report**

The submission of a certified report from suitably qualified and practising geotechnical and structural engineers, certifying that the method of construction will not adversely impact/effect the structural integrity and support of the neighbouring buildings and associated private and public infrastructure within the zone of influence of the construction site. The report is to also address the current structural state of those buildings and infrastructure.

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

25. **Street and Lane Facades**

. Prior to the release of the construction certificate the Applicant is to submit to the Council an amended materials and facade treatment for the elevations facing Marvel Street and Fletcher Lane featuring the use of colonnades which are not to be arched, such treatment to be to the satisfaction of an independent urban designer appointed by the Applicant. Prior to the appointment of the designer, the brief is to be provided to the Council for a period of not less than 7 days. The costs of the designer are to be borne by the Applicant.

26. **Floor Plans to be amended**

Amended floor plans to be submitted with the construction certificate reducing the gross floor area by 26m<sup>2</sup> across the development. Area can be removed from the basement spa, the ground floor or upper levels of the development to achieve the necessary reduction. Details to be submitted with the Construction Certificate for approval (Note: Gross floor area has the same meaning as defined in the Byron LEP 2014)

27. **Garbage storage area to be provided**

The application for a Construction Certificate is to include plans and specifications for the proposed waste material store area as follows:

- Permanent Garbage storage area to be provided in Basement 1

The proposed garbage store area is to be designed and constructed to provide sufficient capacity (minimum area of 18m<sup>2</sup> including circulation area) for the range of waste storage containers required for all the waste management activities conducted in association with the development.

- Temporary Garbage storage area to be provided at the north west corner of the building in Fletcher Lane. The proposed garbage store area is to be designed and constructed to provide sufficient capacity (minimum area of 9m<sup>2</sup> including circulation area) for the placement of waste storage containers awaiting collection.
- Bin storage, Collection Frequency and Bin sizes

Garbage			
Source	Type/Size	Quantity	Collection Frequency
Hotel & SPA	1,100 litre	1	2 weekly
Retail	1,100 litre	1	2 weekly

Recycling			
Source	Type/Size	Quantity	Collection Frequency
Hotel & SPA	240 litre	2	1 weekly
Retail	660 litre	2	1 weekly

Adequate ventilation, lighting, fire response and access to be provided to ensure safe and healthy conditions can be maintained for the protection of workplace health and safety. Provision to be made for waste collection vehicle movement and lifting height requirements for all types of waste storage bins. Details to be submitted with the construction certificate for approval.

## 28. **Waste Management Plan**

The application for a Construction Certificate is to include waste management plan to manage the following:

- Pickup in Fletcher lane by commercial contractor;
- Temporary bin storage in Fletcher Lane for collection (within part of current proposed garden space);
- Management of waste operation from permanent to temporary location;
- Collection during off peak periods; and
- Include letter from commercial contractor agreeing to waste management plan and pick up times.

## 29. **Landscape Plan**

The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9 of Development Control Plan 2014. Species identified in Chapter B9 of Development Control Plan 2014 are to be planted wherever possible. The landscaping plan must indicate:

- proposed location for planted shrubs and trees
- botanical name of shrubs and trees to be planted
- mature height of trees to be planted

- d) location of grassed and paved areas, and
- e) location of trees identified for retention in the development application plans.
- f) The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist who has appropriate experience and competence in landscaping.

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

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

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](http://www.byron.nsw.gov.au/files/publication/swmmp-pro-forma.doc)

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

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

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.

The application to also include details on pool backwash and overflow where connected to the sewer via an overflow relief gully.

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

An **approval** under Section 68 Part C of the Local Government Act 1993 to discharge trade waste into Council's sewer must be obtained in accordance with NSW Office of Water Liquid Trade Waste Regulations Guidelines 2009, 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 Trade Waste Registration Form available at the Mullumbimby Office and from Council's website at:

[http://www.byron.nsw.gov.au/files/publications/liquid\\_trade\\_waste\\_application\\_form\\_0.pdf](http://www.byron.nsw.gov.au/files/publications/liquid_trade_waste_application_form_0.pdf)

Trade Waste approval is required prior to gain Section 68 Part B approval to carry out water supply work and sewerage work.

33. **External lighting plan to be submitted for approval**

To maintain safe access for patrons, adequate lighting must be provided between sunset and 10.00 PM. The application for a Construction Certificate is to include plans and specifications that demonstrate that safe minimum standards of lighting (min. 0.2 Lux) is provided without generation of undue glare and nuisance from the lighting installations. The plan to be completed by a suitably qualified professional with competence in the fields of illuminating engineering and environmental design in accordance with AS4282-1997: Control of the obtrusive effects of outdoor lighting and NSW WorkCover OH&S requirements.

**34. 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](http://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.

**35. Bond required to guarantee against damage to public land**

A bond of \$10,000 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development, together with payment of an asset inspection fee in accordance with Council's fees and charges. Evidence is to be provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets.

Such bond will be held until Council is satisfied that the infrastructure is maintained/repaired to pre development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths etc.

**36. 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.

**37. 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 Water 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 Water's agent in this matter and will issue a Certificate of Compliance on behalf of Rous Water upon payment of the Rous Water Development Servicing Charge to this Council.

**Note:** 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**

**38. Section 7.12 Levy to be paid**

Prior to the issue of a subdivision certificate the section 7.12 levy required by the Byron Developer Contributions Plan 2012 must be paid to Council. The levy will be calculated as follows:

$$\text{Levy payable} = \%C \times \$C$$

Where:

- **%C** is the levy rate applicable as set out in the latest Ministerial Direction issued under section 94E.
- **\$C** is the proposed cost of carrying out the development.

