

DEVELOPMENT APPLICATION EVALUATION REPORT

Doc No. #1091441

DA No.	10.2011.162.1
Proposal:	Mixed-use development comprising 68 residential dwellings, commercial, retail, live/work and creative industry units, with the provision of road works, car parking, landscaping, water, sewer, drainage and communication services, plus subdivision of the site under a Community Scheme.
Property description:	Lot 3 DP 1004514 Bayshore Drive, BYRON BAY
Parcel No/s:	226780
Applicant:	Bayshore Developments Pty Ltd
Owner:	Brandon Saul Holdings Pty Ltd
Zoning:	Part 2(v) Village Zone and Part 4(a) Industrial Zone
Date received:	6 May 2011
Integrated Development	Bush Fire Safety Authority – S.100B of the Rural Fires Act 1997 applied for separately by the Applicant
Public notification or exhibition:	Level 4 advertising under DCP 17 – Public Notification and Exhibition of Development Applications Exhibition period: 2 June to 1 July 2011 Submissions: 24 x IN SUPPORT and 3 x IN OBJECTION
Other approvals (S68/138):	No concurrent approvals requested
Planning Review Committee:	Not applicable
Delegation to determination:	Joint Regional Planning Panel
Issues:	<ul style="list-style-type: none"> • Residential amenity • Variety of buildings • Bush fire protection • Ecological restoration works • Existing development consent • Land uses
Summary:	<p>Development consent is sought to construct a large scale mixed use development within the subject allotment, known as “Bayshore Village”. The new proposal is to replace the development that has previously been granted consent on the site and has not yet been constructed. The only component of the original consent that is to be retained is the filling works that have been issued a Construction Certificate and partly completed.</p> <p>The Statement of Environmental Effects that has been submitted with the proposal describes the development as incorporating the following components:</p> <ul style="list-style-type: none"> • A total of 68 dwellings across three precincts, providing a mix of dwelling types and sizes, all incorporating work spaces; • 24 live / work units, comprising smaller 80-90m² residential units, each including a dedicated work space of around 56m² (note: these units are included in the total of 68 dwellings in point 1); • 4 light industrial buildings containing a total of 3,095m² of industrial floor space (allowing for flexible internal

arrangements;

- A commercial precinct that includes 1,389m² of retail floor space, 2,020m² of commercial premises floor space, a health spa with a floor area of 635m²; a canteen / café (211m²) and a community hall / meeting space (145m²);
- Recreational facilities including a pool, park, and associated play facilities;
- Associated internal roads, car parking, infrastructure, and landscaping; and
- Subdivision (community scheme).

The proposed development is to be carried out in stages to enable all site preparation works such as roads and infrastructure for the creation of an initial community title subdivision to be carried out within the first stage. Subsequent stages include further community title subdivision, construction of the various commercial, industrial, recreational, residential and live/work buildings. Upon completion of the development, individual dwellings are to be strata subdivided (without requiring consent).

The proposed development has been planned over several years in consultation with both Council and the community. A site specific development control plan was adopted for the site, being Byron Development Control Plan No. 20 – Bayshore Village, Byron Bay. This development control plan has recently been incorporated into a consolidated development control plan for the Byron Shire, Byron Development Control Plan 2010.

The proposal generally meets the prescriptive measures of the development control plan. A number of minor non-compliances such as building setbacks can be dealt with via conditions of consent. The most significant change resulting from the imposition of conditions is the removal of one of the dwellings from the development to achieve the minimum 4.0 metre setback requirement to the Sewage Treatment Plant Road on the north-eastern boundary of the site.

Other issues with respect to the proposed development that were dealt with during the assessment of the Development Application included the density of the proposal and the likely residential amenity that will result from that density. It is clear from the plans submitted that the proposal comprises a development of greater density when compared to other residential areas of Byron Bay, including the adjoining Sunrise estate. The development as a whole appears to provide minimal open space with buildings tightly arranged within the site. However, as the proposal generally complies with the maximum gross floor area and minimum open space requirements of Chapter 20 of Development Control Plan 2010, the proposed density is apparently what Council envisaged for the site through the adoption of the development control plan.

The subject Development Application was placed on public exhibition in accordance with the Level 4 requirements of Development Control Plan 2010 Chapter 17 from 2 June to 1 July 2011. A total of 27 submissions were received in respect of the

	<p>proposed development. Three of these were in objection to the proposal, the remainder in support. Given that the development is in general compliance with the adopted provisions of Development Control Plan 2010, the proposal does not compromise the public interest.</p> <p>An assessment of the impacts of the development on the natural and built environment concluded that subject to compliance with conditions of consent and for the reasons discussed within this report, the proposal is unlikely to result in a significant environmental impact. The site is appropriately zoned for urban development and given the site specific development control plan, is deemed to be a suitable location for the proposal.</p> <p>Based on the proposals compliance with the adopted development control requirements for the site, the application is recommended for approval subject to conditions of consent.</p>
Recommendation:	<p>It is recommended that:</p> <ol style="list-style-type: none"> 1. Pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2011.162.1, for the construction of a mixed-use development comprising 67 residential dwellings, commercial, retail, live/work and creative industry units, with the provision of road works, car parking, landscaping, water, sewer, drainage and communication services, plus subdivision of the site under a Community Scheme, be granted consent subject to the conditions listed at the end of this report. 2. Pursuant to Section 95(2) the development consent lapse 5 years after the date from which it operates unless commenced pursuant to Section 95(4) or (5).

1. INTRODUCTION

1.1 History/Background

The development site comprises a single allotment of land that was created as a result of the subdivision of Lot 25 DP 812667 under Development Consent No. 97/0171. The subject Lot (Lot 3) was one of four allotments created as part of the subdivision. Since its creation, Lot 3 has been the subject of the following Development Applications:

10.2004.394.1 – Stockpiling of fill material – Deferred Approval - 5 November 2004

10.2005.705.1 – Stockpiling 1.5m of fill over 12500m² – Deferred Approval – 25 September 2006

10.2007.177.1 – Environmental Enhancement Works – Approved 19 December 2007

10.2005.705.2 – S.96 to amend conditions of stockpiling consent – Approved 4 May 2007

10.2007.349.1 – Stockpiling of fill – Withdrawn 21 December 2007

10.2005.705.2 – S.96 to extend the timeframe of consent – Approved 16 April 2008

10.2008.360.1 – Mixed use development comprising 82 dwellings, retail, commercial and creative industrial units – Approved 18 December 2008

10.2008.360.2 – S.96 to amend deferred commencement consent – Approved 27 March 2009

10.2008.360.3 – S.96 to amend conditions including staging and road works – Approved 25 Feb 2010

10.2008.360.4 – S.96 to amend design, layout etc. – Refused 30/08/2010

10.2009.12.1 – Community title subdivision of mixed use development – Approved 11 Nov 2009

1.2 Description of the site

The proposed development is to be carried out upon a single allotment described as Lot 3 in Deposited Plan 1004514. The allotment is located on the western side of Bayshore Drive, near the intersection of Sunrise Boulevard in Byron Bay. The allotment has an area of 4.921 hectares. It is located partly within the 2(v) Village Zone and partly within the 4(a) Industrial Zone under Byron Local Environmental Plan 1988.

Vehicular access to the allotment is from Bayshore Drive to the east. A public road that leads to the West Byron Sewage Treatment Plant adjoins the site to the north. Vacant land owned by Byron Shire Council adjoins to the south and west. Residential development is located on the opposite side of Bayshore Drive to the east and the Byron Arts and Industrial Estate is located approximately 120 metres to the south of the site.

The majority of the site is made up of a level/cleared/grassed paddock that has been recently filled in accordance with Council development approvals. An inspection of the site on 23 November 2011 found that filling and earthworks were being carried out in accordance with the first stage of development consent No. 10.2008.360 (refer to photographs below). As such, the property is largely disturbed. Few trees remain on the site. Part of the property is located within the 100 metre buffer of mapped bush fire vegetation.



Photographs of site taken from the STP road looking south: 23 November 2011

1.3 Description of the proposed development

General:

Development consent is again sought to construct a large scale mixed use development within the subject allotment, known as “Bayshore Village”. The new proposal is to replace the development that has been granted consent on the site and has not yet been constructed. The only component of the original consent that is to be retained is the filling works that have been issued a Construction Certificate and partly completed.

Whilst the current proposal has similarities to the approved development, it is not substantially the same as the development for which the consent was originally granted and has therefore been submitted as a new Development Application (rather than a Section 96 Application). The Statement of Environmental Effects that has been submitted with the proposal describes the development as incorporating the following components:

- A total of 68 dwellings across three precincts, providing a mix of dwelling types and sizes, all incorporating work spaces;
- 24 live / work units, comprising smaller 80-90m² residential units, each including a dedicated work space of around 56m² (note: these units are included in the total of 68 dwellings in point 1);
- 4 light industrial buildings containing a total of 3,095m² of industrial floor space (allowing for flexible internal arrangements);
- A commercial precinct that includes 1,389m² of retail floor space, 2,020m² of commercial premises floor space, a health spa with a floor area of 635m²; a canteen / café (211m²) and a community hall / meeting space (145m²);
- Recreational facilities including a pool, park, and associated play facilities;
- Associated internal roads, car parking, infrastructure, and landscaping; and
- Subdivision (community scheme).

To accommodate the uses above, it is proposed to construct an internal street system within the allotment with access from Bayshore Drive and the West Byron Sewage Treatment Plant Road. The

proposed street system is to provide access to all buildings within the development and incorporate car parking throughout. Vehicle garages are also proposed within a number of the buildings.

It is proposed to provide water, sewer, drainage, electricity and communication services to each of the buildings within the development. Extensive landscaping and pedestrian paths are also proposed within the site. Some of the proposed buildings include swimming pools for recreational use.

Detailed plans have been submitted with the Development Application showing the layout of the proposal. These plans divide the site into 'Precincts' in accordance with Chapter 20 of Development Control Plan 2010. These include a Residential Precinct, a Light Industrial Precinct, a Live/Work Precinct, a Mixed Use Precinct and an Ecological Precinct.

It is proposed to retain existing fill on the site that was approved under previous development approvals listed above. It is also intended to retain the environmental enhancement works within the site as previously approved. Approval is sought to subdivide the land under a community title scheme.

Staging:

It is proposed to carry out the development in multiple stages as set out in Illustration 3.1 of the Statement of Environmental Effects. The development includes a 'Site Preparation' Stage, three 'Commercial' Stages, four 'Residential' Stages, four 'Live/Work' Stages and two 'Industrial Stages'. To provide flexibility within the development, it is proposed to allow the Commercial, Residential, Live/Work and Industrial stages to be carried out in any order or concurrently, provided that they are not commenced before the completion of the Site Preparation Stage.

1. Residential Precinct:

34 x two storey dwellings within 4 Stages.

Residential Stage 1: 10 x two storey dwellings constructed with masonry walls on the lower level, fibre cement / ply wood wall cladding on the upper level and corrugated metal sheet roofing. Each containing 3 bedrooms, a workspace and 2 on-site car parking spaces.

Residential Stage 2: 10 x two storey dwellings constructed with masonry walls on the lower level, fibre cement / ply wood wall cladding on the upper level and corrugated metal sheet roofing. Each containing 3 bedrooms, a workspace and 2 on-site car parking spaces.

Residential Stage 3: 10 x two storey dwellings constructed with masonry walls on the lower level, fibre cement / ply wood wall cladding on the upper level and corrugated metal sheet roofing. Each containing 3 bedrooms, a workspace and 2 on-site car parking spaces.

Residential Stage 4: 4 x two storey dwellings constructed with masonry walls on the lower level, fibre cement / ply wood wall cladding on the upper level and corrugated metal sheet roofing. Each containing 4-5 bedrooms, a workspace, a swimming pool and 2 on-site car parking spaces.

2. Light Industrial Precinct:

4 x two storey light industrial buildings within 2 Stages.

Industrial Stage 1: 2 x two storey light industrial buildings constructed with reinforced concrete walls and corrugated metal sheet roofing. Each containing a flexible layout that could potentially contain 10 individual work spaces on each level.

Industrial Stage 2: 2 x two storey light industrial buildings constructed with reinforced concrete walls and corrugated metal sheet roofing. Each containing a flexible layout that could potentially contain 10 individual work spaces on each level.

3. Live/Work Precinct:

4 x two storey live/work buildings within 4 Stages.

Live/work Stage 1: 1 x two storey live/work building constructed with masonry walls on the lower level, fibre cement / ply wood wall cladding on the upper level and corrugated metal sheet roofing. Each building containing 6 x 1 bedroom dwellings accessible from the street frontage and an attached workspace.

Live/work Stage 2: 1 x two storey live/work building constructed with masonry walls on the lower level, fibre cement / ply wood wall cladding on the upper level and corrugated metal sheet roofing. Each building containing 6 x 1 bedroom dwellings accessible from the street frontage and an attached workspace.

Live/work Stage 3: 1 x two storey live/work building constructed with masonry walls on the lower level, fibre cement / ply wood wall cladding on the upper level and corrugated metal sheet roofing. Each building containing 6 x 1 bedroom dwellings accessible from the street frontage and an attached workspace.

Live/work Stage 4: 1 x two storey live/work building constructed with masonry walls on the lower level, fibre cement / ply wood wall cladding on the upper level and corrugated metal sheet roofing. Each building containing 6 x 1 bedroom dwellings accessible from the street frontage and an attached workspace.

4. Mixed Use Precinct:

Two storey retail, office, residential, recreational and other use buildings within 4 Stages.

Mixed Use Stage 1: Multiple two storey buildings constructed with masonry/reinforced concrete walls on the lower level, fibre cement / ply wood wall cladding on the upper level and corrugated metal sheet roofing. Buildings containing a mix of uses including retail, commercial offices, day spa, professional consulting rooms, canteen and recycling centre.

Mixed Use Stage 2: 1 x two storey building constructed with masonry walls on the lower level, fibre cement / ply wood wall cladding on the upper level and corrugated metal sheet roofing containing 5 x 2 bedroom dwellings accessible from the street frontage via an attached office workspace.

Mixed Use Stage 3: 1 x two storey building constructed with masonry walls on the lower level, fibre cement / ply wood wall cladding on the upper level and corrugated metal sheet roofing containing 5 x 2 bedroom dwellings accessible from the street frontage via an attached office workspace.

Mixed Use Stage 4: Recreation facilities including a 25m lap pool, kids pool, change rooms, barbecues and games room with building constructed of bagged concrete masonry walls and corrugated metal roofing.

5. Ecological Precinct:

Ecological enhancement works as previously approved.

Subdivision:

Approval is sought to carry out a community title subdivision of the site. It is initially proposed to create 5 Lots as flows:

Lot	No. of parts	Total Area (ha)	Uses
1	2	2.17	Access roads, car parking, landscaping, recreation facilities, environmental enhancement.
2	3	2.34	Retail/Commercial uses, canteen, professional consulting rooms, day spa, recycling centre and 10 dwellings with office work spaces.
3	4	1.1	34 dwellings with work spaces.

4	1	0.34	24 dwellings with work spaces.
5	1	0.43	4 light industrial buildings.

It is further proposed to subdivide Lot 3 into 17 residential allotments with the following areas:

Lot	Area (m ²)	Use
1	1015	2 x detached double storey dwellings with workspaces.
2	957	2 x detached double storey dwellings with workspaces.
3-17	600.8	Each 600.8m ² allotment to contain 2 x detached double storey dwellings with workspaces.

Individual buildings within the community development lots will be further subdivided by way of strata schemes following the completion of the buildings (note: strata subdivision is not part of the current development proposal).

2. SUMMARY OF EXTERNAL REFERRALS

	Issue
NSW Rural Fire Service	Bushfire Safety (Section 100B of Rural Fires Act 1997)
Roads & Traffic Authority	Vehicle access, traffic and parking Comments under SEPP (Infrastructure) 2007
NSW Police Force	Crime Prevention Through Environmental Design
Local Traffic Committee	Local traffic comments

2.1 COMMENTS FROM EXTERNAL REFERRAL BODIES

NSW Roads & Traffic Authority

The subject Development Application was referred to the Roads & Traffic Authority for comment in accordance with Clause 104 of State Environmental Planning Policy (Infrastructure) 2007. In correspondence dated 15 June 2011, the RTA made the following comments regarding the proposal:

“...The traffic study supporting the mixed development proposal is a reasonable representation of the likely traffic impacts if this proposal were to proceed.

This proposal is an SEPP1 column three scale development and should be forwarded to Council's Development Committee for it's consideration....”

NSW Rural Fire Service

The subject Development Application includes the subdivision of residential land it requires a Bush Fire Safety Authority from the NSW Rural Fire Service under Section 100B of the Rural Fires Act 1997. Prior to lodging the Development Application, the Applicant independently consulted with the NSW Rural Fire Service to obtain a Bush Fire Safety Authority.

In correspondence dated 16 June 2011 a Bush Fire Safety Authority was issued for the proposal directly to the Applicant. Conditions are recommended for inclusion within the development consent to ensure all the requirements of the Bush Fire Safety Authority are complied with.

NSW Police Force

On 24 June 2011 the proposal was referred to the NSW Police Force for comment with respect to the Crime Prevention Through Environmental Design (CPTED) principles. On 12 July 2011, the assessing officer of the NSW Police Force (Grant Seddon) contacted Council to advise that they had no issue with the proposal. No formal comments were received beyond this discussion.

Local Traffic Committee

The proposal went before the Local Traffic Committee on 28 September 2011. The following comments were provided:

6.2 Late Item - Bayshore Village Development Application

As this was presented as a late item, the following is provided as a report on the discussion held, which is as follows.

Mixed use development with 68 dwellings with work spaces for creative industries plus a retail space, café, health spar [sic] and office.

The 2008/9 approved DA had similar number of dwellings but a different configuration of 3 bed vs 1 bed units.

The revised DA still complies with the DCP in terms of parking with 406 vehicle spaces being provided.

Traffic assessment in the original application had 206 vehicles per hour as expected morning peak and 265 vehicles per hour as the afternoon expected peak. The revised DA estimates is lower however, 126 vehicles per hour. The lower calculation is made via use of the "Business Park" rate and not a mixed use or light industry development rate. Council's Planner estimates up to 180 vehicles per hour.