The rate of %C is:

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001–\$200,000	0.5 percent
More than \$200,000	1.0 percent

The cost of development must be calculated in accordance with clause 25J of the regulation and must be set out in schedule 2. A copy of completed schedule 2 must be submitted with the payment to Council. It can be downloaded from Council's website.

**39. Shower Requirements**

Shower facilities shall be provided for the use of all patrons before entering any sauna/steam room and shall be located, constructed and equipped so that:

- a) the shower access is close to the area of the sauna/steam room;
- b) the floors, walls and ceiling are made of materials that permit easy and thorough cleaning; and
- c) there is hot and cold running water with either, a tempering or mixing device on the hot water system designed to prevent scalding, or a maximum hot water temperature not exceeding 43°C at any time.

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

**40. Approved Environmental Plans must be implemented**

The works engineer must certify to the Principal Certifying Authority that all requirements contained in the approved environmental management plans have been implemented. The applicant is required to ensure that the construction management and all construction staff are made aware of their responsibility to abide by the plans.

**41. Acid Sulfate Soils Management Plan**

Acid sulfate soil controls must be in place in accordance with the approved Acid Sulfate Soils Management Plan, and any Soils and Water Management and Dewatering Management Plan.

42. **Public Safety Management Plan**

The approved public safety management plan is to be implemented.

43. **Traffic Management Plan**

The approved traffic management plan is to be implemented.

44. **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 shall 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.

45. **Erosion and Sediment Control Management**

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.**

46. **Photographic Archival Recording**

Prior to the commencement of any works on site, including demolition or dismantling of any building fabric, a Photographic Archival Recording shall be undertaken and submitted to Council. Written confirmation must be obtained from the Council's Heritage Officers, confirming that the Photographic Archival Recording is of an acceptable quality that satisfies the requirements of this condition, prior to release of the Construction Certificate.

The Photographic Archival Recording shall be prepared in accordance with the guidelines "*Archival Recording of Heritage Items using Film or Digital Capture*" published by the Heritage Division of the Office of Environment and Heritage 2006.

Two complete copies of the archival recording shall be submitted to Council

47. **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.

48. **Water service to be connected**

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

Any new water service will be at the applicants cost.

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

**49. Demolition / Construction times**

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:

- a) Monday to Friday, from 7 am to 6 pm.
- b) Saturday, from 8 am to 1 pm.
- c) No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

**50. Demolition / Construction noise**

Construction noise is to be limited as follows:

- a) For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b) For construction periods greater than four (4) weeks and not exceeding twenty six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

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

**51. Signs to be erected on building and demolition sites**

A sign must be erected in a prominent position on the work site:

- a. stating that unauthorised entry to the work site is prohibited, and
- b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

**52. 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.

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

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



**54. Waste transportation including excavated natural materials**

Any waste or excavated natural or contaminated materials being transported from the site must be accompanied with a section 143 certificate. The waste must be transported to a location that can lawfully accept it.

Certificates are available at <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/wasteregulation/160095-notices143-form.docx>

Further information regarding transporting of waste is available at <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/waste/19p1761-construction-and-demolition-waste-disposal-fact-sheet.pdf>

**55. 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.**

**56. Approved Environmental Plans must be implemented**

All controls and measures must be maintained in accordance with approved environmental plans and reports. The applicant is required to ensure that the construction management and all construction staff are made aware of their responsibility to abide by the plans.

**57. Acid Sulfate Soils Management**

Acid sulfate soils must be managed and disposed of in accordance with the approved Acid Sulfate Soils Management Plan. A copy of this report must be kept on the property at all times during construction and made available to any person.

**58. Dewatering of Excavations**

Dewatering of excavations must be conducted in accordance with the approved dewatering plans. 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.

**59. Sound proofing**

Division walls between attached rooms must be of sound resisting materials constructed with minimum sound transmission loss in accordance with the Building Code of Australia.

**60. WorkCover Authority**

All works must be undertaken in accordance with the requirements of the WorkCover Authority.

**61. Site Construction Signs**

Site construction signs are to be maintained at the frontage to the site until all works are completed.

**62. 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.

**63. Demolition works**

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.

64. **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) [www.environment.nsw.gov.au/resources/waste/08202classifyingwaste.pdf](http://www.environment.nsw.gov.au/resources/waste/08202classifyingwaste.pdf)

65. **Aboriginal Relics**

If any Aboriginal archaeological relics or items are exposed during construction works, the Applicant shall:

- a. immediately cease works;
- b. notify the NSW National Parks and Wildlife Service (NPWS);
- c. obtain any necessary permits and/or approvals to continue the work under the National Parks and Wildlife Act 1974.

The Applicant shall comply with any further request made by the NPWS to cease work for the purposes of archaeological assessment and recording.

66. **Stormwater drainage work**

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

67. **Noise attenuation requirements for plant machinery and building construction design**

A suitably qualified acoustic consultant must certify that attenuation measures for plant machinery and building construction design have been constructed in order to achieve compliance with with approved plans. Certification is to be submitted to Council prior to issue of an Occupation Certificate.

68. **Acid sulfate soils**

The works engineer must certify to the Principal Certifying Authority that all works have been carried out in accordance with the approved Acid Sulfate Soils Management Plan, and any Soils and Water Management and Dewatering Management Plan.

69. **Certification required**

The works engineer must certify to the Principal Certifying Authority that all works have been carried out in accordance with the approved Environmental Management Plans.

70. **External lighting installation**

To maintain safe access for patrons, adequate lighting must be provided between sunset and 12.00 PM. All external lighting must be installed in accordance with AS4282-1997: Control of the obtrusive effects of outdoor lighting.

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

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**71. 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.

**72. Dilapidation Report**

The submission of a certified report from suitably qualified and practising geotechnical and structural engineers, certifying what, if any, impacts/effects that the completed development has had on the neighbouring buildings and associated private and public infrastructure within the zone of influence of the construction site. The report is to also address what measures are to be implemented, and in what time frame, to rectify any such identified defects. The engineers are to be Corporate Members of the Institution of Engineers Australia.

**73. Steam Room Construction**

All saunas/steam rooms provided for the use of the guests shall:

- a) be located, constructed, equipped and finished so that it can be maintained in a safe and sanitary condition;
- b) be made such that any metal parts within three metres of the bath, tub or sauna, heating units, lighting units, electrical fixtures, motors, conduits and outlets are installed in a safe manner that protects the bather from injury;
- c) be made so that entry can be prevented when the facility is not open for use;
- d) be equipped with hose connections installed in a convenient and safe location for the sanitary operation of the facility;
- e) be made so that water and air temperature can be thermostatically controlled;
- f) have a Notice posted in an obvious location with the following information:
  - i) Prolonged use of this facility can be a hazard to health (10-15 minutes may be excessive for some people!).
  - ii) Persons should seek medical advice if there is any concern about tolerance of intense heat exposures.
  - iii) No food or glass containers may be brought into this facility.
  - iv) All users shall shower using warm water and soap, and thoroughly rinse off all soap before using the facility, and
  - v) Give the location of an alarm, telephone or personnel available for emergency use.

The steam room shall be constructed so that:

- a) a thermometer with an appropriate and clearly visible Celsius scale is located in a prominent place within the room,
- b) a clock is available and easily read either, in the room or, from the door or window.
- c) the door can be opened easily without resistance;
- d) full view of the inside of the sauna/steam room is provided by either, a full length transparent panel in the door, or a window providing an unobstructed view of the interior floor area, from the outside.

**74. Unexpected Findings Protocol - Contamination & Remediation**

The works engineer must certify to the Principal Certifying Authority that all works have been carried out in accordance with the approved Unexpected Findings Protocol (UFP).

**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. 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 prior to the issue of the occupation certificate.

**77. Swimming pool fencing**

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

**78. Swimming pool backwash**

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

**79. Carshare vehicle in place**

The car share vehicle must be provided and in-place as per the approved Car Share Management Plan. All details must be submitted to the Principal Certifying Authority prior to the issue of any occupation certificate. A copy to be provided to Council prior to the issue of the Occupation Certificate

**80. Positive Covenant**

Documentary evidence is to be provided to the Principal Certifying Authority that a public positive covenant, pursuant to the provisions of S.88E of the Conveyancing Act, 1919, has been placed on the title to the land, the subject of this consent to ensure that the car share is to be provided and managed in accordance with this development consent, DA10.2019.571.1, in perpetuity.

The covenant to be registered prior to the issue of any Occupation Certificate.

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

**81. Site Location Survey**

A final survey of the structures showing setbacks to boundaries to be submitted to the Private Certifier prior to issue of an Occupation Certificate demonstrating compliance with the approved plans

**82. Access, internal circulation roadway and basement car park to be completed.**

The access internal circulation roadway and basement car park are to be constructed in accordance with the approved plans and Roads Act consent.

**83. Stormwater upgrade, On-site Stormwater Detention and Stormwater Quality Improvement Devices – Certification of works**

All stormwater drainage works, including stormwater upgrade, on-site stormwater detention works 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](#).

84. **Maintenance Plan of Stormwater Quality Improvement Devices**

A maintenance plan must be prepared in accordance with the Manufacturer's specification and a signed maintenance contract agreement with the manufacturer specialist technician in perpetuity to ensure the system is maintained regularly to meet the results as modelled in MUSIC.

85. **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.

86. **Works-As-Executed Plans – Road upgrade and footpath works**

Following completion of works and prior to issue of the subdivision 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, and site works. 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.

87. **Maintenance Bond**

With respect to external works undertaken on Council land or with respect to Council assets on any land, a maintenance bond of 5% (**minimum bond amount of \$1,000.00**) of the value of the works constructed is to be lodged with Council. A copy of the contract construction cost of the works is to be submitted with the bond. The maintenance period is 6 months in accordance with Council's

current Design & Construction Manuals and will commence from the date of issue of the **Occupation Certificate**. The security may be provided, at the applicant's choice, by way of cash bond or a satisfactory bank guarantee. An application in writing for the release of the bond must be made at the satisfactory completion of the maintenance period.

88. **Record of Infrastructure**

A record of infrastructure coming into Council ownership, prior to the issue of the occupation certificate, is to be submitted to Council. The information is to be submitted in the form of Council's Standard Form titled "Asset Creation Record". This form is available from Council's Local Approvals Section.

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

89. **Hours of Operation**

The following hours of operation are to apply to the development

- a) Retail Shops and Spa - Monday to Sunday, from 7:00am to 7:00pm.
- b) Roof top deck – Monday to Sunday, from 7:00am to 6:00pm

90. **Roof Top Patron Numbers**

Patron numbers on the roof top are limited to a maximum of twenty (20) persons at any time and limited to staff and guests residing/ staying at the hotel.

91. **Plant and Equipment**

Plant and equipment to be appropriately located and shielded such that noise from its operations does not cause a nuisance to adjoining properties. If necessary an acoustic enclosure must be provided around the pump to achieve the required noise attenuation

92. **Car Share**

A vehicle as required under the Car Share Management Plan to be provided at all times for the use of the guests of the hotel.

NOTE: The failure to provide a car share vehicle for guests of the hotel will be considered a direct breach of this Development Consent. Any proposal to remove the car share vehicle could only be considered as part of a Section 4.55 application.