The site's internal roads are to comply with Australian Standards while loading bays have to also consider Council's DCP.

While the new DA does not change any of the approved access points, with vegetation to be pruned / transplanted where necessary to ensure clear sight lines, there are requirements for:

- a new intersection (Bayshore Dve / Sunset Blvd), which is to be constructed to AustRoads and AS specifications;
- a longer left and right turn bay to be provided on east side of Bayshore Drive between Grevillea Street and Ewingsdale Road for traffic departing into Ewingsdale Road noting that the bus stop on the west side of Bayshore Dve (in front of the BP) is to be retained, for example – and if necessary – via the provision of an indented bus bay; and that
- shared pedestrian and cyclist paths be provided within the site and to link and connect to all external access points.

It was noted that all No Stopping signage needs to meet regulatory requirements.

Committee comments

- The Committee recommends that the length of the two lanes on east side of Bayshore Drive be extended to operate between the intersections at Grevillea Street and Ewingsdale Road.
- That the Bayshore Dve bus stop between the intersections at Grevillea Street and Ewingsdale Road be retained, if necessary via an indented bus bay.

Management Comments

- Nil

3. SECTION 79C – MATTERS FOR CONSIDERATION – DISCUSSION OF ISSUES

Having regard for the matters for consideration detailed in Section 79C(1) of the Environmental Planning & Assessment Act 1979, the following is a summary of the evaluation of the issues.

3.1 STATE/REGIONAL PLANNING POLICIES AND INSTRUMENTS

Requirement	Summary of Requirement	Proposed	Complies
State Environmental Planning Policy No. 1 – Development Standards	SEPP No. 1 enables Council to vary the requirements of a Development Standard when compliance with that standard is unreasonable and unnecessary in the circumstances of the case.	The Development Application includes an objection under SEPP No. 1 to vary the maximum height requirements of Clause 40 of Byron Local Environmental Plan 1988. Refer to discussion within Issues Section below.	Refer to discussion within Issues Section below.
State Environmental Planning Policy (Infrastructure) 2007	Schedule 3 of this SEPP lists development that is defined as 'Traffic Generating Development' that is required to be referred to the RTA.	The proposal was referred to the RTA as per Section 2.1 of this report.	Yes

State Environmental Planning Policy No. 55 – Remediation of Lands	<p>The Council must:</p> <p>(a) consider whether the land is contaminated; and</p> <p>(b) if the land is contaminated, if the land is suitable in its contaminated state or after remediation; and</p> <p>(c) be satisfied before the land is used.</p> <p>Where a change of use is proposed the Council must consider a report provided by the applicant specifying the findings of a preliminary investigation (and detailed investigation if necessary) of the land in accordance with the contaminated land planning guidelines.</p>	<p>Illustration 2.3 of the Statement of Environmental effects shows that the final ground levels will be 4.7 to 5.8m AHD and refers to these as 'existing site levels'. However, during the joint site inspection on 24 May 2011 it was noted that about one-quarter of the site is covered with fill to a depth of over a metre (north-eastern area). An inspection of the site of 23 November 2011 found that filling and earthworks were still being carried out. As such, the applicant cannot actually confirm the site (ie fill) is clean (ie not contaminated). It is recommended that conditions be attached requiring confirmation that the fill is classified as 'clean' (and so the site is suitable for its intended use) prior to issuing of the Construction Certificate.</p>	Yes
State Environmental Planning Policy No. 71 – Coastal Protection	<p>Council must have regard for the following aims of SEPP No. 71 for development within the Coastal Zone:</p> <ul style="list-style-type: none"> – to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, 	<p>The proposal has minimal impact on the natural, cultural, recreational and economic attributes of the New South Wales coast.</p>	Yes
	<ul style="list-style-type: none"> – to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, 	<p>The proposal does not detrimentally impact on the amenity of the coastal foreshore.</p>	Yes
	<ul style="list-style-type: none"> – to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, 	<p>The site does not present any opportunities for increased access to the foreshore.</p>	Yes

	– to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge,	Given the previous filling activities on the site, the proposal is unlikely to adversely impact on aboriginal heritage.	Yes
	– to ensure that the visual amenity of the coast is protected,	The proposal does not have an adverse impact on the scenic qualities of the coast.	Yes
	– to protect and preserve beach environments and beach amenity,	The proposal does not have an adverse impact on beach environments or amenity.	Yes
	– to protect and preserve native coastal vegetation,	The subject site is located on the outer perimeter of an urban area that has previously been cleared of native coastal vegetation,	Yes
	– to protect and preserve the marine environment of New South Wales,	The proposal does not have an adverse impact on the marine environment.	Yes
	– to protect and preserve rock platforms,	The proposal does not have an adverse impact on rock platforms.	Yes
	– to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the <u>Protection of the Environment Administration Act 1991</u>),	The principles of ecologically sustainable development are used during the assessment of any Development Application under Byron Local Environmental Plan 1988.	Yes
	– to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area,	The type, bulk, scale and size of the proposed development has been assessed as satisfactory under the provisions of Byron Local Environmental Plan 1988 and Development Control Plan No. 20.	Yes
	– to encourage a strategic approach to coastal management.	The proposal has been designed with regard to the existing strategic planning framework.	Yes
	Council must have regard for the matters of consideration under Part 2 when assessing development within the coastal zone. These matters include:		

<ul style="list-style-type: none"> - retention of existing public access to the coastal foreshore, 	The proposal does not impact on access to the coastal foreshore.	Yes
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	– opportunities to provide new public access to and along the coastal foreshore,	The site does not present any opportunities for increased access to the foreshore.	Yes
	– the suitability of development given its type, location and design and its relationship with the surrounding area,	As stated above, the type, bulk, scale and size of the proposed development has been assessed under the provisions of Byron Local Environmental Plan 1988 and Development Control Plan No. 20.	Yes
	– any detrimental impact on the amenity of the coastal foreshore, including significant overshadowing or loss of views to the coastal foreshore from a public place,	The proposal does not detrimentally impact on the amenity of the coastal foreshore. Nor does it result in significant overshadowing or loss of views of the foreshore from a public place.	Yes
	– the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	The proposal does not have an adverse impact on the scenic qualities of the NSW coast.	Yes
	– measures to conserve animals and plants within the Threatened Species Conservation Act and their habitats,	Council's Ecologist assessed the proposal and made recommendations for measures to be undertaken to conserve animals and plants. These have been included as conditions of consent.	Yes
	– measures to conserve fish and marine vegetation within the Fisheries Management Act and their habitats,	The proposal does not require direct measures to be undertaken to conserve fish and marine vegetation other than standard pollution controls applicable during construction and use of the development.	Yes
	– the impact of the development on wildlife corridors,	The subject site is located on the edge of a mapped wildlife corridor, however the majority of the site has previously been cleared and filled. Council's Ecologist considered the impacts of the proposal on flora and fauna as being satisfactory in this regard.	Yes

	– the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,	The site is located over 900m from the coastline and is not under immediate threat from coastal processes and hazards.	Yes
	– measures to reduce the potential conflict between land based and water based coastal activities,	The proposal does not require direct measures to be undertaken to reduce potential land and water based conflicts.	Yes
	– measures to protect aboriginal heritage,	A cultural heritage assessment was submitted with the Development Application. The proposal is unlikely to adversely impact on aboriginal heritage given the extent of disturbance already over the site.	Yes
	– likely impacts on water quality of coastal waterbodies.	Adequate conditions of consent have been recommended to ensure these requirements are met.	Yes
	– the conservation and preservation of items of heritage, archaeological or historic significance,	The proposal is unlikely to adversely impact on items of heritage, archaeological or historic significance.	Yes
	– the cumulative impacts of the proposed development on the environment, and	The proposal is not likely to result in significant cumulative impacts.	Yes
	– measures to ensure that water and energy usage by the proposed development is efficient.	The proposal includes BASIX Certificates demonstrating compliance with NSW energy efficient home requirements.	Yes
North Coast Regional Environmental Plan (NCREP) 1988.	Development proposals must be consistent with the provisions of the North Coast REP 1988. The relevant provisions are listed below:	The proposed development is minor in nature in a Regional context and does not compromise the objectives of the North Coast REP.	Yes
Clause 32B(3) – Coastal Lands	The council must not consent to the carrying out of development which would impede public access to the foreshore.	The proposal will not impede public access to the coastal foreshore.	Yes

Clause 32B(4) – Coastal Lands	The council must not consent to the carrying out of development on urban land at Byron Bay, if carrying out the development would result in beaches or adjacent open space being overshadowed before 3pm midwinter (standard time) or 6.30pm midsummer (daylight saving time).	The proposal will not result in overshadowing as described.	Yes
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004	BASIX Certificates required for new dwelling development.	BASIX Certificates provided within Appendix J of Statement of Environmental Effects.	Yes
Building Code of Australia	The proposal must be capable of compliance with the structural and safety requirements of the Building Code of Australia.	The proposed development has been designed so that it is generally capable of compliance with the structural and safety requirements of the BCA. A condition is included in any consent issued to ensure the BCA requirements are met.	Yes
Demolition	All demolition to be carried out in accordance with AS2601 and WorkCover requirements.	No demolition is proposed.	Yes

Issues discussed below

State/Regional Planning Policies and instruments – Issues

State Environmental Planning Policy No. 1 – Development Standards

The proposed development includes the construction of two storey buildings throughout the site. Approval has been granted under Development Consent No. 10.2008.360 to fill the site. A construction Certificate has been issued for these filling works and they have been partially completed. Clause 40 of Byron Local Environmental Plan 1988 provides that in the 2(v) Village and 4(a) Industrial zones, a maximum height of 4.5 metres to the topmost floor level and 9.0 metres topmost part of the building applies to all buildings. These height requirements apply to the 'existing ground level', ie. the level of the ground at the time of determination of a Development Application.

A number of the proposed two storey buildings exceed the maximum height requirements of Clause 40 when measuring to the ground level before filling. All but six of the proposed buildings comply with the maximum requirements after filling works have been completed. An inspection of the site on 23 November 2011 found that extensive filling works had been undertaken across the site, with some stockpiles still yet to be spread. The Applicant prepared an objection under SEPP No. 1 with the original Development Application to vary the requirements of Clause 40 for the six buildings that exceed the overall height requirement.

The SEPP 1 Objection includes the following table detailing the extent of encroachments into the maximum 9.0 metre height limit over the site:

Building No.*	Encroachment above 9.0 m peak height
C1	225 mm

C3	235 mm
C4	235 mm
C5	260 mm
C6	260 mm
C7	370 mm

*Building numbers are shown on Plan 0291 AR 01 A.

The SEPP 1 objection states:

“The encroachments are very minor and are associated with clerestory roof sections, which all [sic] natural light and ventilation for the buildings, contributing strongly to lower energy demand. The main roof sections for all these buildings comply with the height requirements.”

“The intent of the height control is to regulate the bulk and scale of buildings, particularly how they relate to adjoining roads and adjoining land. In the subject case, the clerestory sections of the roofs of these commercial buildings forms a relatively small component of each structure. Their contribution to the bulk and scale of the buildings is very minor.”

To approve an objection under State Environmental Planning Policy No. 1, Council must be satisfied that the objection is well founded and that granting consent to the Development Application is consistent with the aims of the SEPP. For an objection to be well founded, it must demonstrate that compliance with the standard is unreasonable and unnecessary in the circumstances of the case. The aim/objective of SEPP 1 is to provide flexibility to a development standard where strict compliance with the standard would tend to hinder the attainment of the objects specified within Section 5(a)(i) and (ii) of the EP&A Act 1979.

An assessment of the SEPP 1 provided with the Development Application does not demonstrate that compliance with the standard is unreasonable and unnecessary. Nor does it address the objects specified within Section 5(a)(i) and (ii) of Act. The objection is not well founded and is not supported. It is recommended that a condition is included within the development consent requiring Buildings C1, C3, C4, C5, C6 & C7 to be modified to meet the maximum overall height requirement of 9.0 metres. This could be achieved by lowering the floor to ceiling heights of either the first or second floors of the buildings (or both).

State Environmental Planning Policy No. 71 – Coastal Protection

Clause 18(1) of State Environmental Planning Policy No. 71 – Coastal Protection provides that a Master Plan adopted by the Minister is required for certain development listed within SEPP No. 71 unless the requirement for such is waived. In correspondence dated 5 February 2009, the Department of Planning advised that a development control plan rather than a Master Plan is required under SEPP No. 71 (Schedule 6 Clause 95 of the Environmental Planning and Assessment Act 1979 provides that any requirement of an Environmental Planning Instrument to require a Master Plan is to be construed as requiring a development control plan under section 74D of the Act). Further, the Department of Planning advised that *“pursuant to clause 18(2) of SEPP 71, the need for a development control plan has been waived in this instance”*. In any case, a site specific development control plan has been adopted for the subject lands, being DCP No. 20 – Bayshore Village Byron Bay (Lot 3 DP 1004514), which has now been incorporated in to DCP 2010 as Chapter 20 and is assessed within the following sections of this report.

3.2. BYRON LOCAL ENVIRONMENTAL PLAN 1988

Zone: 4(a) Industrial Zone and 2(v) Village Zone

Definitions: Commercial premises, shop, industry, restaurant, dwelling, dwelling-house, residential flat building

LEP Requirement	Summary of Requirement	Proposed	Complies
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Meets objectives of 2(v) Village Zone	(a) to make provision for certain suitable lands to be used for small rural village purposes or integrated newly developing residential neighbourhoods;	The proposed development itself comprises an integrated residential neighbourhood. It includes commercial, industrial, retail and residential uses that will contribute to economic growth and employment opportunities in the area. It will be compatible with the existing retail, industrial, tourist and residential uses in the locality.	Yes
	(b) to encourage a range of housing types in appropriate locations;	The proposed development provides unique live/work housing opportunities including a total of 68 dwellings ranging in size and bedrooms. The 2(v) Village zone provides an appropriate location for these dwellings.	Yes
	(c) to enable development for retail commercial and service purposes for the local and nearby rural community in appropriate locations within the zone where the scale and type of development is compatible with living areas;	The proposed development includes a mix of retail, commercial and creative industry uses within the 2(v) Village Zone. As the site is located on the outer edge of the Byron Bay urban area, it is not likely to serve a rural community in the same way a village centre like Federal would. However, the development will serve the local communities of Byron Bay and Ewingsdale. But largely it will provide retail, commercial and creative industries for its own population, which comprises nearly 70 dwellings. The site of the development has been identified as an appropriate location for the proposed land uses via Chapter 20 of DCP 2010. This DCP has also prescribed a desirable development scale and type that is compatible with living areas. The proposal generally meets the DCP requirements in this regard.	Yes

	(d) to ensure that development does not take place unless adequate provision is made for water supply and sewerage disposal, and the likely impact of the development on the locality has been considered;	The proposal includes adequate provision for water supply and sewerage disposal. The likely impacts of the development are assessed as being satisfactory within this Planning Report.	Yes
	(e) to ensure by means of a development control plan the location, form, character and density of permissible development;	Chapter 20 of DCP 2010 sets out the provisions for the location, form, character and density of permissible development. The proposal generally meets these requirements as discussed within Section 3.3 of this Planning Report.	Yes
	(f) to ensure that new development retains and enhances the existing village character or proposed residential neighbourhood character;	The proposal comprises one of the first forms of development within the 2(v) Village Zone in this locality. As such, no village character currently exists. However, the proposal comprises a mix of residential, commercial, retail and creative industrial uses that reflect the character of surrounding land uses.	Yes
Meets objectives of 4(a) Industrial Zone	(a) to set aside certain land for the purposes of industry within convenient distances of the urban centres of the Shire of Byron and with good access to arterial roads;	The site meets this criteria.	Yes
	(b) to enable certain forms of development compatible with or ancillary to the industrial uses of the land;	The proposed land uses are consistent with the development control plan for the site and are compatible with one another.	Yes
	(c) to allow detailed provision to be made, by means of a development control plan, to set aside specific areas within the zone for different industry types and intensities of development;	The proposal is generally consistent with Development Control Plan 2010 Chapter 20 – Bayshore Village.	Yes

	(d) to ensure industrial development creates areas which are pleasant to work in, safe and efficient in terms of transportation, land utilisation and service distribution; and	The light industrial component of the Bayshore Village development has been designed so that it is pedestrian friendly, with access to transportation and services. The layout is safe and efficient for the mix of uses proposed.	Yes
	(e) to permit tourist facilities where it can be demonstrated that the development is ancillary to the industrial use of the land.	No tourist facilities are proposed within the 4(a) Zoned areas of the allotment.	Yes
Permissible uses	<p>dwelling means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.</p> <p>dwelling-house means a building or buildings containing one but not more than one dwelling.</p> <p>residential flat building means a building which contains 3 or more dwellings.</p>	<p>The land use table for the 2(v) Zone provides that dwellings, dwelling-houses and residential flat buildings are permissible land uses with the consent of Council in the zone.</p> <p>The proposal includes 68 dwellings, some of which are contained within individual buildings (defined as dwelling-houses) and others that are contained within multi dwelling buildings (defined as residential flat buildings). Subsequently, the proposed dwellings are permissible uses with the consent of Council within the zone.</p>	Yes
	commercial premises means a building or place used as an office of for other business or commercial purposes, but (in the table to clause 9) does not include a building or place used for a purpose elsewhere specifically defined in this Dictionary.	The proposal includes professional suites and offices located within the 2(v) Zone. These uses are defined as commercial premises within Byron LEP 1988. Commercial premises are permissible with the consent of Council within the 2(v) Zone.	Yes