93. **Separate application required for signs not approved by this consent**

A separate application is to be submitted to, and approved by Council prior to the erection of any advertisements or advertising structures other than the sign(s), approved in this consent.

94. **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.

95. **Access must be permitted to Council officer**

Access must be permitted to any authorised Council officers during normal business hours for the purpose of ensuring compliance with consent conditions.

96. **New South Wales Food Act 2003 and Food Regulation 2015**

The development must be operated and maintained to ensure that the requirements of the *Food Act 2003* and *Food Regulation 2015* (incorporating *Food Standard Code*) are satisfied at all times. Access to the *Food Standard Code* is available at <http://www.foodstandards.gov.au> the operator is required to ensure that the business is registered with the NSW Food Authority. Notification may be carried out or updated when required at <http://www.foodnotify.nsw.gov.au>

97. **Trade Waste**

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

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

The use of the premises shall 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 trade waste pre-treatment devices and other waste storage 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.

99. **Servicing of trade waste devices**

The operator must comply with the Work Health and Safety Act 2011 statutory requirements. Staff shall be provided with adequate toilet and washing facilities. All trade waste pre-treatment devices shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.

100. **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.

101. **Swimming pool discharge**

Swimming pools must discharge or backwash to an overflow retention gully in accordance with AS/NZS 3500.2.2, Section 10.9 & Figure 10.2.

102. **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.

**103. 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

**104. Swimming Pool Fencing**

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

**SCHEDULE 2. PRESCRIBED CONDITIONS**

**The prescribed conditions in accordance with Part 6 Division 8A of the Environmental Planning and Assessment Regulation as at the date of this development consent as are of relevance to this development must be complied with:**

Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 [http://www.legislation.nsw.gov.au/ - /view/regulation/2000/557/part6/div9](http://www.legislation.nsw.gov.au/-/view/regulation/2000/557/part6/div9)

Clause 98A Erection of signs

Clause 98B Notification of Home Building Act 1989 requirements

Clause 98C Conditions relating to entertainment venues

Clause 98D Condition relating to maximum capacity signage

Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Part 6 Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

*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 2000 considerations.
The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.
The proposed development is considered suitable for the proposed site.
The development application was notified/advertised in accordance with Council's Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application.
The proposed development is unlikely to prejudice or compromise the public interest.



**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 3. NOTES****Construction Certificate required:**

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing. Application forms are available from the customer services counter or Council's website [www.byron.nsw.gov.au](http://www.byron.nsw.gov.au)

**Principal Certifying Authority:**

Work must not commence until the applicant has:-

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

**Occupation Certificate required:**

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

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

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

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

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

### **Dewatering Licence**

As the proposed basement car park will intersect the groundwater table, any dewatering will require a licence under the Water Act 1912. As the Development Application submitted to Council was not nominated as 'Integrated Development' and did not seek a dewatering licence, separate arrangements must be made with the Department of Natural Resources for obtaining such a licence.

### **NSW Environmental Protection Authority**

NSW Environmental Protection Authority advise that the applicant must contact Qld Department of Environment and Heritage Protection <https://www.ehp.qld.gov.au/> to obtain a consignment number for a Waste Transport Certificate which must be emailed to <https://www.hazardouswaste@epa.nsw.gov.au/>

### **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>

### **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 2018)

Water	11.24 ET
Bulk Water	11.24 ET

Sewer	15.24 ET
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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.

### **Commercial Swimming Pool Design**

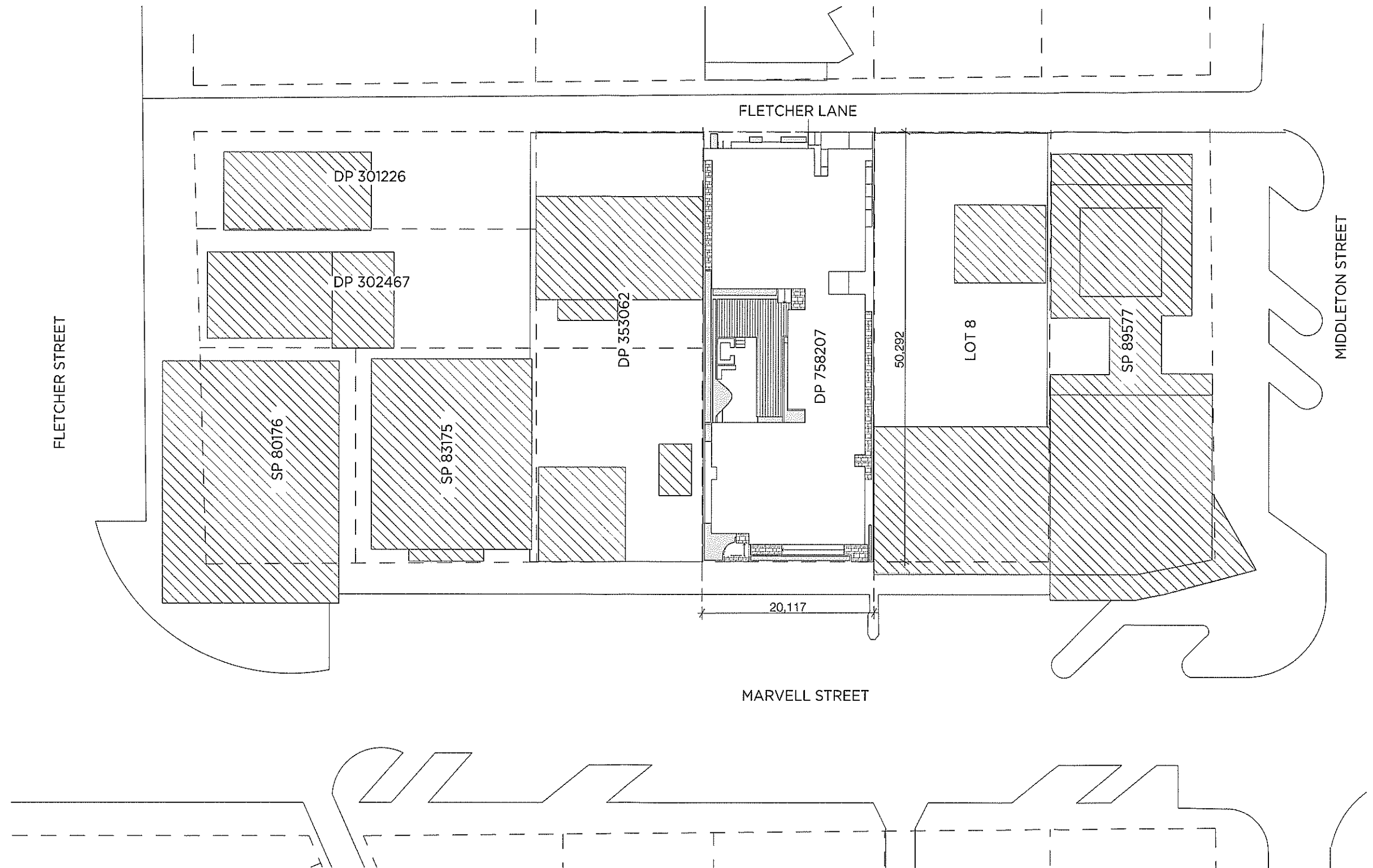
The swimming pool, including a spa, is subject to Public Health Act 2010 & Regulation 2012 requirements.