	<p>light industry means an industry, not being an offensive or hazardous industry, in which the processes carried on, the transportation involved or the machinery or materials used to not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.</p>	<p>The proposal includes four light industrial buildings located within the 4(a) Zone and partly within the 2(v) Zone on the site. Industry and light industry are permissible land uses with the consent of Council within both the 2(v) Zone and 4(a) Zone.</p>	<p>Yes</p>
	<p>industry means any handicraft or process in or incidental to the making, assembling, altering, repairing, renovating, preparing, ornamenting, finishing, cleaning, washing, breaking up, or adapting of any goods or any articles or any part of an article for trade or sale or gain, or as ancillary to any business, but does not include an extractive industry.</p>	<p>As above.</p>	<p>Yes</p>
	<p>recreation facility means a building or place used for indoor recreation, a billiard saloon, table tennis centre, squash court, swimming pool, gymnasium, health studio, bowling alley, fun parlour or any other building of a like character used for recreation and whether used for the purpose of gain or not, but (in the table to clause 9) does not include a place of assembly.</p>	<p>The proposal includes a health spa, a pool, barbecue areas and a table tennis area, located within the 2(v) Zone. Such uses are defined as a recreation facility within Byron LEP 1988. Recreation facilities are permissible with the consent of Council within the 2(v) Zone.</p>	<p>Yes</p>

	<p>restaurant means premises in which food or beverages (or both) are supplied for sale to the public for consumption on the premises.</p>	<p>The proposal includes a canteen located within the 2(v) Zone and a café within the 4(a) Industrial Zone. Such uses are defined as a restaurant within Byron LEP 1988. Restaurants are permissible with the consent of Council within the 2(v) and the 4(a) Zones. However, details of the café within the 4(a) zone were not provided with the Development Application (such as floor plan and car parking) and this component of the development is not supported.</p>	Yes
	<p>shop means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials, but (in the table to clause 9) does not include a building or place elsewhere specifically defined in this Dictionary, or a building or place used for a purpose elsewhere specifically defined in this Dictionary.</p>	<p>The proposal includes retail spaces located within the 2(v) Zone. These retail spaces are defined as shops within Byron LEP 1988. Shops are permissible with the consent of Council within the 2(v) Zone.</p>	Yes
Clause 24 – Development of flood liable land	<p>Council must be satisfied that:</p> <ul style="list-style-type: none"> – flow characteristics of flood waters are not restricted; – the level of flooding is not increased; – any building or work is capable of withstanding flooding; – the building is adequately flood proofed; and – adequate arrangements are made for access to the building or work during a flood 	<p>1% AEP Flood Level = 2.6m AHD</p> <p>Minimum Floor Level = 4.1m AHD (climate change resolution 07-757)</p> <p>1% AEP Flood Velocity = not applicable</p> <p>Level of Land = 4.6-5.9m AHD after filling</p> <p>Lowest Habitable Floor Level = 5.4m AHD</p> <p>Flood Hazard = N/A</p> <p>Impact of Flood Levels/ Flood Plain = N/A</p>	Yes

Clause 40 – Height of buildings	The height and scale of the development must be appropriate to its location, surrounding development and the environmental characteristics of the land. In the 2(v) and 4(a) zones a maximum height of 4.5 metres to the topmost floor level and 9.0 metres topmost part of the building above existing ground level applies.	As the Development Application includes filling of the site, the proposed buildings will exceed the requirements of Clause 40. An objection under SEPP No. 1 has been received to vary these requirements. This is discussed within Section 3.1 of this Planning Report.	No*
Clause 45 – Provision of Services	Prior adequate arrangements must be made for the provision of services to the allotment.	The allotment has access to Council's water and sewer services. Sewer: Adequate arrangements have been made for the provision of sewerage services to the allotment to accommodate the proposed use. Water: Adequate arrangements have been made for water services to the allotment. Drainage: Subject to conditions of consent adequate arrangements can be made for the provision of drainage services.	Yes
Clause 52 – Tree Preservation	A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation covered by the tree preservation order without the consent of Council.	The site of the proposed development is largely devoid of significant vegetation and has been filled in recent months to enable the proposed development to be carried out. Vegetation removal was assessed by Council's Ecologist and has been supported subject to conditions as discussed within Section 3.4 of this report.	Yes

Clause 63 - Development on land identified on the Acid Sulfate Soils Planning Map	The subject site contains Class 3 Potential Acid Sulfate Soils. Clause 63 provides that a person must not carry out works beyond 1 metre below the natural ground surface or lower the water table by 1 metre below the natural ground surface without the consent of Council.	Information provided by Geolink dated 15 June 2011 in relation to the Council's information request dated 1 June 2011 demonstrates that the deepest elevation (in relation to 'threshold' depth of 1.7m) and confirms that there will be no need to excavate below the threshold depth. As such an Acid Sulfate management Plan is not required. Furthermore, a condition has been attached to the consent requiring that the development be in accordance with report titled 'Acid Sulfate Soils and Soil Contamination Assessment. Geolink. Ref 0291646. April 2007'. Further, given the high watertable, it would be prudent to add conditions specifying no dewatering without prior approval from Council.	Yes
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**Issues discussed below*

Byron Local Environmental Plan 1988 - Issues

No unresolved issues.

Draft EPI that is or has been placed on public exhibition and details of which have been notified to the consent authority - Issues

No draft Environmental Planning Instruments apply to the site.

3.3 DEVELOPMENT CONTROL PLAN 2010

Chapter E – Public Art

The proposal falls within the categories of development that are triggered by Chapter E of DCP 2010. Part E2 requires the following:

Development to which this Element applies must include the provision of Public Art to the value of:

- *at least 2% of the total development cost (calculated in accordance with the Environmental Planning & Assessment Regulation), or*
- *up to a maximum of \$25,000.*

The plans of the proposed development indicate that a sculpture is to be located within the main landscape courtyard within the commercial precinct of the development. No further information has been provided as to the details of the sculpture. In accordance with the Prescriptive Measures of Chapter E of DCP 2010, the following Design Selection Criteria are to be requested as a condition of consent, should consent be granted:

- Standards of excellence and innovation;*
- Relevance and appropriateness of the work in relation to its site;*
- Relevance and appropriateness of the work to Byron Shire, including the Shire's Aboriginal heritage, its particular natural environment and its diverse culture;*

- iv. Consistency with the Byron Shire Cultural Plan and Public Art Policy;
- v. Consideration of public safety, including public use of and access to the Public Art and associated space;
- vi. Consideration of maintenance and durability, including potential for vandalism;
- vii. Evidence of funding sources and satisfactory budget, including provision for ongoing maintenance; and
- viii. Evidence of Public Liability Insurance to cover construction and installation of the work.

Chapter 20 – Bayshore Village, Byron Bay

Chapter 20 - Bayshore Village, Byron Bay, was incorporated into DCP 2010 and adopted by Council on 3 March 2011. This chapter of the Development Control Plan was created exclusively for the site of the proposed development.

The subject Development Application was submitted to Council on 6 May 2011. A previous Development Application for the site was granted development consent, largely on the basis of compliance with Chapter 20. The subject Development Application differs significantly from the previous approval. As such, detailed assessment of the relevant development controls under Chapter 20 is provided below:

Part 3.2 – Land Use, Management and Environmental Assessment

Element Objectives

1. To achieve the Desired Future Character for the site as defined by Section 2.1;
2. To facilitate the creation of a mixed use development with a diversity of housing and employment choice and optimum density that reflects the environmental capability of the site and the socio-economic and cultural context; and
3. To assess and mitigate any potential environmental impacts.

Performance Criteria

- i. Utilise the site and building layout to maximise the potential for acoustic privacy by providing adequate building separation within the development and from neighbouring buildings;
- ii. In Precinct 1, utilise front fences and walls to enable use of private open space abutting the West Byron Sewage Treatment Plant access road to provide an acoustic barrier to vehicle movements;
- iii. In mixed used development, ensure loading bays, garbage collection areas etc are located away from bedrooms and other quiet areas in the residential component;
- iv. Provide diverse dwelling types within Precincts 1, 3 & 4;
- v. Provide workspaces to be used for a home office or creative industry within Precinct 1; and
- vi. Allow for one-bedroom accommodation in association with workspaces.

Prescriptive Measures

Land Use and Density

- i. Distribute land uses across the site in accordance with the Precinct Plan (Map 2) and the consistent land uses and densities outlined in Table 3.1; and

Comment: Refer to the compliance table provided below.

- ii. Provide for a maximum of 82 dwellings within the site.

Comment: A total of 68 dwellings are proposed within the current Development Application.

Table 3.1 - Land Uses Consistent with Desired Future Character

Precinct	Consistent Land Uses	Maximum Densities	Compliance
1 Residential Land Area:	Residential dwellings and dual occupancies Workspaces	<u>Residential</u> A maximum of 34 dwellings Dwellings to include one, two,	Yes – 34 dwellings

Precinct	Consistent Land Uses	Maximum Densities	Compliance
<p>approximately 13,391 m²</p> <p>Built Gross Floor Area 6,500m²</p>	Creative Industries	<p>three or four bedrooms,</p> <p>Up to and including 17 of the 34 dwellings may be provided as one-bedroom detached dwellings located in association with a larger (two, three or four bedroom) dwelling</p> <p><u>Workspaces</u></p> <p>Individual workspaces may be provided in association with either the 1 bedroom dwellings or the larger dwellings</p> <p>Individual workspaces in Precinct 1 should not exceed 50m² in floor area</p>	<p>No – 5 bedrooms</p> <p>Yes – 0 single bedrooms</p> <p>Yes – workspaces provided for all 34 dwellings within this precinct</p> <p>Yes</p> <p>Plans 0291 AR 27 – 43 demonstrate a Gross Floor Area of 6,414m² subject to the verandahs not being included (refer to comments within Issues Section below)</p>
<p>2</p> <p>Light Industry</p> <p>Land Area: approximately 4,570 m²</p> <p>Built Gross Floor Area 3,500m²</p>	Creative or light industry, with shared common area, amenities and café facilities	A maximum total light industrial floor space of 3,500m ²	Yes - Plans 0291 AR 18 & 19B demonstrate a Gross Floor Area of 3,234m ² .
<p>3</p> <p>Live / Work</p> <p>Land Area: approximately 3,768 m²</p> <p>Built Gross Floor Area 3,500m²</p>	<p>Residential dwellings</p> <p>Workspaces</p> <p>Creative Industries</p>	<p><u>Residential</u></p> <p>32 dwellings maximum</p> <p>One-bedroom dwellings only</p> <p>Each to be physically attached to an individual workspace</p> <p><u>Workspaces</u></p> <p>Average of 60m² floor area per dwelling</p> <p>Total maximum of 3,500m² floor area</p>	<p>Yes – 24 dwellings</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes - Plans 0291 AR 25 – 26 demonstrate a Gross Floor Area of 3,465m².</p>
4	Retail, commercial,	<u>Retail</u>	

Precinct	Consistent Land Uses	Maximum Densities	Compliance
Mixed Use Land Area: approximately 10,844 m ² Built Gross Floor Area 6,500m ²	residential (only associated with a commercial use), café, health spa Community facilities, such as a multi purpose community building Common area including recreational facilities and pool	Maximum total floor space 2,400m ² <u>Commercial</u> Maximum total floor space 2,400m ² <u>Residential</u> A maximum of 16 residential units may be provided in this area, provided that each is attached to and integral with commercial uses <u>Café</u> Maximum floor space of 300m ² <u>Health Spa</u> Maximum floor space of 800m ² <u>Community / Recreational facilities</u> Minimum area of 125m ²	Yes - 2,262m ² . Yes - 2,287m ² Yes – 10 dwellings all with a 'commercial office' at ground floor facing street Yes Yes Yes Plans 0291 AR 02 B & 03 B demonstrate a total Gross Floor Area of 6,245m ² .
5 Ecological (Land Area Approximately 2,967m ²)	Ecological Enhancement	No buildings allowed	Yes – Plan 0291 AR 01 D demonstrates an area of 2,983m ² .

Planning Issues

Maximum Gross Floor Area

Plans were submitted to demonstrate that the gross floor area of the residential component of the development (Precinct 1) does not exceed the maximum 6,500m² requirement. With a Gross Floor Area of 6,414m², the proposal meets this requirement. However, the calculations provided by the Applicant do not include the verandah areas within Dwelling Types D7, D7A, D8, D8A, 8B, D9, D9A, D10 & D10A that are covered by a roof (which fall within the definition of gross floor area under Byron Local Environmental Plan 1988). In order to achieve compliance with the maximum gross floor area requirement, it is recommended that a condition be included in the development consent requiring the verandah areas to remain unroofed.

Maximum bedroom numbers

One of the proposed dwellings within the Residential Precinct exceeds the maximum number of bedrooms as required under the DCP. The DCP allows for a maximum of 4 bedrooms. Dwelling Type D1 includes 5. This minor inconsistency is not an issue given that the maximum gross floor area (discussed above) can be complied with.

Density, Residential Amenity and Character of the Proposed Development

Primary concerns raised with the Applicant during the assessment of the Development Application were the density and character of the proposed development. At first glance it was apparent that the proposed density of the development on the site was far greater than that allowable under the standard controls within DCP 2010. The overall site plan appears to be dominated by tightly arranged buildings with an imbalance of open space. However, the subject site is provided with its own Chapter within the DCP which provides prescriptive measures for density within this development.

Part 3.2 of Chapter 20 sets out the maximum built gross floor area requirements for each precinct within the development. The following table demonstrates compliance with these maximum requirements:

Precinct	Maximum Built Gross Floor Area	Proposed Built Gross Floor Area
1 - Residential	6,500m ²	6,414m ²
2 - Light Industry	3,500m ²	3,234m ²
3 - Live / Work	3,500m ²	3,465m ²
4 - Mixed Use	6,500m ²	6,245m ²
5 - Ecological	(minimum 2,967m ²)	(2,983m ²)

Further concerns were raised with the Applicant with respect to the residential amenity and character of the development, particularly the lack of variety in the dwelling types proposed within the Residential Precinct and the terrace type housing proposed within the Live/Work Precinct and the north-western corner of the Mixed Use Precinct. In response, the Applicant provided amended plans to reconfigure the Live/Work Precinct so that it is generally that same as that approved within Development Consent No. 10.2008.360.1. In addition, a number of new dwelling types were provided to add variety to Precinct 1.

The proposed changes have increased variety within the development. Planning concerns remain with respect to the residential amenity of the development. In this regard, the density of the development with little or no separation distances between dwellings and limited open space within the development will potentially result in amenity impacts (such as privacy, noise, access to open space) for future residents. However, as the proposal aligns with the maximum Built Gross Floor Area provisions within Chapter 20 of DCP 2010, and achieves the minimum open space requirements, it is apparent that the development proposed meets the desired density for the site. Residential amenity is somewhat established by the density of development. Accordingly in this case, it is apparent that the proposed development will result in a residential amenity that is acceptable under the development control plan.

Table 3.2 - Setbacks

Land Use	Minimum Setback	Distance (m)	Compliance
Dwellings (Precinct 1)	External road	6	Yes
	Internal Lanes (indicative roads C and D on Map 2)	0m for laneway workspaces or garages; 3m for detached dwellings	Yes : 0m for garage/workspace Yes : 3m for dwelling component
	Other internal roads	3	No*
	Adjoining buildings	0	Yes
Industrial (Precincts 2, 3)	External Property (lot) Boundary	20	Yes
	Internal roads	2	Yes
Mixed Use (Precinct 4)	Bayshore Drive:	7	Yes : 7m
	Sewage Treatment Plant access road:	4	No*

	Internal Roads:	0	Yes : >0m
Buffering	<ul style="list-style-type: none">• Provide a minimum of 20m setback between dwellings and the western and north-western site boundaries, where these adjoin the adjacent Wallum frog habitats;• Provide a minimum of 5m setback between dwellings and the internal boundary between Precincts 1 and 5, located in the north-western corner of the site;• For industrial uses within Precinct 2, a provide a minimum of a 2 metre vegetated area between buildings and between buildings and internal road A (see Map 2); and• Provide buffering from the Byron Bay Sewerage Treatment Works in the form of a minimum 20m buffer along the north western boundary of the site (this acknowledges the buffer provided in the original subdivision of the land, by the creation of Lot 1 DP 1004514).	<div>Yes : 20m</div> <div>Yes : 5m</div> <div>No : Condition</div> <div>Yes</div>	

Planning Issues

Setbacks

The proposed development has generally been designed to meet the minimum setbacks outlined within Table 3.2. However, a number of non-compliances occur within the Residential Precinct and the Mixed Use Precinct. The site specific DCP provisions require buildings within the Residential Precinct to have a minimum 3m setback to internal roads (other than lanes C and D on the DCP map). The proposal achieves this requirement with the exception of three dwellings that are proposed on corner lots fronting 'Alphabet Street' that provide a zero setback. It is recommended that a condition be included within the development consent to remove the building element nominated as 'WKSP' on the ground floor of dwelling types D3 and D8. This will provide a setback of 2 metres to 'Alphabet Street', which is 1 metre short of the DCP requirement. To achieve a similar result, it is recommended that the building element nominated as 'WKSP' on the ground floor of dwelling type D5 also be removed. This will provide a setback of 1.55 metres to 'Alphabet Street', which is 1.45 metres short of the DCP requirement. Although the minimum 3.0 metre requirement will not be achieved, a variation is acceptable as this setback applies to an internal road (not a public road reserve).

The DCP requires a minimum 6 metre setback to the STP road within the residential precinct, however Dwelling Type D10A is proposed along this frontage and has a roof structure on the ground floor that encroaches into the 6 metre setback. A condition is recommended to remove this roof.

Development within the Mixed Use Precinct is required to be setback 4 metres from the Sewage Treatment Plant Access Road. The plans submitted indicate that Dwelling Type A3 will have frontage to this road, but will have a zero setback. It is recommended that a condition is included within the consent to reconfigure the building containing Dwelling Types A1, A2 and A3 with frontage to the STP Road such that a 4 metre setback is achieved in line with the DCP provisions. This will result in the deletion of one of the dwellings nominated as Dwelling A2.

Conditions can also be used to clarify any other non-compliances.

Buffering

Chapter 20 of DCP 2010 requires that industrial uses within Precinct 2 be provided with a minimum of a 2 metre vegetated area between buildings, and between buildings and internal Road A. The plans provided show a vegetated strip between the buildings and 'Alphabet Street', but have inadequate landscaping between the buildings. Conditions can be added to the development consent to meet these requirements.

Element 3.3 – Car Parking

Precinct 1 – Residential (Neighbourhood Lots 1 to 17)

Car Spaces Required:

34 large dwellings @ 2 spaces / dwelling	=	68 car spaces
Visitor car parking @ 1 space / 4 dwellings	=	8.5 car spaces(34/4)
34 Work spaces @ 1 space / studio	=	34 car spaces
Sub total	=	110.5 car spaces

Car Spaces Proposed:

2 car spaces per dwelling @ 34 dwellings = 68 car spaces

Plus communal parking spaces

Precinct 2 – Light Industrial (Community Lot 5)

Car Spaces Required:

4 industrial buildings (3234m ²) @ 1/40m ² x 70%	=	56.6
Sub total	=	56.6 car spaces

Car Spaces Proposed:

Car spaces within CT Lot = 5 car spaces

Plus communal parking spaces

Precinct 3 – Live-Work Area (Community Lot 4)

Car Spaces Required:

24 small dwellings @ 1.5 spaces / dwelling	=	36 car spaces
Visitor car parking @ 1 space / 4 dwellings	=	6 car spaces
24 work spaces @ 1 space / work space	=	24 car spaces
Sub total	=	66 car spaces

Car Spaces Proposed:

Car spaces within CT Lot = 0 car spaces

Plus communal parking spaces

Precinct 4 – Mixed Use (Community Lot 2)

Car Spaces Required:

1,399m ² retail @ 1/20m ²	=	70.0 car spaces
244.5m ² canteen @ 1/20m ²	=	12.2 car spaces
662.1m ² health spa @ 1/20m ²	=	33.1 car spaces
218.9m ² home office @ 1/40m ² x 70%	=	3.8 car spaces
2,147m ² office @ 1/40m ² x 70%	=	37.6 car spaces
9 small dwellings @ 1.5 spaces / dwelling	=	13.5 car spaces
Visitor car parking @ 1 space / 4 dwellings	=	2.3 car spaces
Sub total	=	172.4 car spaces

(Note: 1 of the dwelling is to be deleted for planning reasons and as such only car parking for 9 dwellings has been calculated above.)

Car Spaces Proposed:

Car spaces within CT Lot = 18 car spaces

Plus communal parking spaces

The proposal requires a total of 406 car spaces to be provided. There are 316 parking spaces proposed in the community lot 1, 68 parking spaces in neighbourhood lots (Lots 1 to 17), 5 parking spaces in community lot 5 and 18 parking spaces in community lot 2, which provides a total of 407 car spaces. There are sufficient parking spaces proposed to service the development in accordance with table 3.3, Chapter 20 of DCP 2010.

Four (4) car spaces are shown for people with access disabilities in accordance with table 3.3, Chapter 20 of DCP 2010.

Element 3.4 - Building Design

Element Objectives

1. To achieve the Desired Future Character for the site as defined by Section 2;
2. To ensure that buildings on the site reinforce the structure of the public domain, respond to climate and local 'Byron vernacular', ensure privacy and amenity are maintained, and contribute to high environmental performance; and
3. To ensure that residential development will not significantly:
 - a) Increase the overshadowing of adjoining properties; and
 - b) Ensure that occupants of buildings will enjoy the optimum use of winter sunlight and summer shade.

Performance Criteria

- i. Provide low-rise (two storey maximum) building forms that are in proportion to street trees;
- ii. Provide rear lane vehicular access to housing sites to facilitate a coherent, safe and visually pleasing streetscape and negate the need for private hard surfaced driveways;
- iii. Provide articulation and variety in building forms and utilise screening features to facilitate visual interest, privacy and energy efficiency;
- iv. Ensure that the width and internal layout of buildings facilitates natural cross ventilation;
- v. Design entrances so that they are a clearly identifiable element of the building in the street;
- vi. Utilise durable materials and finishes;
- vii. No roof must have a highly reflective surface; any metal roof must have a colorbond or equivalent finish in a colour approved by Council. White or light coloured roofing will not be approved where likely to be intrusive;
- viii. Locate habitable rooms and open spaces away from noise sources and utilise car parking areas and zero side building setbacks to provide a buffer to noise sources;
- ix. In Precinct 1, design and construct development adjoining the West Byron Sewage Treatment Plant access road to ensure that acceptable living conditions, particularly in relation to noise and odour, within dwellings can be created;
- x. Incorporate lush vegetation to provide shade and screening; and
- xi. Orientate dwellings and design building roof and shade structures to maximise solar access into private open space areas and internal living spaces during winter months.

Prescriptive Measures

DCP requirement	Proposal	Complies
Provide details of building materials and surface colours for assessment with the development application.	Details have been provided with the proposal.	Yes
External materials should demonstrate consistency with the 'Byron vernacular' and should be light weight in appearance and can include various forms of cladding including pre-painted corrugated steel, fibrous cement, weatherboard and timber.	The proposed buildings include general elevations that meet this requirement and conditions can be included for more specific details.	Yes
Allow zero side setbacks and boundary walls to efficiently utilise the site, create an urban edge to streets, minimise building material	Prescriptive measures have been set for building setbacks as discussed in Table 3.2 above.	Refer to Table 3.2 above.

and energy usage, and enable the provision of private internal open space.		
Design buildings to ensure a minimum of 3 hours of sunshine to the living area of dwellings between 9am and 3pm mid winter.	The Applicant submitted video clips showing solar access and shadows within the living areas of each dwelling type D3-D10A. All but Types D10 and D10A meet the minimum 3 hour requirement. If the roof line on the northern side of these two dwelling types was brought back to an eave, they would achieve solar access. This would also ensure compliance with the minimum 6.0m setback to the northern boundary of the allotment. Additionally, shadow diagrams provided with the Development Application indicate that the remaining dwellings within the development meet solar access requirements.	Yes – Subject to conditions
Coordinate and integrate building services, such as drainage pipes and air conditioners, with overall façade and balcony design.	The proposal generally complies in this regard.	Yes
Coordinate security grills/ screens, ventilation louvres and carpark entry doors with the overall façade design.	The proposal generally complies in this regard.	Yes
Provide operable walls and large openings to allow for windows and doors to be opened during summer and closed in winter.	The proposal generally complies in this regard.	Yes
Incorporate mosquito mitigation devices.	The proposal generally complies in this regard.	Yes
Locate living areas with direct access to private outdoor spaces.	Proposed living areas have direct access to private outdoor spaces. In the case of the Live/Work buildings, this comprises balcony areas.	Yes
Avoid large expanses of any single material.	A mix of building materials have been used on walls.	Yes

Planning Issues

Roofing Materials

A condition is required within the consent to achieve compliance with the Performance Criteria which state “No roof must have a highly reflective surface; any metal roof must have a colorbond or equivalent finish in a colour approved by Council. White or light coloured roofing will not be approved where likely to be intrusive”.

3.5 Element - Site and Open Space Design	
DCP Requirement	Complies
Prescriptive Measures Public Open Space i. Provide a minimum of 2,000m ² of public / communal open space, with at least one central location having an area of not less than 450m ² . As part of the first development application for the site, a multi-purpose community building, with a floor area of at least 150m ² should be provided; and ii. Orientation of communal open spaces to the north with a minimum of	Yes >2000m ² of public open space Central location >450m ²

three hours of sunlight between 9am and 3pm mid winter provided to at least 50% of the communal open space area.	Community building (pool etc) >150m ²
<i>Private Open Space</i>	Orientation complies
iii. A private open space balcony must be provided for each dwelling where the residential component is not located on the ground floor (note this includes dwellings that contain a dwelling on the first floor and workspaces / office on the ground floor). Within the commercial precinct, such private open space balconies must have a minimum area of 10m ² and a minimum length and width of 2.5m. In all other precincts, the private open space balconies must have a minimum area of 15m ² and a minimum length and width of 2.5m;	Yes
iv. Private open space balconies must have appropriate orientation and adequate provision for winter sun and summer shade; and	Yes
v. Each dwelling that has residential component on the ground floor must have a minimum landscaped area of 90m ² , so located that occupants will have access to an area of private open space at natural ground level, not located in the front setback, having a minimum area of 30m ² and a minimum length and width each of 4m, excluding any area used for vehicle circulation or parking.	Yes
<i>Universal Access</i>	No* (Terrace A1-A3)
vi. Provide a minimum of one adaptable dwelling, designed in accordance with AS4299, for every 10 dwellings or part thereof;	Yes (Dwellings D1-D10A)
vii. Design facilities for disabled persons (including car parking) to comply with the <i>Australian Standard 1428 (Pt 1 and 2)</i> , the <i>Building Code of Australia</i> and the <i>Disability Discrimination Act 1992 (as amended)</i> ;	Adaptable dwellings have been nominated on the Masterplan, but further details are required as a condition of consent.
viii. Provide continuous paths of travel from all public roads and public spaces, as well as throughout the ground level internal spaces of adaptable dwellings; and	
ix. Design adaptable housing dwellings in accordance with AS 1428 Pts 1, 2 and 4 and AS 4299 Adaptable Housing.	

Planning Issues

Private Open Space

The plans indicate that each dwelling type that has a residential component on the ground floor has a minimum landscaped area of 90m² and private open space area of 30m², with the exception of Dwelling Type A2. To improve compliance in all but one of the dwellings that comprise Dwelling Type A2, it is recommended that a condition is included within the consent to remove the pathway at the rear of Dwelling Type A2 and use it as landscaped area. The pathway may be maintained behind Dwelling Types A1 and A3 to provide wheelie bin access. Only one dwelling will be required to provide wheelie bin storage at the front of the site as a result of these changes. The shortfall in open space for the single dwelling can be supported as a variation.

3.6 Element - Lot Size and Subdivision

Development consent has previously been issued for the community title subdivision of the approved mixed-use village development under DA 10.2009.12.1. Approval for subdivision is sought as part of the current application. The proposed community scheme will contain two layers. The first layer is the overarching Community Plan, creating four community development lots plus a common community property lot. The second layer will create a Neighbourhood or Precinct Plan to subdivide proposed community development lot 3, to create individual neighbourhood or precinct lots. The remaining community development lots will be further subdivided by way of strata schemes following completion of the buildings.

All of the site preparation and infrastructure work, including internal roads etc, will be completed prior to any subdivision. Following this, the first stage of subdivision will create 'development lots'.

Within the mixed-use, live / work and light industrial precincts, approved buildings would then be constructed within the development lots, with strata subdivision occurring following completion of the buildings.

Within the residential precinct, the first stage of the community-titled subdivision will create 'community lots', which will be further subdivided under subsequent Precinct and/or Neighbourhood schemes. Flexibility in this subdivision has been requested to allow 'house and land' packages to be marketed, with some structures constructed before 'final' subdivision and others after.

Conditions have been recommended to represent the above subdivision stages. No conditions have been included for strata subdivision as development consent is not required for strata subdivision of the completed buildings under clause 10(2) of Byron LEP 1988.

Table 3.4 Subdivision Standards

Precinct	Minimum Lot Size	Proposed	Complies
1	600m ²	600.8m ²	Yes
2	1000m ²	0.43ha	Yes
3	600m ²	0.34ha	Yes
4	600m ²	0.9ha	Yes
5	No Subdivision	No subdivision proposed	Yes

3.7 Element - Street Design

Refer to comments under Chapter 1 Part G of DCP 2010.

3.8 Element - Water

The proposal has been designed in accordance with Chapter 20 of the DCP with respect to Water.

3.9 Element - Ecological Enhancement

Ecological enhancement works have been carried out within the site in accordance with a previously issued development consent (No. 10.2007.177.1). The Applicant was asked to provide plans to demonstrate that approximately 2,967m² has been set aside within the development as an environmental enhancement area. It was noted that the existing rehabilitated area is below this minimum area, however the Applicant nominated lands adjoining to achieve a minimum of area of 2,983m² for environmental enhancement. It is recommended that these additional areas be landscaped as part of the site preparation stage of the development via a condition of consent.

Development Control Plan 2010

Compliance with the relevant provisions of Development Control Plan 2010 are discussed below.

Chapter 1 Part C of DCP 2010

Development Control Requirement	Proposed	Required	Compliance
Site Area (Sec. C3.5 DCP 2002)	4.921 ha	~	Yes
Frontage (Sec. C3.5 DCP 2002)	370 m	20m	Yes
Sound Proofing (Sec. C7.7 DCP 2002)			
Noise Sources Sited Away from Adjoining Properties			Yes
Sound Resisting Division Walls and Floors			Yes

Development Control Requirement		Proposed	Required	Compliance
Clothes Drying Facilities – Suitably Screened (Sec. C7.8 DCP 2002)				
Rate	7.5m line per dwelling			Condition
Area	Minimum 6m ² (or sufficient area to accommodate)			Condition
Garbage (Sec. C7.9 DCP 2002)				
Bins	Min. 1 x 240L per unit			Yes
Equity of Access & Mobility (Sec. C7.10 DCP 2002)				
1 adaptable dwelling per 10 dwellings in accordance with AS4299				Condition
Pipes and Vents (Sec. C7.11 DCP 2002)				
Concealed Within Walls / access provided				Yes
TV Antennas (Sec. C7.12 DCP 2002)				
Common Antenna or Dish System				Condition
Fence Heights (Sec. C3.6 DCP 2002)				
Front Fence	1.2m	1.2m	Condition	
Side Fence (within front building setback line)	1.2m	1.2m	Condition	
Side Fence (behind building setback)	1.8m	Max 1.8m	Condition	
Rear Fence	1.8m	Max 1.8m	Condition	

**Non-complying issues discussed below*

Part D of DCP 2002

DCP Provision	Requirement	Proposed	Complies
D2.1 – Location & Function	Ensure development is consistent with and reinforces the identified role of the centres within the commercial centres hierarchy	The subject property is not located within a town centre, however retail/commercial activities occupy land to the south-east and industrial development is located to the south. Residential development is located to the east. The proposed uses are considered to be compatible with the mixed use locality.	Yes
D2.2 – Scale & Appearance	The building design, roof profile, detailing, colours, materials, etc, that are visible from the street and adjoining properties, are to be compatible with any dominant design themes within the surrounding locality.	The development is unique in that it comprises its own 'village' on the outskirts of the Byron Bay urban area.	Yes
D2.4 – Loading Docks	Loading facilities, and vehicular access and	Refer to comments under Chapter 1 Part G of DCP	Yes

	movement must be designed in accordance with Part G of DCP 2002.	2010 below.	
D2.6 – Signs	Compatible with the character and function of business precincts & surrounding areas.	No signs are proposed.	Yes
D2.7 – Access and Facilities for People with Disabilities	Development must comply with the Australian Building Standards.	The proposed development includes elevators and accessible facilities for disabled access. A notation is to be included within the consent in relation to the Disability Discrimination Act 1992.	Yes
D2.12 – Waste Management	Waste management facilities are to be provided on-site.	Appendix F of the Statement of Environmental Effects consists of a report titled ' <i>Waste Management Strategy Bayshore Village, Byron Bay. Geolink. Report No. 291884. 14 April 2011</i> '. This report identifies the different precincts (residential, live/work, commercial, park/pool and industrial) and recommends waste storage and recycling strategies for each. The report also estimates the volumes of waste likely to be generated within each precinct and bin requirements, based on DECC guidelines (see page 5). Conditions attached referring to this report.	Yes

Development Control Plan 2010 - Issues

Chapter 1 Part G - Vehicle Circulation & Parking

External Access

The application proposes three access points to the development, a 4m wide entry only driveway from Bayshore Drive and two 6m wide combined entry/exit driveways from the STP road.

The application proposes signposting to the Bayshore Drive access driveway to facilitate the use of this driveway for service vehicles only. Internal signage is also proposed to facilitate the use as one way entry only.

The location and grades of the proposed accesses off the sewage treatment plant access road are satisfactory.

The location and grades of the proposed access off Bayshore Drive are satisfactory. However the access may be compromised by the location of an existing stay pole that supports the electricity power pole on the opposite side of the road – suitable conditions have been recommended to ensure adequate clearances are provided.

Internal Access

The internal road system is laid out in a grid network, with two feeder roads from the sewage treatment plant access road connecting to a central access road, two smaller residential access lanes and a southern perimeter road.

Internal on-street parking is proposed within the east ("Simpson St") and west ("Alphabet St") feeder roads, within the central access road ("Easy St") and along the southern perimeter road ("East Park Ave", "Central Park Ave" & "West Park Ave"). Parking is also proposed onsite for each of the dwellings, adjacent to the light industrial precinct and within the commercial precinct.

The internal road system is proposed to be maintained as private infrastructure with the owner/s of the development being responsible for the ongoing maintenance of all internal roads and parking areas.

Conditions have been recommended to ensure the access and parking arrangements comply with the minimum standards of AS 2890.1:2004 and AS 2890.2:2002.

Loading Facilities

Precinct 1 – Residential (Neighbourhood Lots 1 to 17)

Loading Bays Required:

34 dwellings @ 1 space / 50 dwellings	=	1 loading bay
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Table 3.3 Chapter 20 of DCP 2010 allows visitor parking to be used for loading if designed for dual use. There are 8.5 car spaces in the communal use parking area for visitors, some of the communal parking spaces are configured in a parallel arrangement which can be used for loading.

Precinct 2 – Light Industrial (Community Lot 5)

Loading Bays Required:

4 industrial buildings (3,234m ²) @ 1/800m ²	=	4 loading bays
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The submitted plans indicate provision for 4 loading bays, comprising loading bays to accommodate 2 small rigid vehicles and 2 medium rigid vehicles, within community lot 5. The configuration of the loading bays running parallel to the access aisle will allow larger vehicles to service these industrial units if needed.

Precinct 3 – Live-Work Area (Community Lot 4)

Loading Bays Required:

4 live work buildings (1,474m ² of workspace) @ 1/800m ²	=	2 loading bays
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The submitted plans indicate use of 2 wider car spaces in community lot 1 as loading bays for the live work units, which will accommodate deliveries by vans. The size of the workshops is not likely to generate a need for more than the occasional larger service vehicle, which can be accommodated in the parallel parking spaces in the communal parking area.

Precinct 4 – Mixed Use (Community Lot 2)

Loading Bays Required:

1,399m ² retail @ 1/400m ²	=	3.5 loading bays
245m ² canteen @ 1/400m ²	=	0.6 loading bays
662m ² health spa @ 1/400m ²	=	1.7 loading bays
2,366m ² office @ 1/400m ²	=	5.9 loading bays
Sub total	=	12 loading bays

The requirement for 12 loading bays to service the development in this precinct is considered to be excessive. Austroads (2008), Guide to Traffic Management indicates that loading bays to accommodate 2 small rigid vehicles and 3 medium rigid vehicles would be adequate to service the floor areas indicated above. A total of 5 loading bays would comply with Table G2.6 of Chapter 1 Part G of Council's DCP 2010.