Water and sewerage load demands from the pool will be generated by top-up water requirements due to splash-out, evaporation, backwash water demand and backwash water discharged to sewer.

A letter of receipt will be issued on completion of:

- Provision of detailed design plans, including pump size/capacity, filter type/size/capacity, pipework diameters for the swimming pool and associated water management processes;
- The swimming pool is also subject to Trade Waste requirements.

End of conditions

[illegible]





GFA:	-M <sup>2</sup>
EXTERNAL HARDSCAPE:	-M <sup>2</sup>
EXTERNAL LANDSCAPE:	-M <sup>2</sup>

GFA:	560M <sup>2</sup>
EXTERNAL HARDSCAPE:	124M <sup>2</sup>
EXTERNAL LANDSCAPE:	73M <sup>2</sup>

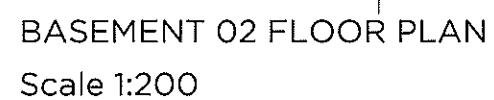
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EXTERNAL LANDSCAPE:	-M <sup>2</sup>

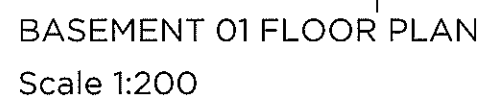
GFA:	495M <sup>2</sup>
EXTERNAL HARDSCAPE:	120M <sup>2</sup>
EXTERNAL LANDSCAPE:	58M <sup>2</sup>

GFA: 396M<sup>2</sup>  
EXTERNAL HARDSCAPE: 253M<sup>2</sup>  
EXTERNAL LANDSCAPE: 116M<sup>2</sup>

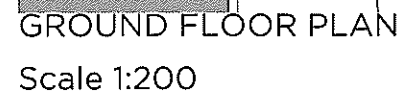
GFA: 5M<sup>2</sup>  
EXTERNAL HARDSCAPE: 148M<sup>2</sup>  
EXTERNAL LANDSCAPE: 80M<sup>2</sup>

DEVELOPMENT SUMMARY	
APPLICATION	
GFA	
BASEMENT 02:	-m <sup>2</sup>
BASEMENT 01:	127m <sup>2</sup>
GROUND:	396m <sup>2</sup>
LEVEL 01:	560m <sup>2</sup>
LEVEL 02:	495m <sup>2</sup>
ROOF TERRACE:	5m <sup>2</sup>
SITE AREA:	1,012m <sup>2</sup>
PLOT RATIO: 1.5:1	1,590m <sup>2</sup>