The submitted plans indicate provision for 6 loading bays, comprising loading bays to accommodate 3 small rigid vehicles and 3 medium rigid vehicles, within community lots 1 & 2. The configuration of the loading bays running parallel to the access aisle will allow larger vehicles to service these units if needed.

Conditions have been recommended for the provision of:

- 4 loading bays, comprising loading bays to accommodate 2 small rigid vehicles and 2 medium rigid vehicles, for Precinct 2 – Light Industrial (Community Lot 5);
- 2 loading bays for Precinct 3 – Live-Work Area (Community Lot 4); and
- 6 loading bays, comprising loading bays to accommodate 3 small rigid vehicles and 3 medium rigid vehicles for Precinct 4 – Mixed Use (Community Lot 2)

Bicycle Facilities

There are no requirements in section 3.3 for bicycle provisions, however it is noted that the application makes provision for bicycle access and parking throughout the development.

Traffic/Roadworks

The traffic impact study submitted with the application indicates that adequate traffic facilities for the traffic anticipated to be generated by the development have been provided both within the proposed development and the surrounding road network subject to the following recommendations:

- Site frontages to Bayshore Drive and the STP Road are to be upgraded to provide for Bayshore Drive to be a minimum 9 m wide pavement with concrete edge restraint and the STP Road to be a minimum 7 m wide pavement with concrete edge restraint.
- The intersection of the STP Road and Bayshore Drive to be designed in accordance with Austroads "Guide to Traffic Engineering Practice, Part 5-Intersections at Grade".
- Extension of the left-turn queue lane at Bayshore Drive / Ewingsdale Road intersection by adjusting the existing lane markings, as shown on 0291 EN 306.
- Line marking on Bayshore Drive to be remarked.
- Existing street plantings at STP Road / Bayshore Drive intersection be replaced with low growing species.
- Construction of a pedestrian refuge on Bayshore Drive within the frontage of the subject property.

The submitted traffic impact study has assessed the traffic generation for the subject application to be in the order of 127 vehicle trips per hour and 1,267 vehicle trips per day. The traffic generation estimate has been updated, by the applicant, to correct gross floor areas following a review of the submitted plans (Geolink letter dated 3 November 2011), which provides the following traffic generation estimates:

- 131 vehicle trips per hour using rates from Geolink traffic report;
- 196 vehicle trips per hour using rates by John Coady report of March 2008; and

The submitted traffic reports suggest that the calculated traffic generation for the subject development will be less than the estimation for the previously approved development and that Council's previous conclusion that the development will not result in significant traffic impacts remains valid for the current proposal.

The traffic generation that was assessed by John Coady Consulting Pty Ltd (applicants consultant) and Council for the existing approved development (DA 10.2008.360.1) were as follows:

- 173 vehicle trips per hour by John Coady report of March 2008; and
- 205 vehicle trips per hour by Council report of December 2008.

An assessment of the traffic generation for the current proposal using the rates from the Council report of December 2008 yields an estimated traffic generation of 233 vehicle trips per hour and 1,774 vehicle trips per day (refer #1146995 for spreadsheet calculations).

Accordingly, the current proposal is likely to be in the order of 23 to 28 vehicle trips per hour more than the estimation for the previously approved development when comparing estimates using the same rates (ie. comparing apples with apples) as indicated in the following table:

Assessment using rates by:	Previous Proposal DA 10.2008.360.1	Current Proposal DA 10.2011.162.1	Difference
John Coady Cons. P/L	173 vtph	204 vtph	+ 31 vtph
Council	205 vtph	236 vtph	+ 31 vtph

The additional external traffic generation potential of 31 vehicle trips per hour is a relatively minor additional traffic demand on the road network that would not normally be associated with an unacceptable traffic impact. It is also noted that John Coady Consulting provided further intersection analysis for an additional 45 vtph for the previous proposal, which resulted in a satisfactory operating performance of the assessed intersections (Bayshore Drive with STP road and Bayshore Drive with Ewingsdale Road) under post-development traffic demand.

The recommendations of the submitted traffic impact study are consistent with the recommendations for the previous proposal, however the extension of the left-turn queue lane at Bayshore Drive / Ewingsdale Road intersection by adjusting the existing lane markings may be problematic when having regard to the bus stop at the frontage to the Ozigo service station. There appears to be sufficient room to provide an indented bus bay in the road reserve with minimal road works and disturbance to existing infrastructure. There is scope to provide the extension to the left-turn queue lane by adjusting the kerb alignment on the eastern side opposite the service station, notwithstanding the costs associated with relocation of services such as power poles.

The application was referred to the RTA in accordance with SEPP (infrastructure) 2007 requirements. The RTA advised, by letter dated 15 June 2011, to refer the application to Council's Development Committee (ie Local Traffic Committee). The Local Traffic Committee recommended the following at its meeting of 28 September 2011:

- The length of the two lanes on east side of Bayshore Drive be extended to operate between the intersections at Grevillea Street and Ewingsdale Road.
- The Bayshore Dve bus stop between the intersections at Grevillea Street and Ewingsdale Road be retained, if necessary via an indented bus bay.

Conditions have been recommended for the above and to ensure that any regulatory controls are submitted to Local Traffic Committee for approval prior to issue of construction certificate.

Chapter 1 Part N – Stormwater Management

Surface levels and existing drainage infrastructure in the area indicate that the subject site lies at the top of a stormwater drainage catchment. The access road to the West Byron sewage treatment plant lies on the north eastern boundary of the site, this road is the dividing line between two stormwater catchments. The northern of these two catchments drains north into an open drain that flows east along the north coast railway line and thence into Belongil Creek. The southern catchment drains south across the site and thence into Belongil Creek via wetlands and a number of open drains.

Works have commenced for the filling of the site, in accordance with the bulk earthworks approved under DA 2008.360.1 and recently issued Construction Certificate 11.2008.360.1. Surface levels on the filled site will range between 4.6 m AHD and 5.9 m AHD.

Prior to filling, the predominantly flat topography of the site created a poorly defined surface drainage pattern that increased infiltration and deep drainage to the water table. Stormwater runoff only occurred after heavy and prolonged rainfall had caused the soil to become saturated and the small depressions on the site to fill and overtop. Groundwater was typically found within one metre of the natural surface. After prolonged rainfall that typically occurs during the wet season, the water table could rise to the surface. Under these conditions, the runoff co-efficient for the area approached unity. Modelling of the water balance on the pre-filled site hydrology indicated this surface runoff volume equated to only 10% of the rain that falls on the site, whereas, approximately 45% of the rainfall on the site was lost by deep percolation into the groundwater, and the remaining 45% was lost by evapo-transpiration.

Wetlands occur within the low lying areas surrounding the site and interface directly with the groundwater, providing a habitat for threatened species such as the Wallum Froglet. These wetlands are groundwater dependent and typically occupy swales and depressions that intersect the water table. Maintaining the hydrological balance of the surrounding wetlands is an important objective of the integrated water cycle plan for the site. In this regard, the proposed pervious areas of the site will be filled to an average depth of about one metre using soil with similar characteristics to the existing soils on the site. This imported soil serves as a “sponge” to absorb (and subsequently infiltrate) the additional run-off generated by the impervious surfaces that will be developed on the site. This is an important function because the fill, along with the proposed infiltration devices described below, effectively replaces the natural depressions on the prefilled site, which acted as a reservoir to hold rainwater and allow subsequent infiltration into the groundwater.

The application proposes the following water sensitive urban design (WSUD) measures for the management of stormwater runoff from the site:

- rainwater tanks to collect roof runoff water for reuse;
- infiltration trenches to accept overflow from the rainwater tanks;
- vegetated swales to convey stormwater, limit peak discharges, allow for infiltration and provide at-source stormwater treatment;
- bio-retention beds to treat the stormwater by filtration; and
- a rock wall along the western and southern boundaries of the site to disperse surface flows across the landscape.

The site will be divided into two main catchments. The smaller catchment will cover the north-eastern portion of the site, and drain into a proposed swale running west on the southern side of the STP road. This swale will flow into the existing wetland area at the north-western tip of the site. For the remainder of the site, runoff that does not infiltrate into the infiltration trenches or through the drainage swales will be directed to the perimeter road car parking area and the perimeter stormwater management system.

The perimeter stormwater management system will be bounded by a permeable gabion wall that will be designed to disperse stormwater across the adjacent wetland area. A continuous sheet of polyethylene membrane will be placed against the inside face of the gabion wall to allow the water level to build up during more extreme storm events. This will be designed to provide sufficient storage volume to detain runoff so that after development, the rate of stormwater discharge from the site is not greater than the discharge rate before development.

For the road pavements and car parking surface, the stormwater runoff generated by a first flush' rainfall event will be captured by a grated channel, with 50 mm diameter outlet pipes placed above the invert of the channel. The channel will serve as a sediment trap that will need to be cleaned out. Stormwater exiting out of the channel will flow into a bio-retention bed that will extend along the length of the detention area. The linear bio-retention bed will include a peat or compost filled trench to treat

the water as it percolates vertically through the planter bed. The stormwater permeating out from this trench will have a high quality and a low pH, similar to the water quality conditions found in the surface waters that naturally occur with this landscape.

In extreme storm events, where the rate of infiltration and the volume of water retained behind the wall are not sufficient to accommodate all the stormwater from the catchment, the stormwater will overflow via twenty four (24) high flow weirs, created by customised gabion blocks that will be placed at a lower level than the remainder of the wall. The overflowing water will flow onto the top of the gabion wall, and enter the adjacent wetland and Wallum Froglet habitat in a dispersed fashion, thereby maintaining the natural hydrology of the site.

The submitted Integrated Water cycle and Soil Management Plan includes a suitable maintenance program. The stormwater management system will be retained in private ownership and as such future monitoring and maintenance will be the responsibility of the land owner. Conditions have been recommended for the ongoing maintenance of the stormwater systems.

Preliminary stormwater calculations demonstrate that post development stormwater flows do not exceed pre development flows. The on-site stormwater detention system will have a top water level of 4.95m AHD and as such a minimum habitable floor level of 5.25m AHD is required by Part N5.4 of Chapter 1:Part N of Development Control Plan 2010. The lowest habitable floor level is 5.4m AHD.

Development Control Plan 2010 Chapter 15 – Industrial Development

The proposal includes four separate light industrial buildings located within the western area of the property and predominantly within the 4(a) Industrial Zone. The following table details the compliance of the light industrial buildings with the applicable provisions of Development Control Plan No. 15.

Development Control Requirement		Required	Proposed	Comply
3.3 Building Criteria	Front Elevations	Front elevations may be glass or brick or clad in concrete block masonry which is to be coloured to be compatible with adjoining development. Such materials to extend min. 3.0m along side elevations adjoining front elevation	Each industrial building comprises reinforced concrete walls and corrugated metal roofing. Glazing is proposed on each elevation. Roller doors and timber balconies are proposed on the front elevations. The final colour scheme has not been submitted but this can be provided with the Construction Certificate, subject to a condition of consent.	Yes
	Luncheon facilities	Adequate provision to be made for weather proof employee luncheon area	Weather proof luncheon areas provided.	Yes
	Finished Floor Levels	NGL + 300mm	>300mm	Yes
3.4 Servicing requirements	Water	Serviced by reticulated water supply	Development is to be serviced by reticulated water supply.	Yes
	Sewer	Connected to mains sewer.	Development is to be connected to mains sewer.	Yes

Development Control Requirement		Required	Proposed	Comply
3.7 Fencing		Fencing not permitted forward of primary building line	None proposed.	Yes
3.8 Signs		Multiple Identification Sign	Condition development consent that advises approval is required for signs other than exempt development.	Condition
3.9 Outdoor storage areas		None proposed	None proposed.	N/A
3.10 Pollution Control	Storm water	To existing stormwater infrastructure	Extensive stormwater management is proposed.	Yes
	Waste	Garbage stand	A waste management strategy is provided as Appendix F of the Statement of Environmental Effects.	Yes
3.11 Section 94 Contributions		Contributions as per Section 94 Contributions Plan	Section 94 contributions levied.	Yes

There are no other unresolved DCP issues relating to this proposal.

3.4 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Land use conflicts:

The property is surrounded by the Byron Industrial Estate to the south, residential area (Sunrise) to the east, the former Becton site to the north and West Byron STP to the west. A shopping centre (IGA supermarket, bottle shop, car park etc) is located to the south-east. Immediately north of the property is a road and Council-owned land which is heavily vegetated. The Casino-Murwillumbah Railway then lies about 200m to the north (based on GIS). This railway line is not currently in use.

A joint site visit was undertaken on 24 May 2011.

Potential land use conflicts include:

- impacts from the West Byron STP on the future inhabitants;
- impacts from the proposed Sun Tavern / Bistro on future inhabitants;
- activities within the development impacting on future inhabitants eg industrial, commercial; and
- impacts of the development on the residential area across Bayshore Drive to the east (PN 217890, 1-3 Sunrise Boulevard).

West Byron Sewage Treatment Plant

Refer to 'noise' and 'odour' below.

'Sun Tavern / Bistro' at Lot 4 DP 243218, Bayshore Drive

Council recently assessed a development application for 'single storey tavern/bistro with drive through bottleshop' on a property to the north-east (Parcel No 109900 and DA 10.2011.40.1). This DA was the

subject of environmental assessments by council staff and the issue of potential land use conflict was considered and resolved (ref doc # 1088316 and 1059482).

Within the proposed development

The environmental assessment for DA 10.2008.360.1 dated 10 October 2008 made the following comments re potential land use conflict (ref doc # 799722):

Potential conflict is identified between STP and development; and residents and industrial/commercial activities. Some thought and conditions will need to be imposed to restrict the type of commercial activities and nature of industrial activities to limit impact on residential premises.

Following a meeting between council officers, the applicant and his consultants it was agreed that the applicant would prepare a management plan to be submitted with the DA. The management plan would provide the framework for the future Community Management Statement. The management plan would address a number of matters including specific reference to the type and nature of industries that are acceptable within the development. All activities are to be of such a nature and operate in such a way so as to minimise the risk of land conflicts between different land occupiers and owners.

The Draft Plan of Management (GeoLINK September 2008) was received by Council and sets out a range of controls and mitigation measures that will be implemented, monitored and maintained by the owners of the Bayshore Village development. It is envisaged that following future sub division of the land to Community Title that the Draft POM will be replaced by a Community Management Statement prepared under the provisions of the Community Land Development Act, 1989 and the Community Land Management Act 1989.

I have reviewed the Draft Plan of Management and found it to be satisfactory.

The proposal includes several precincts, including residential, live/work, commercial, park/pool and industrial. The four industrial units are located together at the rear of the property (western), surrounded by car parking spaces to the south and west. Units to the north and east are 'live / work' units and 'residential' units (with attached work spaces).

Appendix D of the SEE consists of a report titled 'Community Management Statement. Bayshore Village. Lot 3 DP 1004514, Bayshore Drive, Byron Bay. Hickey Lawyers' (undated). This report includes a number of by-laws relating to access, signage, construction, services, deliveries, swimming pool, fencing, garbage, meetings, washing, storage of flammable liquids, pets, parking, keys, communications, etc. There does not appear to be any by-laws specifically addressing potential land use conflicts between, say, the industrial units and residential units. However, 'By-Law 48 No Interference' states 'a proprietor or occupier of a Lot shall not ... use or enjoy the Community property in such a manner or for such a purpose as to interfere unreasonably with the use and enjoyment of the Community Property by the proprietor or occupier of any other Lot or Permitted Person'.

It is noted that page 11 of the above report refers to outdated legislation (ie Noise Control Act 1975).

Current regulatory and statutory controls include the Protection of the Environment Operations Act and Regulations and the NSW Industrial Noise Policy. If approved, conditions should be attached specifying no interference with the amenity. Development consent already exists for a similar proposal (ie 10.2008.360.1). Any 'heavy industry' would require a DA for 'change of use', thereby providing opportunities for detailed review and planning controls.

Furthermore, Condition 107 of development consent 10.2008.360.1 states the following (ref doc # 820116):

PART C

THE FOLLOWING CONDITIONS ARE APPLICABLE FOR ALL STAGES:

The following conditions are to be complied with at all times

107. Land uses

The various land uses contained within the development are to operate in accordance with the Statement of Environmental Effects (prepared by GeoLINK and Simpson + Wilson Architects, dated May 2008), the draft Plan of Management (prepared by GeoLINK, dated September 2008) and the following requirements:

- (a) The canteen located within Building 23C is to be operated in accordance with the definition of a restaurant. A restaurant means premises in which food or beverages (or both) are supplied for sale to the public for consumption on the premises.*
- (b) The retail areas located within Commercial Stage 1 are to be operated in accordance with the definition of a shop. A shop means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials.*
- (c) The professional suites located within Commercial Stage 1 are to be operated in accordance with the definition of a commercial premises. A commercial premises means a building or place used as an office or for other business or commercial purposes (other than uses separately defined within Byron Local Environmental Plan 1988).*
- (d) The industrial buildings located within Commercial Stages 2 and 3 are to be operated in accordance with the definition of industry. Industry means any handicraft or process in or incidental to the making, assembling, altering, repairing, renovating, preparing, ornamenting, finishing, cleaning, washing, breaking up, or adapting of any goods or any articles or any part of an article for trade or sale or gain, or as ancillary to any business, but does not include an extractive industry.*
- (e) The studios and live/work studios located within Residential Stages 1, 2 and 3 and Commercial Stages 2 and 3 are to be operated as creative industries in accordance with the draft Plan of Management (prepared by GeoLINK, dated September 2008). These studios and live/work studios are only to be used in conjunction with the dwelling in which they sit below. They must not be leased or used by persons other than those residing in the adjoining dwellings above.*

If approved, it is recommended that similar conditions be attached to the consent.

Residential area across Bayshore Drive (PN 217890, 1-3 Sunrise Boulevard)

See above. Conditions recommended regarding no interference with the amenity.

During a second site visit on 31 May 2011 it was noted that the residential dwellings in 1-3 Sunrise Boulevard are two-storey. There is vegetation along the western side of the boundary fence facing Bayshore Drive. Trees and shrubs were planted along the fence line and stood about two storeys high. The GIS and site plans show the nearest of the proposed buildings will be about 35m from the boundary of 1-3 Sunrise Blde and will be 'mixed use (commercial)' and 'live/work' (see buildings B2, C2, C3 and C4). As such, noise emissions from these buildings would be regulated by the POEO Act and Regulations and the NSW Industrial Noise Policy.

Noise Impacts:

Potential noise impacts could include:

- impacts from the West Byron STP on the future inhabitants;
- impacts from the proposed Sun Tavern / Bistro on future inhabitants;
- activities within the development impacting on future inhabitants eg industrial, commercial; and
- impacts of the development on the residential area across Bayshore Drive to the east (PN 217890, 1-3 Sunrise Boulevard).

Page 2 of the SEE refers to an Noise Assessment Report submitted as part of DA 10.2008.360.1 and states that *'the conclusions of the previous report are not altered by the changes now proposed to the internal project design'*.

Appendix O of the SEE consists of a letter from Bassett Acoustics dated 22 December 2004. This letter is only two pages and refers to a previous (2003) assessment of the STP.

The environmental assessment for DA 10.2008.360.1 dated 10 October 2008 included assessment of the above letter. The assessment states *'... the Noise Report is simply a letter from Bassett Acoustics Dated 22 December 2004 that refers to previous assessment of the West Byron STP. The letter advises that a noise assessment should be conducted when the upgraded West STP is commissioned'*. A site inspection of West Byron STP and discussions with the STP operators were carried out (ref doc # 799772).

Given the above report was prepared in 2004 and submitted for a DA in 2008, it is recommended that the applicant be required to provide an updated assessment of the potential for noise impacts on the future inhabitants. This updated assessment should take into account any changes in operations at the STP since the 2004 report as well as a review of any recent complaints since that time.

See below.

'Sun Tavern / Bistro' at Lot 4 DP 243218

Council recently assessing a Development Application for 'single storey tavern/bistro with drive through bottleshop' on the adjoining property north along Bayshore Drive (see Lot 4 DP 243218, Parcel No 109900 and DA 10.2011.40.1). GIS and the site plans submitted as part of this DA show the southern-most car park for the proposed tavern is about 130m from the nearest residential units on the subject property (those along the northern boundary).

Environmental assessments done for this DA dated 11 May 2011 (which focussed on noise, waste and food issues) stated the following regarding potential noise impacts (ref doc #1088316):

Noise assessment was provided (Carter Ryterskild Group (CRG) report dated 25 January 2011) and a number of objections had been raised for potential noise impacts on nearby residential properties.

The proposal clearly indicated that the development will not allow amplified music (only 'daytime acoustic performances' (p2)). While most noise complaints arise from amplified music associated with such developments, it is sufficiently argued that the proposal can mitigate likely impacts upon nearby residents. The potential introduction of amplified music by some future operator needs to trigger compliance responses supported by appropriate development consent conditions, Protection of the Environment Operations Act 1997 (and associated Regulations) and the Liquor Act 2007. It is unsuitable for any amplified music or entertainment to be considered without further more appropriate acoustic assessment. Background noise measured on the undeveloped site corresponded to the measurements (CRG page 3) reported in the statement of environmental effects. The natural character of the site was dominated by traffic noise and native fauna.

The proposed is adding refrigeration units, traffic movements and patron activities into a currently quiet part of the Shire. The adjoining railway corridor remains a potential high noise feature, but currently no train services are operating in the line. Rail corridors are capable of 93 to 100 decibel operating sound levels with trains possible at any time of the day or night.

Further environmental assessment dated 16 May 2011 recommended conditions requiring preparation and implementation of a Noise Management Plan to protect nearby residents during construction (see doc # 1059482):

If supported, it is recommended that conditions be attached requiring a noise management plan for construction. This was discussed with the Planning Officer on 2 March 2011 and is considered appropriate given the scale of the development and its proximity to residential areas (both existing and approved).

Both assessments recommended conditions requiring implementation of noise mitigation measures; and compliance with the NSW Industrial Noise Policy and relevant legislation.

Within the proposed development

Refer to 'land use conflict'.

Potential impacts of the proposed development on surrounds

Refer to 'land use conflict'.

Conditions will be attached requiring compliance with the NSW Industrial Noise Policy and no interference with the local amenity.

Summary

Council is in receipt of a report titled 'Bayshore Drive Village – Noise Intrusion from West Byron Sewerage Treatment Plant' prepared by Aecom dated 5 August 2011. The report concludes that, following modelling the predicted noise intrusion onto the Bayshore Drive Village from the West Byron Treatment Plant, complies with all relevant criteria during all operating hours under all meteorological conditions (as per the NSW industrial Noise Policy). Therefore no acoustic treatments are required. No further information is required, standard noise conditions apply.

Odour:

Page 2 of the SEE refers to an Odour Assessment Report submitted as part of DA 10.2008.360.1 and states that '*the conclusions of the previous report are not altered by the changes now proposed to the internal project design*'.

Appendix L consists of a report titled 'Odour Assessment. Proposed Development Site. Bayshore Drive Byron Bay. Geolink. PAE Job 1538a. November 2004'. This report describes the results of odour dispersion modelling, community survey and concludes there is 'minimal potential for odour complaints resulting from the upgraded West Byron STP' (page 13).

The environmental assessment for DA 10.2008.360.1 dated 10 October 2008 included assessment of the above report stating the following:

The odour assessment was conducted in 2004 by Pacific Air & Environment.

It is important to note that the odour emission rates used for this analysis are based on this used for the Byron bay Sewage Augmentation Scheme EIS which in turn was drawn from data obtained from similar processes at other plants. As such the findings of this report should not be considered definitive without the inclusion of site specific adapt. However, observations of odour around they area at various times provide broad support to the results of the assessment.

A survey of local residents indicated that there are currently (2004) no problems with odour emissions from the existing STP although other odour sources in the area such as stormwater drains may cause periodic annoyance.

The proposed development will place residential premises much closer to the STP than the existing residents however the development is beyond the buffers.

The assessment states a subsequent site inspection of West Byron STP, discussions with the STP operators and a review of odour complaints made to Council were carried out (ref doc # 799772).

Given the above report was prepared in 2004 and submitted for a DA in 2008, it is recommended that the applicant be required to provide an updated odour assessment. This updated assessment should take into account any changes in operations at the STP since the 2004 report as well as a review of any recent complaints since that time.

(It is noted that Byron Sewage Treatment Works is a 'scheduled activity' under the Protection of the Environment Operations (POEO) Act; EPA's Public Register shows that Byron Shire Council holds Environment Protection Licence No. 3404 (see <http://www.environment.nsw.gov.au/prpoeoapp/LicenceDetails.aspx>) for the premises; and s129 of the POEO Act states that it is an offence to

'cause or permit the emission of any offensive odour from the premises to which the licence applies'. As such, any emission of an offensive odour from the STP would be a breach of the POEO Act and could incur regulatory action from the EPA).

With regards to potential odour impacts associated with activities *within* the development impacting on future inhabitants eg industrial, commercial, refer to above discussion on 'land use conflicts'. It is also noted that development consent 10.2008.360.1 included conditions regarding waste storage and commercial kitchen exhaust emissions (eg conditions 89 and 90, ref doc # 820116), which could be potential sources of odour. Similar conditions will be attached, if approved.

Review of Odour Assessment for Bayshore Development prepared by PAE Holmes dated 12 August 2011 provides that *'whilst changes have occurred to the plant (inclusion of clarifiers, removal of catch ponds, bio-filtration of inlet works), it is unlikely that these changes would result in increased emissions from the plant. In fact it is more likely that the total emissions would have reduced since 2004, provided that all elements of the STP operated as designed.'* Council concurs with the PAE Holmes findings, no further investigations or assessment is warranted.

Water quality impacts:

Page 43 of the SEE (section 4.2.2) states that *'surface levels on this filled site range between 4.6m AHD and 5.9m AHD... Prior to filling, groundwater was typically found within one metre of the natural surface. After prolonged rainfall that typically occurs during the wet season, the water table could rise to the surface'.*

During a joint site visit on 25 May 2011 it was noted that the areas of the property that were not covered with fill were partly underwater in areas. There was a strong anaerobic-like odour and the vegetation in these wet areas included sedge-like grasses, suggesting the overlying water had been present for some time. It was agreed that an ecological assessment would be carried out of the water quality and runoff aspects of this DA, given the ecological implications.

Ecological Impacts:

An assessment of the Ecological impacts of the proposal was carried out by Council's Ecologist. Conclusions reached within the ecological assessment are as follows:

- The development will result in the loss of a small area of potential wallum froglet habitat (remnant swales and depressions on Lot 3 DP 1004514);
- The development will potentially result in pollution of wallum froglet and wallum sedge frog habitat during construction;
- The development will potentially result in pollution of acid frog habitat off-site if the proposed stormwater management system does not function as intended;
- The development will potentially result in degradation of the endangered swamp sclerophyll forest and acid frog habitat on Lot 1 DP 1004514 through hydrological changes and increased human occupation of the development site.
- The development will result in disturbance to the existing acid frog rehabilitation area (Area 1) in the north-west of the site in order to comply with Asset Protection Zone (APZ) requirements.

However, Council's Ecologist is of the opinion that these impacts (apart from the APZ issue in Area 1) can be mitigated through careful management of existing habitat on Council's adjoining lots, enhancement of acid frog habitat and other conditions as provided at the end of this report. These conditions are largely based on the assumption that stormwater management measures will achieve the reported outcomes.

Council's ecologist recommends the following:

1. That the issue of APZ intrusion in the acid frog rehabilitation area (Area 1 in SEE Illustration 3.4) is addressed prior to granting of any approvals. The location of buildings in the north-west of the site should be positioned in such a way as to ensure that the APZ does not extend into

the existing acid frog rehabilitation area. The maintenance of an APZ in that area is in contradiction with the on-going management of acid frog habitat in that area and as per requirements of previous consents.

2. That the applicant is advised to cease slashing of vegetation on Lot 1 DP 1004514 and anywhere else beyond the boundary of their land. The boundary with Lot 1 DP 1004514 is clearly marked on-site with tall star pickets.

Planning Comment: The Applicant discussed the issue of the Asset Protection Zone within the vicinity of the habitat with the NSW Rural Fire Service. As a result, the Bush Fire Safety Authority that was issued for the development (discussed within Section 2.1 of this Report) does not require an APZ that will affect the existing ecological enhancement area. Remaining ecological issues can be dealt with via conditions of consent.

Traffic impacts:

Refer to comments within Section 3.3 of this Planning Report under Chapter 1 Part G of DCP 2010. Subject to the payment of Section 94 Contributions and the inclusion of conditions of consent in relation to intersection works, the traffic impacts associated with the development are manageable.

Social, Amenity and Economic Impacts:

Concerns were raised during the assessment of the Development Application that the proposed development may create an environment of poor residential amenity given the density of development proposed and the limited provision of open space. However, as this assessment report discusses, the proposal does not exceed the maximum built gross floor area requirements of DCP 2010 Chapter 20 and is consistent with the minimum open space requirements. As such, it is apparent that the proposed development will result in a residential amenity that is acceptable under the development control plan.

The Statement of Environmental Effects that was submitted with the Development Application includes a Social Impact Assessment, prepared in accordance with Chapter 21 of DCP 2010. The following summarises the Applicants response to the objectives of Chapter 21:

- *To assist in achieving cohesive, sustainable and resilient communities within the Shire*

Bayshore Village will create a new community that will meet this object over time. The mixed use nature of the development will assist to build resilience in this community.

- *To improve collection and collation of information relating to the positive and negative social impacts of development*

Section 2.2.2 of the Statement of Environmental Effects provides a community snapshot and Section 4.7 discusses the social benefits / impacts of the development.

- *To enhance consistency, certainty and transparency in Council's assessment of the positive and negative social impacts of proposed development*

Section 3.1 of the Statement of Environmental Effects provides a vision statement for the development. Councillors and staff have been consulted throughout the 'visioning' for this development and have expressed general support for the mixed use village concepts.

Section 4.7 of the Statement of Environmental Effects summarises the social benefits / impacts associated with the proposed development.

- *To maximise the positive social impacts of development such as improved access, amenity, employment opportunity and safety*

Bayshore Village has been designed to meet this objective. Bayshore has been purpose designed to meet the needs of the creative and business community and provides access to employment options that are generally not currently available.

- *To minimise the negative social impacts of development such as increased traffic congestion, restriction of access to facilities, services and transport, loss of employment opportunity, loss of public safety or perceived public safety*

Bayshore Village meets this objective through reduced home to work travel and provision of shared resources and mixed uses within the community.

- *To improve Council decision making regarding positive and negative social impacts*

The development has been master planned in consultation with Council and the community. A number of preliminary meetings have been held with Councillors and senior Council officers to discuss development intentions and broad outcomes, based on an understanding of the original vision for the site.

- *To ensure community participation in decisions that affect the community*

The proponents have engaged the community through meetings with members of the Sunrise Beach Residents Group and BEACON in 2005 to discuss the project and gain an understanding of key local issues.

- *To support the delivery of the Council Management Plan*

The development is consistent with the visions, values and guiding principles of the Byron Shire Council Management Plan.

- *To facilitate triple bottom line accounting*

Social, economic and environmentally sustainable outcomes have been key considerations throughout the planning and design of this development.

- *To provide development controls and guidelines which will assist in achieving the outcomes of the Byron Shire Social Plan 2004 – 2009*

The subject Development Application follows the adoption of Byron Development Control Plan No. 20 – Bayshore Village (now Chapter 20 of DCP 2010), which was created exclusively for the development of the site. This DCP was the result of extensive economic, social and amenity assessment at a strategic planning level. The subject Development Application is generally consistent with the provisions of this DCP. The economic, social and amenity impacts associated with the proposal are likely to be positive and have been planned for on this site.

Conditions of consent have been recommended to reduce the impact of the development on the site and surrounds. It is noted that objections were received with respect to the amount of retail floor space proposed within the development. It is unreasonable to withhold approval for retail floor space on the basis of competition. The built gross floor area proposed does not exceed the maximum prescribed within Chapter 20 of DCP 2010.

Aboriginal Heritage Impacts:

A cultural heritage assessment was submitted with the Development Application (prepared by Davies Heritage Consultants Pty Ltd, dated October 2004). This assessment included a survey of the site which found no indigenous items material within the study area. The site is deemed to have low archaeological potential. Since this heritage assessment was undertaken, the development site has been filled in accordance with Council development approvals, further reducing the archaeological potential of the site.

Biting insect impacts:

A Mosquito Impact Assessment was submitted with the Development Application. The assessment was conducted in May-June 2004. The report states that in warmer, wetter periods some species of mosquitos will increase in numbers and be of more impact on residents

The report states that the author is unable to assess the impact of the wetland that is part for the STP until it is commissioned and operational.

A site inspection and review of the Sewage Treatment Plant and wetland layout revealed that the additional 7 hectares of wetland constructed since 2004 was undertaken in the vicinity of Ewingsdale Road, which is remote from the proposed development. There was no evidence of mosquito breeding on site. It was concluded that impacts would be satisfactory in this regard.

Food Premises:

The proposed food premises/café within the development can be approved with conditions.

Conclusion on Impacts:

Subject to compliance with conditions of consent and for the reasons discussed within this report, the proposal is unlikely to result in a significant impact on the surrounding environment.

3.5 The suitability of the site for the development

The development site is located on the north-western outskirts of the urban areas of Byron Bay. By road, the site is located within four kilometres of the town centre. Largely developed residential land is located on the opposite side of Bayshore Drive to the east, and largely developed industrial land is located on the opposite side of Council owned land to the south. Commercial land containing the West Byron Shopping Centre is located to the south-east. The wetlands of the West Byron Treatment Plant are located on the opposite side of Council owned land to the west. Council owned land supporting native vegetation is located to the north.

The property has direct access to Bayshore Drive to the east and the West Byron Treatment Plant access road to the north. The land is largely devoid of significant vegetation. Extensive areas of the site have been filled to improve drainage.

The site is predominantly within the 2(v) Village Zone and partly within the 4(a) Industrial Zone. The site is also the subject of Development Control Plan No. 20 which was adopted on 13 March 2008 (now incorporated into DCP 2010 as Chapter 20). This planning document was specifically written to set out the future development of the site. The planning report above provides that the proposal is generally consistent with the provisions of this Development Control Plan and provides for the land uses that have been planned for the site.

An assessment of the proposal has found that the site is suitable for the development proposed. Impacts and constraints can be adequately managed as part of the proposal and by conditions of consent.

Easement for service:

The subject site is burdened by an easement for services located along the Bayshore Drive frontage. Discussions with Council's Water and Recycling Management Services Division indicate that the site also includes sewer services along the West Byron Treatment Plant Road frontage. Easements are required over these services as well. The Applicant submitted details to ensure that no buildings or swimming pools associated with the development encroach in to the existing and proposed easements. A condition is to be included in the consent to ensure this requirement is met.