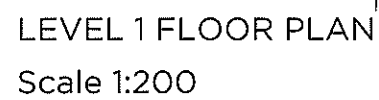
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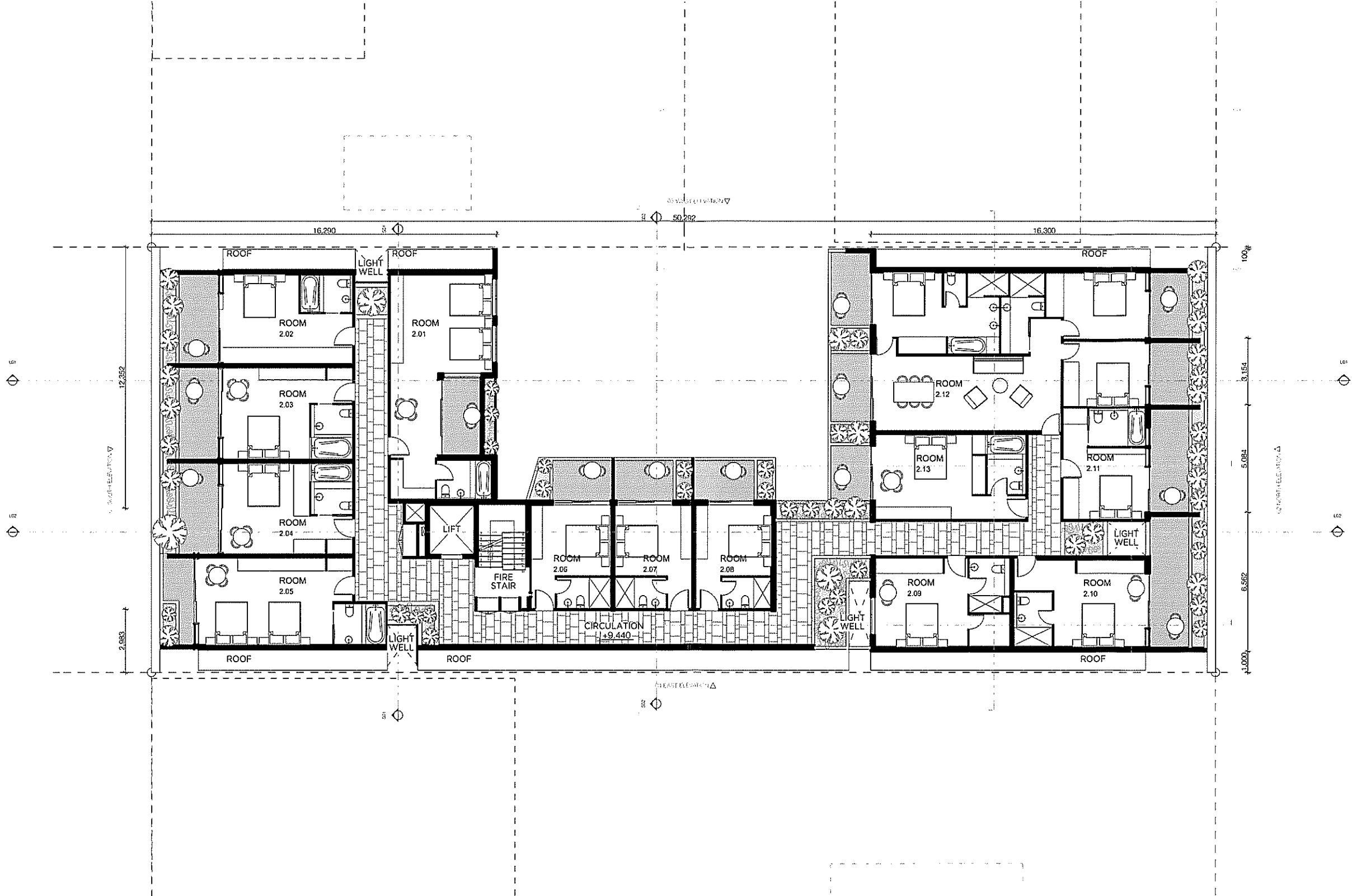
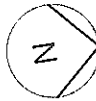








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LEVEL 2 FLOOR PLAN  
Scale 1:200

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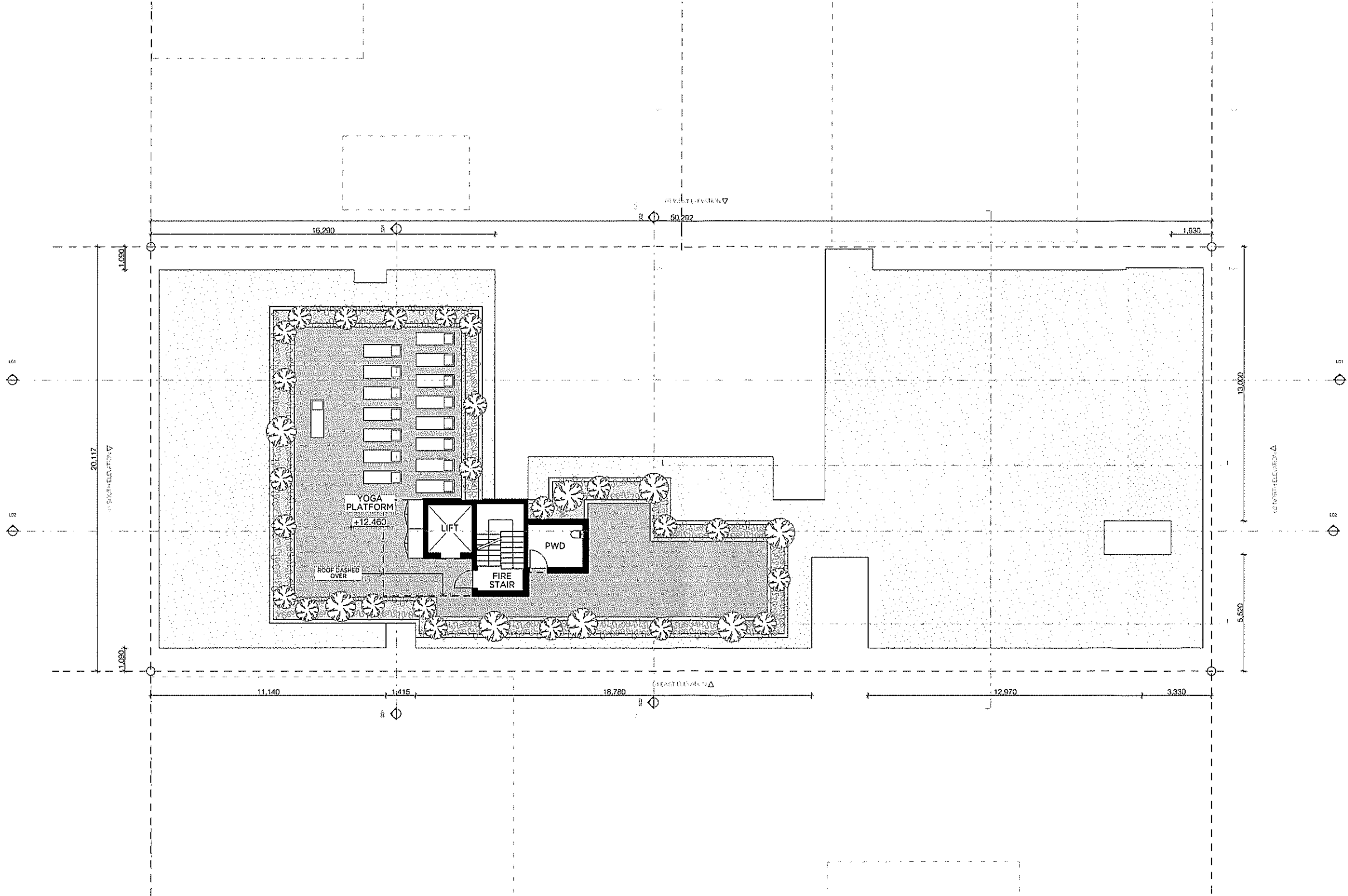
LVL 1/144 JOHNSON STREET BYRON BAY | PO BOX 1285 NSW 2481  
F: 02 66809820 | T: 02 66809690 | E: office@harleygraham.com  
ABN: 65158246003 NSW 7892