3.6 Submissions made in accordance with this Act or the regulations

The subject Development Application was placed on public exhibition in accordance with the Level 4 requirements of Development Control Plan 2010 Chapter 17 from 2 June to 1 July 2011. A total of 27 submissions were received in respect of the proposed development. Three of these were in objection to the proposal, the remainder in support. The issues raised within the submissions are discussed in the table below:

Issue - Objection	Comment
The construction materials are different from those approved in the 2008 Development Application for this site. Judging from the exhibited drawings, the change in materials has had a negative impact on the aesthetics of the development, especially as viewed from Bayshore Drive. Given the sizeable density of this	Conditions have been included within the consent with respect to materials.

proposal we are concerned that a more economic treatment of the facades could result in the development appearing as less of a “community village” and more as a barracks.	
More attention to the quality of the construction should be given. Alternatively, a careless approach to materials and aesthetics might result in the development becoming just a cluster of inexpensive housing.	As above.
When clearing this site the developer damaged and destroyed protected Wallum Froglet habitat. The developer claims more than 2000m ² will be designated for wetland/sedgeland habitat to compensate for previous destruction. This should not be supported.	The proposal complies with the minimum area for compensatory habitat as specified within Chapter 20 of DCP 2010.
Significant concern is raised to the area and potential variety of retail activity which is proposed for the site.	The market will determine what retail uses will thrive within the proposed retail spaces.
The proposed development is not consistent with the retail hierarchy for the West Byron locality. The development encompasses 68 apartments which don not generate demand for the amount of retail services proposed and as such is not consistent with the scale and type of retail development required for the Bayshore Village.	The provision of residential/retail/commercial uses within the development is consistent with the site specific Development Control Plan for the Bayshore Village proposal.
The West Byron locality is serviced by a neighbourhood shopping centre which is located on designated commercial zoned land. Whilst we recognise the current zoning of the land and the permissibility of shops, the site is neither located in a context of a rural village or will service a surrounding rural community as the land zoning objectives promote. Further consideration as to the type and scale of commercial development is required so as to determine the need for retail floor space and the market in which it will service given the existence of the West Byron commercial zoned land and retail facility.	As above.
The West Byron shopping centre provides retail and professional services to the surrounding locality and as such the development of the proposed retail area will fragment the commercial precinct servicing the locality.	As above.
The development site is not located within a remote or satellite location and as such is not required to provide the amount of retail floor space to sustain the daily needs of future residents. The location of the site provides ready access to retail services which are within an accessible distance to the development site.	As above.
We have concerns that the opportunity will exist to provide for a wide range of retail uses which further fragment the commercial area of the locality. There needs to be a more specific focus provided on the nature of retail uses and the nexus they have with the scale of the Bayshore Village proposal.	State Environmental Planning Policy (Exempt & Complying Development Codes) 2008 specifically enables changes of use to be completed without requiring development consent. This includes changes from retail to retail, office to business, office to office, business to office and business to business premises (as defined within the Standard Instrument).
Issue - Support	Comment
This is a most innovative and impressive proposal by way of its intended use, focus on sustainability principles and desire to go	Noted.

<p>some way toward providing affordable housing.</p> <p>The concept of living upstairs and having work space accessible to the public downstairs is so simple yet so practical. The architect, Dominic Finlay-Jones, is a professional with integrity and genuine commitment to environmentally sensitive design. If I was younger and single I would love to be a part of the Bayshore Village community. I can see that it will be a genuine hub for creative professionals. The Arts and Industry Estate is a gold mine for creativity, it's great that there will now (hopefully!) be appropriate accommodation options for our local creative professionals. We need to do all we can as a region to keep at the forefront of the creative industries. Spaces like this can potentially help a lot.</p>	
<p>Bayshore Village is exactly what this area needs; a sustainable development which will allow locals to live and work in the same place while helping to meet the demand for affordable housing in Byron Shire. With so many people leaving Byron Bay in search of work and affordable housing, developments like Bayshore Village need to be approved.</p>	Noted.
<p>I would like to articulate how impressed I am with the approach to this project, and I would certainly consider moving my film making operation to a creative industries village such as this one.</p>	Noted.
<p>With my experience as a director of an art gallery in Byron, I can see that a project like this would help foster and expand the arts in town.</p> <p>Providing housing where people can live and work in the one place is a great start and an initiative that has all of our support.</p>	Noted.
<p>I would like to articulate my support for this venture. I am an osteopathy student and an aspiring photographer. Upon graduation Bayshore Village would be the perfect place for me to set up my residence and commence a practice. It is clear that the developers have considered vital elements such as the environmental sensitivity of the site as well as ensuring that their buildings are in keeping with the buildings that are already built and those planned for the local area.</p> <p>I am in my early 30s and would love to stay in the area. Having places like this I think will help to keep young professionals locally.</p>	Noted.
<p>As a former builder I had the pleasure of working with the architect for this development. His work and ethos impressed me greatly and I am pleased to see that he is working on such an exciting yet responsible development.</p> <p>The mixed use development will no doubt be very popular. Not only that, it should serve to support the community and creative spirit in the Arts and Industry Estate.</p> <p>Finding a place to live and work is hard for many people in the region. This solution seems to me to be brilliant.</p>	Noted.
<p>From what I have seen and read about the project, it looks to be exactly what Byron Bay needs. A centre of the creative industry which is already spilling out of the Arts and Industry Estate.</p> <p>I do hope that Council will see that this is just the type of sustainable development is really what needs to be encouraged in this areas</p>	Noted.
<p>This development application has my full support and is exactly the kind of development that should be encouraged and emulated across the shire. The development addresses a</p>	Noted.

<p>number of key social and economic imperatives including the opportunity for affordable housing. As you are no doubt aware affordable housing in the shire is not readily available and the options for those that cannot afford to buy is to rent dwellings that, for the most part, are expensive and economically unsustainable.</p> <p>The Bayshore Village proposal not only offers much needed affordable housing options, it does so in an entirely unique and environmentally sustainable way. The concept of providing dwellings that allow for the intelligent meshing of residential and commercial activities is the type of forward thinking that your Council should be embracing and encouraging. Apart from the obvious environmental benefits in the form of reduced travel requirements (and corresponding greenhouse gas emissions) the proposed community facilities are outstanding. Such a development that embraces open spaces, children's play areas and passive recreational uses is to be commended.</p> <p>I strongly urge your Council to approve this revised Development Application on the basis of providing a sustainable platform for the delivery of affordable housing while improving employment opportunities and environmental outcomes. Let's start today by setting such a sensible development benchmark.</p>	
<p>The proposed development appears to be a well considered response to a community need. I believe a development of this nature, which seeks to combine community facilities and affordable housing with commercial and creative precincts in an environmentally responsible manner should be encouraged (indeed applauded).</p>	Noted.
<p>he creation of communities where family and work life can be integrated are a great thing for Byron. the communal park and facilities look fantastic and i especially like the enhancement and preservation of the original sedgeland.</p> <p>I encourage Council to support a sustainable development which adds to our environment.</p>	Noted.
<p>This will be a wonderful addition to the Arts and Industry Estate area, which I visit regularly.</p> <p>I hope council agrees that Bayshore is the type of development which should be encouraged.</p>	Noted.
<p>I was impressed with concept of a live/work village - it is exactly the type of thing that Byron lacks and the Arts + Industry Estate is the right place in which to build something like this.</p> <p>I hope that you approve this project without delay.</p>	Noted.
<p>I believe this type of sustainable development should be supported and encouraged.</p>	Noted.
<p>The identity and culture of the Arts and industry estate would be well supported by a development of this mixed-use nature.</p> <p>I specifically support the Live and Work component of the scheme which I believe targets a growing niche of small business operators who currently may struggle to rent separate premises for work and accommodation in the Byron area, which has exceptionally high rental prices. I see this as a positive step to addressing the Shires growing housing affordability crisis. The sustainable nature of the development extends beyond the immediately obvious environmental sustainability. A mixed-use/use-integrated development of this nature also addresses the commercial and social sustainability. I believe the</p>	Noted.

architecture further exemplifies the sustainable nature of this development and also provides an interesting frontage to Bayshore Drive, which would provide the appropriate infill and street presence in combination with the proposed Sun Bistro development next door. An integrated development of this nature will naturally create its own vibrancy once operational considering the proposed combination of uses and it is apparent that the site masterplan appropriately addresses and manages any conflicting uses. The Plans represent an appropriate level of architectural diversity across the development.	
Both my wife and I currently run our own businesses and have to spend a considerable amount of money for office and studio space. I love the idea of a "live-work" village and would be very interested in moving to Bayshore Village when it goes ahead.	Noted.
The plans look very good and I feel that the project would be good for Byron Bay. It's a growing area as we know, and a creative industries centre would be a big boost as the Arts and Industry Estate is already overflowing from what I can see.	Noted.
As a resident and small business owner in the Shire, I believe this is exactly the type of project that should be encouraged in the area. Building housing for people which allows them to also their own run businesses will be an enormous asset to the community. I trust this project will be approved.	Noted.
I believe that this style of mixed use village development will contribute positively to the Byron Community and it is exciting to see a socially, environmentally and economically sustainable model being put forward – a great showcase for the Byron Shire!	Noted.
As someone who has run a small business from home before, I love the idea of houses with built-in offices and studio workspaces. I can also see the advantage of running small home based businesses surrounded by people doing the same thing, it will be a vibrant community. I hope that Council will approve this very exciting project.	Noted.
I am a worker in the Sunrise Estate and I support the proposal for the Bayshore Village DA 10.2011.162.1 on the grounds of: - The Live/Work Nature of the development which provides a commercial and residential centre for the creative industries of Byron Bay; - Environmental sustainability; - Much needed integrated development currently lacking in Byron Bay; - Architecturally vibrancy and diversity.	Noted.
I work in the vicinity of this site and think that a proposal like this will substantially improve the vibrancy and liveability of the Sunrise Area and the Arts and Industry Estate. We hope that the council favourably considers this development application for the benefit of the Sunrise area and Byron as a whole.	Noted.
I am a local resident living and working in Sunrise and support the Bayshore Village proposal as it will bring new jobs and more activity to the area of Sunrise and the Art and Industry Estate. The proposal looks to be well considered architecturally and environmentally sustainable which are two huge ticks for this	Noted.

area.	
I believe that it is great opportunity to build upon the existing Arts and Industry Estate to include more formal mixed use development that remains sensitive to the needs of people, business and the environment.	Noted.
This development will provide Byron Bay with much needed facilities and ties in perfectly with the evolution of the Byron Arts & Industry Estate. It addresses the need for affordable housing as well as key 'community building' elements.	Noted.

3.7 Public interest

The proposed development has been in the planning for many years with both Council and public consultation. The 30 day exhibition of the proposal resulted in 27 submissions being received (including 3 in objection). The site is zoned appropriately for the uses being sought and the proposal is generally consistent with the Development Control Plan that has been adopted by Council for the land. The proposed development is not likely to compromise the public interest.

4. DEVELOPER CONTRIBUTIONS

4.1 Water & Sewer Levies

The levies for water and sewer services were calculated in accordance with the gross floor area of the commercial, retail and creative industrial units, and the number of bedrooms within the residential units. The levies were divided so as to correspond with the separate stages of the development. The levies for each stage are listed within the notes of the recommended conditions of consent.

4.2 Section 94 Contributions

The levies for Section 94 Contributions were also calculated in accordance with the gross floor area of the commercial, retail and creative industrial units, and the number of bedrooms within the residential units. The levies were divided so as to correspond with the separate stages of the development. The levies for each stage are listed within the notes of the recommended conditions of consent.

5. CONCLUSION

Development consent is sought to construct a large scale mixed use development within the subject allotment, known as "Bayshore Village". The new proposal is to replace the development that has previously been granted consent on the site and has not yet been constructed. The only component of the original consent that is to be retained is the filling works that have been issued a Construction Certificate and partly completed.

The Statement of Environmental Effects that has been submitted with the proposal describes the development as incorporating the following components:

- A total of 68 dwellings across three precincts, providing a mix of dwelling types and sizes, all incorporating work spaces;
- 24 live / work units, comprising smaller 80-90m² residential units, each including a dedicated work space of around 56m² (note: these units are included in the total of 68 dwellings in point 1);
- 4 light industrial buildings containing a total of 3,095m² of industrial floor space (allowing for flexible internal arrangements);
- A commercial precinct that includes 1,389m² of retail floor space, 2,020m² of commercial premises floor space, a health spa with a floor area of 635m²; a canteen / café (211m²) and a community hall / meeting space (145m²);
- Recreational facilities including a pool, park, and associated play facilities;

- Associated internal roads, car parking, infrastructure, and landscaping; and
- Subdivision (community scheme).

The proposed development is to be carried out in stages to enable all site preparation works such as roads and infrastructure for the creation of an initial community title subdivision to be carried out within the first stage. Subsequent stages include further community title subdivision, construction of the various commercial, industrial, recreational, residential and live/work buildings. Upon completion of the development, individual dwellings are to be strata subdivided (without consent).

The proposed development has been planned over several years in consultation with both Council and the community. A site specific development control plan was adopted for the site, being Byron Development Control Plan No. 20 – Bayshore Village, Byron Bay. This development control plan has recently been incorporated into a consolidated development control plan for the Byron Shire, Byron Development Control Plan 2010.

The proposal generally meets the prescriptive measures of the development control plan. A number of minor non-compliances such as building setbacks can be dealt with via conditions of consent. The most significant change resulting from the imposition of conditions is the removal of one of the dwellings from the development to achieve the minimum 4.0 metre setback requirement to the Sewage Treatment Plant Road on the northern boundary of the site.

Other issues with respect to the proposed development that were dealt with during the assessment of the Development Application included the density of the proposal and the likely residential amenity that will result from that density. It is clear from the plans submitted that the proposal comprises a development of greater density when compared to other residential areas of Byron Bay, including the adjoining Sunrise estate. The development as a whole appears to provide minimal open space with buildings tightly arranged within the site. However, as the proposal generally complies with the maximum gross floor area and minimum open space requirements of Chapter 20 of Development Control Plan 2010, the proposed density is apparently what Council envisaged for the site through the adoption of the development control plan.

The subject Development Application was placed on public exhibition in accordance with the Level 4 requirements of Development Control Plan 2010 Chapter 17 from 2 June to 1 July 2011. A total of 27 submissions were received in respect of the proposed development. Three of these were in objection to the proposal, the remainder in support. Given that the development is in general compliance with the adopted provisions of Development Control Plan 2010, the proposal does not compromise the public interest.

An assessment of the impacts of the development on the natural and built environment concluded that subject to compliance with conditions of consent and for the reasons discussed within this report, the proposal is unlikely to result in a significant environmental impact. The site is appropriately zoned for urban development and given the site specific development control plan is deemed to be a suitable location for the proposal.

Based on the proposals compliance with the adopted development control requirements for the site, the application is recommended for approval subject to conditions of consent.

6. RECOMMENDATION

It is recommended that:

- 1. Pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, Development Application No. 10.2011.162.1, for the construction of a mixed-use development comprising 67 residential dwellings, commercial, retail, live/work and creative industry units, with the provision of road works, car parking, landscaping, water, sewer, drainage and communication services, plus subdivision of the site under a Community Scheme, be granted consent subject to the following conditions.**
- 2. Pursuant to Section 95(2) the development consent lapse 5 years after the date from which it operates unless commenced pursuant to Section 95(4) or (5).**

CONDITIONS OF CONSENT – Section 80(1) of EP&A Act 1979:

Parameters of Consent

1) Development is to be in accordance with approved documents

The development is to be in accordance with the documents detailed in the table below, as modified by red ink and any conditions of this consent:

Ref No.	Description	Prepared by	Date
0291 EN 303 A	Parking, Pedestrian and Cyclist Facilities	GeoLINK	Rev A 01/11/2011
0291 AR 01 D	Masterplan	Dominic Finlay Jones Architects	Rev D 04/11/2011
0291 AR 02 B	Commercial Precinct GF Plan	Dominic Finlay Jones Architects	Rev B 04/11/2011
0291 AR 03 B	Commercial Precinct FF Plan	Dominic Finlay Jones Architects	Rev B 04/11/2011
0291 AR 04 A to 0291 AR 17 A	Architectural plans for commercial component	Dominic Finlay Jones Architects	Rev A 12/04/2011
0291 AR 18 B to 0291 AR 19 B	Industrial Precinct GF & FF Plan	Dominic Finlay Jones Architects	Rev B 04/11/2011
0291 AR 20 A	Industrial Typical Building	Dominic Finlay Jones Architects	Rev A 12/04/2011
0291 AR 21 B	Recreation R1	Dominic Finlay Jones Architects	Rev B 24/08/2011
0291 AR 22 B to 0291 AR 23 B	Terrace Type A1-A3	Dominic Finlay Jones Architects	Rev B 04/11/2011
0291 AR 24 A	Terrace Type A1-A3	Dominic Finlay Jones Architects	Rev A 12/04/2011
0291 AR 25 C to 0291 AR 43 C	Architectural plans for live/work and residential components	Dominic Finlay Jones Architects	Rev C 04/11/2011
0291 AR 47 B to 0291 AR 50 B	Architectural plans for alternate finishes for residential dwellings	Dominic Finlay Jones Architects	Rev B 24/08/2011
0291 AR 43	Live Work Materials Schedule	Dominic Finlay Jones Architects	26/07/2011
Illustration 3.1	Staging Plan	GeoLINK	April 2011
Illustration 3.2	Subdivision – Community Scheme	GeoLINK	April 2011
Illustration 3.3	Subdivision – Neighbourhood Scheme	GeoLINK	August 2011
Report No. 291884	Waste Management Strategy Bayshore Village, Byron Bay	GeoLINK	14 April 2011
Report No. 0291646	Acid Sulfate Soils and Soil Contamination Assessment	GeoLINK	April 2007
291870	Integrated Water Cycle and Soil Management Plan	GeoLINK	14/04/2011
~	Community Management Statement. Bayshore Village. Lot 3 DP 1004514, Bayshore Drive, Byron Bay	Hickey Lawyers	~

0291 EN 303	Parking, Pedestrian and Cycling Facilities	GeoLINK	01/11/2011
0291 EN 304	Road Layout and Levels	GeoLINK	April 2011
0291 EN 305	Typical Road Cross Sections	GeoLINK	April 2011
0291 EN 306	Bayshore Drive / Ewingsdale Road Intersection Upgrades	GeoLINK	April 2011
0291 EN 307	Stormwater Management Plan	GeoLINK	April 2011
291939	Statement of Environmental Effects and Appendices	GeoLINK	02/05/2011

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) Staging of consent

This Development Consent is issued to enable the development to be carried out in multiple stages as described below and set out within the Staging Plan referenced as Illustration 3.1, dated April 2011. The Commercial, Residential, Industrial and Live/Work Stages may be carried out in any order or concurrently, provided that they are not commenced before the completion of the Site Preparation Stage. However, the Recreation Stage must be completed prior the commencement of any stage that incorporates a dwelling, including any Residential Stage, any Live/Work Stage, Commercial Stage 1 and Commercial Stage 2.