All building works to be carried out in accordance with the Building Code of Australia (BCA) and to the satisfaction of the principle certifying authority. Builders/Contractors are to verify all dimensions prior to commencement of site work or off-site fabrication. Figured dimensions take precedence - do not scale.  
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Date	Change Name	ChID	Issue Name	RevID

CLIENT	PACE DEVELOPMENT GROUP	ADDRESS	7 MARVELL ST, BYRON BAY		APPROVED: HG		ISSUE	JOB NO: HGA234	
JOB NAME	7 MARVELL ST HOTEL	LOT + DP	LOT 9 DP 758207		SCALE	PAPER	14	DWG NO	REV
DRAWING	SECOND FLOOR PLAN				1:200	A3	REVISED BASEMENT 30.03.21	02 09	

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ROOF PLAN  
Scale 1:200

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Date	Change Name	ChID	Issue Name	RevID

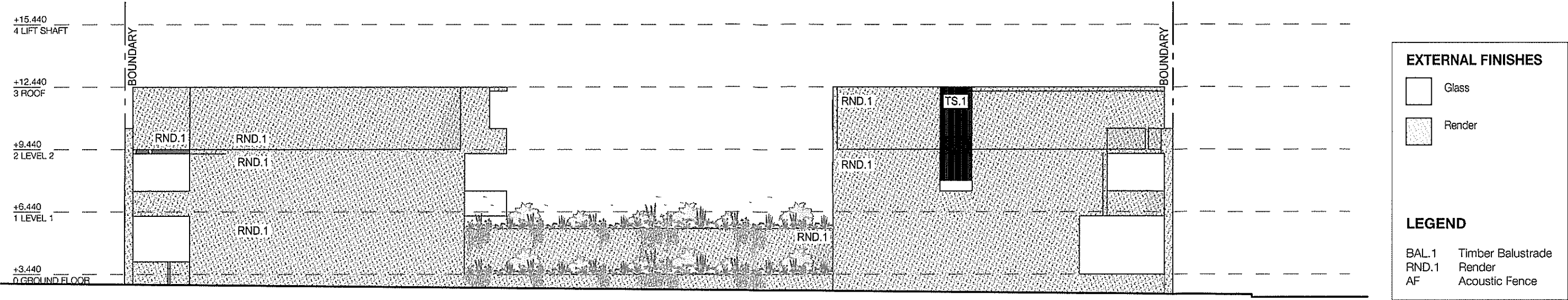
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JOB NAME	7 MARVELL ST HOTEL	LOT + DP	LOT 9	DP 758207	SCALE	PAPER	14	DWG NO	REV
DRAWING	ROOF PLAN				1:200	A3	REVISED BASEMENT 30.03.21	02 10	



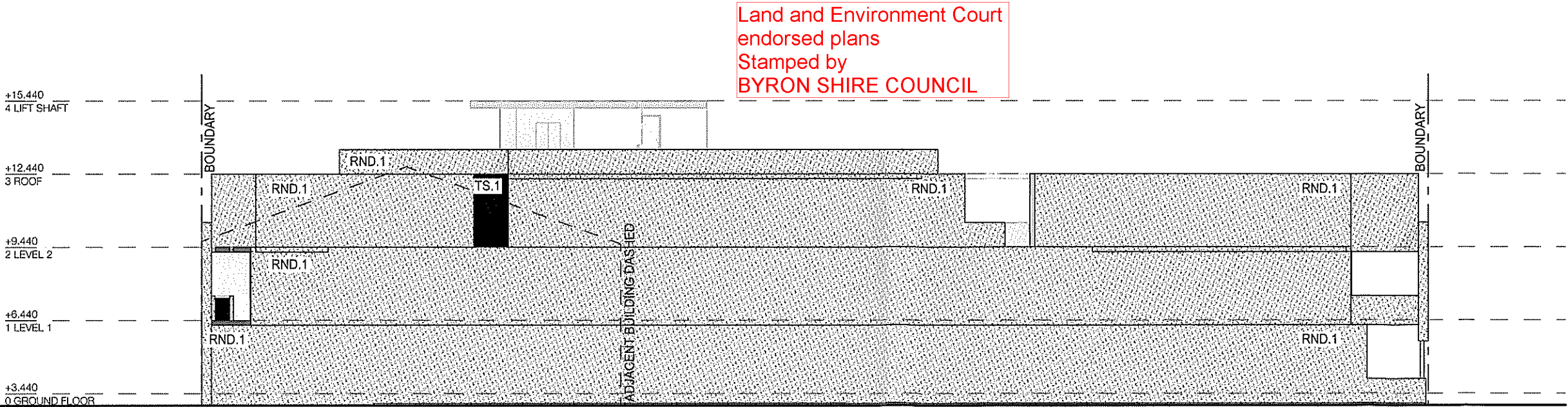








03 WEST ELEVATION  
Scale 1:200



04 EAST ELEVATION  
Scale 1:200

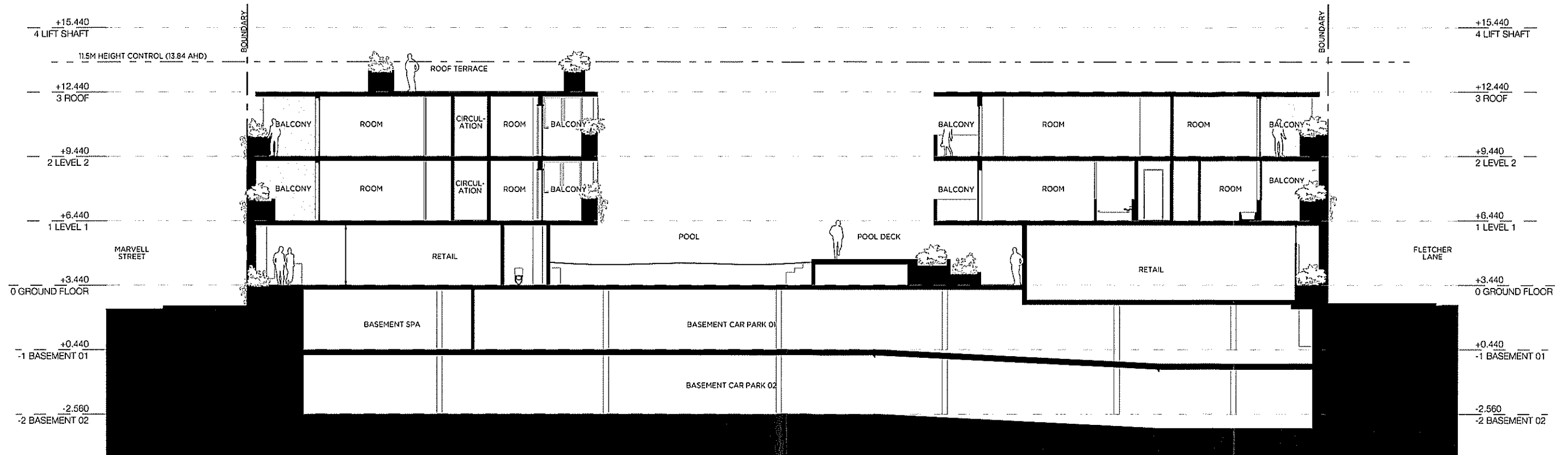
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Date	Change Name	ChID	Issue Name	RevID	CLIENT	PACE DEVELOPMENT GROUP	ADDRESS	7 MARVELL ST, BYRON BAY	APPROVED: HG	ISSUE	JOB NO: HGA234
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										14	02 13
										REVISED BASEMENT 30.03.21	

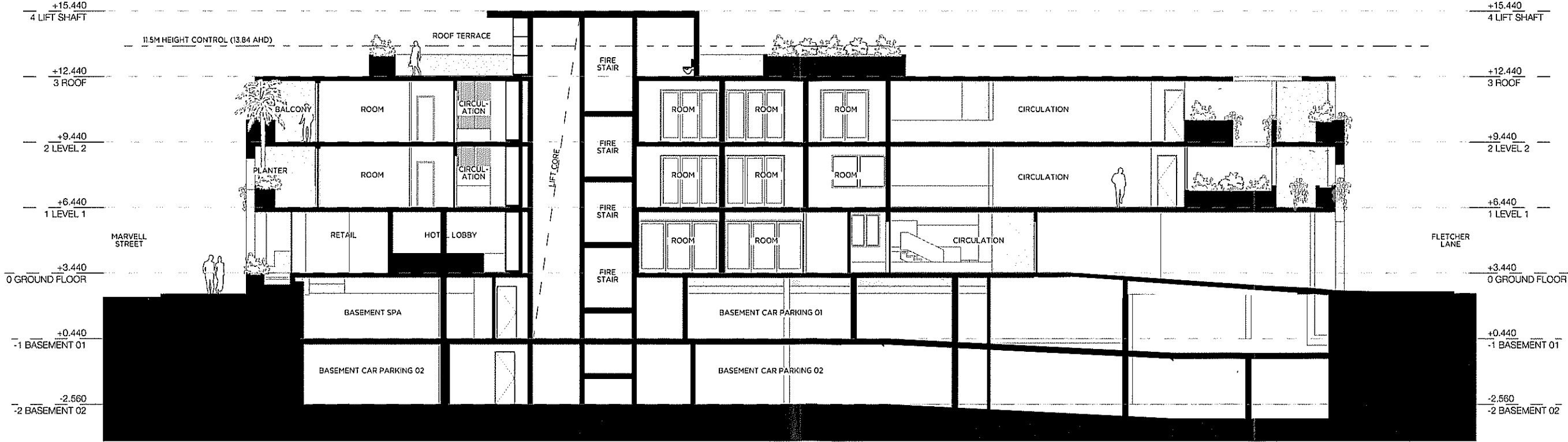
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L01 LONG SECTION 01

Scale 1:200

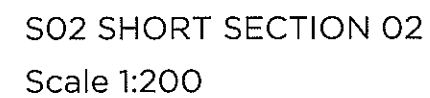
Land and Environment Court  
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L02 LONG SECTION 02

Scale 1:200



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