Site Preparation Stage and Community Title Subdivision:

All site preparation works building on the bulk earthworks that are approved under Development Consent No. 10.2008.360, including construction of drainage systems, all internal and external roads / laneways / footpaths, all roadside car parking spaces, the provision of water, sewer, electricity and communications supply throughout (by way of laying internal services and providing connection points for each building) and landscaping. Community Title Subdivision.

Commercial Stage 1:

Construction of the buildings B1, B2 and C1-C7, together with associated open space, landscaping, public art and the construction of Penny Lane and the associated internal car parking within the polygon labeled 'COM 1' within the Staging Plan, Illustration 3.1, dated April 2011;

Commercial Stage 2:

Construction of the terrace buildings containing dwelling types A1-A3 within the polygon labeled 'COM 2';

Commercial Stage 3:

Construction of the terrace buildings containing dwelling types A1-A3 within the polygon labeled 'COM 3';

Residential Stage 1:

Construction of the buildings on the northern and southern side of Fast Lane within the polygons labeled 'RES 1' & 'RES 2' and associated landscaping;

Residential Stage 2:

Construction of the buildings on the southern side of Easy Street within the polygon labeled 'RES 3' and associated landscaping;

Residential Stage 3:

Construction of the buildings on the southern side of Easy Street within the polygon labeled 'RES 3' and associated landscaping;

Residential Stage 4:

Construction of the buildings on the western side of Alphabet Street within the polygon labeled 'RES 4' and associated landscaping;

Recreation Stage:

Construction of the community recreation area;

Live/Work Stages 1-4:

Construction of the four live/work buildings within the polygons labeled 'L/W 1', 'L/W 2', 'L/W 3' & 'L/W 4' and associated landscaping;

Industrial Stages 1 & 2:

Construction of the buildings and associated loading, parking and landscaping within the Industrial precinct nominated within the polygon labeled 'IND 1' & 'IND 2';

3) Road / Street / Lane names

No approval is provided for the names provided within the architectural drawings of the roads / streets / lanes within the development. The use of the various names within this development consent is for reference purposes only. Final names are subject to separate agreement.

4) Description of development and structure of consent

Consent is issued for the construction of a mixed residential, commercial, retail and creative industrial development within the site, which includes 67 dwellings (which include attached work spaces to be used in association with those dwellings), retail spaces, offices/professional suites, industrial units, a canteen, a health spa, a recreation facility, open space and landscaping.

No approval is provided for the café and adjacent outdoor seating shown within Building IND 3 on the Masterplan, Drawing No. 0291 AR 01, dated 04/11/2011.

No approval is provided for any showers or kitchens within the workspaces and/or home offices of the individual dwellings within the site. The workspaces and/or home offices must only be used in association with the adjoining dwelling.

This Development Consent is divided into the following three Parts:

Part A – contains Conditions that are applicable to the Subdivision of the site as outlined within the plan titled "Subdivision - Community Scheme" (Illustration 3.2, dated April 2011) and the works described within the Site Preparation and Community Title Subdivision Stage;

Part B – contains Conditions that are applicable to each and every Commercial, Industrial, Live/Work and Residential Stage, including the Subdivision of the site as outlined within the plan titled "Subdivision - Neighbourhood Scheme" (Illustration 3.3, dated August 2011);

Part C – contains Conditions that are applicable to all Stages

The 'Parameters of this Consent' not contained within Part A, Part B or Part C and the 'Notes' contained at the end of the consent apply to all Parts of the development consent.

5) Modification of development consent No. 10.2008.360

In accordance with Section 80A(1)(b) of the Environmental Planning and Assessment Act 1979, this condition requires the modification of Development Consent No. 10.2008.360 as follows:

- a) Only the bulk earthworks contained within the Site Preparation Stage has approval to proceed under Development Consent No. 10.2008.360.

- b) Any works beyond the bulk earthworks within the Site Preparation Stage under Development Consent No. 10.2008.360 no longer have approval and such works are superseded by the development consent contained herewith.

Prior to the issue of any Construction Certificate for this consent, a Notice of Modification of Development Consent No. 10.2008.360 must be submitted to Council incorporating the modifications described within this condition in accordance Clause 97 of the Environmental Planning and Assessment Regulation 2000.

6) Bush Fire Safety Authority

The development must be carried out in accordance with the Bush Fire Safety Authority issued by the NSW Rural Fire Service under the Rural Fires Act 1997, dated 16 June 2011, or as amended in writing by the NSW Rural Fire Service.

PART A - THE FOLLOWING CONDITIONS ARE APPLICABLE TO THE SITE PREPARATION AND COMMUNITY TITLE SUBDIVISION STAGE ONLY:

Parameters of Consent

7) Erection of signs

- (1) For the purposes of section 80A (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

The following conditions are to be complied with prior to the issue of a Construction Certificate for site preparation or subdivision works

8) Development consent No. 10.2009.12 to be surrendered

Development consent No. 10.2009.12 must be formally surrendered in accordance with the Environmental Planning and Assessment Regulation 2000.

9) Development consent No. 10.2008.360 to be surrendered

Development consent No. 10.2008.360 must be formally modified in accordance with the parameters of this consent and the Environmental Planning and Assessment Regulation 2000.

10) Detailed landscaping plan required

Prior to the issue of a Construction Certificate for the Site Preparation Stage, a detailed landscaping plan must be submitted to Council and approved by Council's Ecologist. The detailed plan must include all landscaping within publicly accessible areas of the site that are outside the Residential, Live/Work, Industrial and Commercial polygons shown within Illustration 3.1, dated April 2011. This includes all road reserves, verges, street planting, planting bays adjacent to car parking and general open space areas. In addition, the landscaping plan must include details of ecological restoration works to be provided within the area shaded in red on Drawing No. 0291 AR 01 D, dated 04/11/2011, titled 'Masterplan'.

The landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Part H of Development Control Plan 2002. Species identified in Part H of Development Control Plan 2002 are to be planted wherever possible. The plan must not include species that represent translocation of native plants outside their geographic range, potential or known environmental weeds or species with potential for genetic pollution. The landscaping plan must indicate:

- a) proposed location for planted shrubs and trees
- b) botanical name of shrubs and trees to be planted
- c) 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.

The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist who has appropriate experience and competence in landscaping. The NSW Rural Fire Service requires that landscaping of the site is to comply with the principles of Appendix 5 of Planning for Bush Fire Protection 2006.

Following approval by Council's Ecologist, such plans and specifications must be approved as part of the Construction Certificate.

11) Water and Sewerage - Section 68 approval required

An Approval under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work and/or trade waste must be obtained prior to the issue of a Construction Certificate.

The application for approval under Section 68 must include two sets of hydraulic plans of the proposed development drawn by a practising hydraulic engineer. These plans are to be compliant with the following standards:

- AS3500 – 2003 plumbing and drainage
- The NSW Code of Practice for Plumbing and Drainage
- AS2419.1 Fire hydrants installations
- AS2441 installation of fire hose reels
- Water Services Association of Australia

12) Sediment and Erosion Control Management Plan required

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

The Plan must clearly demonstrate the measures to be adopted to prevent pollution of acid frog habitat during construction. This should include prevention of sediment loss through erosion and measures to minimise dust pollution during deposition of fill and at all times until construction is complete. The proposed plan should include an additional check dam below the site exit point and sediment fencing installed prior to fill being deposited on-site. The bunded area for hazardous materials should be placed further away from the threatened frog habitat to avoid possible contamination of that area.

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

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

13) Characteristics of filling material

Documentation must be provided to verify the soil characteristics of the material to be used for filling. This should be assessed by Council to ensure that the material used will not result in alteration to pH and nutrient levels in the adjacent wetlands via runoff both during construction and post-development.

14) Stormwater Management

The application for a Construction Certificate is to include plans and specifications that indicate stormwater management for the site, in accordance with the approved Integrated Water Cycle and Soil Management Plan, AS/NZS 3500.3:2003 - Plumbing and drainage, Part 3: Stormwater drainage and Part N of DCP 2010.

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

15) Retaining walls

The application for a Construction Certificate is to include plans and specification that indicate retaining walls in accordance with the plans approved by this consent.

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.

16) 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 Specification for Engineering Works and are to provide for the following works:

Driveways

Driveways in accordance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings". Such works to include the adjustment and/or relocation of services as necessary to the requirements of the

	<p>appropriate service authorities. A minimum clearance of 500mm shall be provided to power poles, stay poles and the like.</p>
2.5 m wide footpath/cycleway	<p>2.5m wide foot/cycle path for the full length of the Bayshore Drive frontage of the site and along the STP Road from Bayshore Drive to the site entrance to "SIMPSON STREET", at a crossfall of 1 % or 1:100 (maximum 2.5% or 1 in 40).</p>
Footpath embellishment	<p>Grading, trimming, topsoiling and turfing of the unpaved footpath area.</p>
Adjustment of Services	<p>Footpath works are to include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities and to ensure that the services are constructed flush with the finished surface levels.</p>
Kerb & gutter, road pavement and drainage	<p>Concrete edge restraint, road pavement (minimum 7m wide carriageway), and associated drainage construction, footpath formation including any necessary relocation of services to the full frontage of the site for the STP road. Existing road pavement must tested and upgraded as necessary.</p> <p>Concrete edge restraint, road pavement (minimum 9m wide carriageway), and associated drainage construction, footpath formation including any necessary relocation of services to the full frontage of the site for Bayshore Drive and across the intersection of Sunrise Boulevard connecting into the existing kerb and gutter with suitable transitions and drainage provision.</p>
Intersection Works	<p>Road works must be generally consistent with the recently constructed works on Bayshore Drive to the north east of the subject site.</p> <p>The intersection of Bayshore Drive and the STP road is to be designed in accordance with Council's standards. Existing street plantings at STP Road / Bayshore Drive intersection must be replaced with low growing species as necessary to provide adequate sight distances.</p> <p>The left turn lane on Bayshore Drive at the Ewingsdale Road intersection must be extended towards Grevillea Street to Council's satisfaction. Details, compliant with the relevant standards, must be submitted to demonstrate that the works required to achieve this do not compromise access to the adjoining properties (i.e. turning paths for the largest service vehicles to be provided) or the existing bus bay (eg. indented bus bay provided). Such works to include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities. The provision of regulatory signage must be approved by the Local Traffic Committee.</p>
Pedestrian/bicycle refuge	<p>A pedestrian/bicycle refuge adjacent to southern property boundary on Bayshore Drive. The pedestrian refuge is to be designed in accordance with Australian Standard 1742.10 – Manual of Uniform Traffic Controls – Pedestrian Control and Protection and Traffic Authority of New South Wales Guidelines for Traffic Facilities, Part 4.2 –</p>

Pedestrian Refuges and/or section 6.7.2.3(b) of AustRoads Part 14 - Bicycles. The design is to address siting, signs, linemarking, parking restrictions and night-time visibility.

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

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

18) 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 Council's DCP 2010, AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking and AS 2890.2 – 2002 - Parking facilities, Part 2: Off-street commercial vehicle facilities. Plans are to include, but not be limited to, the following items:

- a) pavement description (permeable paving must be used wherever suitable);
- b) site conditions affecting the access;
- c) existing and design levels;
- d) longitudinal sections;
- e) cross sections every 15 metres;
- f) drainage;
- g) turning paths and turning area for any dead end parking aisles;
- h) linemarking and signage, any regulatory signage must be approved by Council's Local Traffic Committee;
- i) dimensions of all parking spaces and access aisles (including widening on curves);
- j) 2 small rigid loading bays for Precinct 3 – Live-Work Area;
- k) 3 medium rigid loading bays for Precinct 4 – Mixed Use; and
- l) signposting of parallel visitor parking bays to facilitate shared use for loading by a medium rigid vehicle for Precinct 1 – Residential.

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".

19) Bond required to guarantee against damage to public land

A bond of \$20,000 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development. 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.

20) 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 \$10 million. Council is to be nominated as an interested party on the policy.

21) Street Lighting

Plans and specifications are to be provided of street lighting for security and crime prevention purposes throughout the development. Lighting must be positioned so that it does not spill onto the adjoining properties in such a way that it adversely impacts the amenity of the occupants of those properties.

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

22) Requirements of Bush Fire Safety Authority from NSW Rural Fire Service

The requirements of the Bush Fire Safety Authority issued by the NSW Rural Fire Service are to be incorporated into the plans that are submitted with and approved as part of the Construction Certificate.

The following conditions are to be complied with prior to any site preparation or subdivision works commencing

23) Acid Frog Management Plan

An acid frog management plan covering Lot 1 and Lot 3 DP 1004514 and Lot 2 DP 706286 (and if possible Lot 4 DP 1004514) must be prepared by a qualified ecologist with experience working with threatened frogs. The plan is to be approved by Council's ecologist and include the following:

- a) a review of the effectiveness of ecological enhancement activities to date on these Lots and surrounding areas;
- b) incorporation of the details of any previously approved environmental enhancement works (completed and/or on-going), monitoring and/or ecological management plans for these Lots (i.e. environmental enhancement works under 10.2007.177.1, vegetation monitoring as per the approved program under condition 24 of 10.2008.360.1);
- c) a revised program of works for acid frog habitat enhancement and maintenance (with works to be undertaken by qualified restoration workers);
- d) a program of acid frog monitoring consistent with previous studies conducted on these Lots and the West Byron Sewage Treatment Plant including monitoring of road kill (monitoring to be undertaken by qualified ecologists);

- e) water quality monitoring of the receiving wetland and acid frog habitat rehabilitation areas (by suitably qualified personnel);
- f) management actions to reduce cane toad breeding;
- g) measures to reduce the impacts on acid frog habitat during the construction phase;
- h) performance indicators and adaptive management strategies to ensure that acid frog populations are conserved and enhanced and scope to take remedial management action if required; and
- i) a requirement to report to Council on an annual basis.

24) Vegetation protection

The stand of trees fronting Bayshore Drive and the existing acid frog rehabilitation area (Area 1 in SEE Illustration 3.4) is to be retained and protected by a fence so as to minimise disturbance to existing ground conditions within five (5) metres of the vegetation. The fence is to be constructed:

- a) with a minimum height of 1.2 metres,
- b) outside the dripline of the tree to a distance of five (5) metres,
- c) of steel star pickets at a maximum distance of 2 metres between pickets,
- d) using a minimum of 3 strands of steel wire,
- e) 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 preparation and construction works.

25) Perimeter fence

A perimeter fence must be erected prior to any works commencing and access to any areas outside of Lot 3 DP 1004514 including parking of vehicles or storage of machinery, equipment or other materials is strictly prohibited.

26) Written Notification

Written notification of intention to commence works must be forwarded to the Council seven (7) days prior to work commencing. Notification is to include contact details of the supervising engineer and site contractor.

27) Traffic Management Plan

The approved traffic management plan is to be implemented.

28) 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 \$10 million, is to be maintained for the duration of the construction of the development. Council is not held responsible for any negligence caused by the undertaking of the works.

29) 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.

The following conditions are to be complied with during construction of site preparation and subdivision works

30) Construction times

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

- a) Monday to Friday, from 7 am to 6 pm.
- b) Saturday, from 8 am to 1 pm.

No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

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

31) 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.

32) Approved Plans to remain on site

A copy of the approved Construction Certificate including plans, details and specifications must remain at the site at all times during the construction of the subdivision.

33) Plumbing Standards and requirements.

All Plumbing, Water Supply and Sewerage Works shall be installed and operated in accordance with the Local Government Act 1993, the NSW Code of Practice for Plumbing and Drainage and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications.

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

34) Requirements of NSW Rural Fire Service

The requirements of the Bush Fire Safety Authority issued by the NSW Rural Fire Service are to be applied as relevant.

The following conditions are to be complied with prior to completion of site preparation works and prior to the issue of a Subdivision Certificate

35) Subdivision Certificate application required

An application for a Subdivision Certificate must be made on the approved form. The Subdivision Certificate fees, in accordance with Council's adopted schedule of fees and charges, must accompany such application.

NOTE: The application must address ALL conditions of consent for this stage with a clear explanation of how that condition has been complied with, together with supplying ALL the relevant information/documents/certificate and/or plans that is required by that condition.

The application MUST be one complete, concise package, addressing all those conditions. Failure to provide the abovementioned information in one package, will likely result in the application being refused/rejected and returned to you.

36) Plan of Subdivision

An Administration Sheet (Original plus one (1) copy) and four (4) copies of the plan of subdivision, in accordance with the approved plans (Illustration 3.2 dated April 2011), are to be submitted with the application for a subdivision certificate.

37) Section 88B Instrument

A Section 88B Instrument and one (1) copy are to be submitted with the application for a subdivision certificate. The final plan of subdivision and accompanying Section 88B Instrument are to provide for:

a) Drainage Easements

The creation of easements for drainage of water over any public drainage pipelines and structures located within the proposed allotments in accordance with Council's policy.

b) Easement for Electricity

The creation of any necessary easements for electricity purposes as required by the electricity supply authority.

38) Road Widening

The location of the existing road formation and fences in relation to the property boundaries are to be shown on a survey plan to be submitted to Council. Any encroachments onto the property are to be dedicated as "Road Widening" at no cost to Council.

39) Statutory Easement/s

Statutory easements, as necessary, in accordance with section 36 of the Community Land Development Act 1989 must be shown for creation.

40) Management Statements

The management statement and development contract, together with 1 copy, are to be submitted with the application for a subdivision certificate. The management statement must provide for the following:

a) Access Ways

The private and/or open access way widths must be consistent with the minimum reserve widths of table 3.5 of Chapter 20 of Development Control Plan 2010. Suitable by-laws must be included for the operation and maintenance of the access ways.

b) Stormwater Management

Suitable by-laws must be included detailing the maintenance requirements of the stormwater management systems, including the open drains along the site frontages for the STP road and Bayshore Drive.

c) Staging By-laws

By-laws must ensure consistency with the staging of construction works recommended by conditions of this consent.

d) **Parking and Loading By-laws**

By-laws must ensure parking and loading restrictions and rights are consistent with conditions of this consent.

e) **Development of Lots**

The management statement and development contract must include relevant By-laws and/or requirements to ensure development of the land is carried out in accordance with this development consent.

f) **Construction Times**

By-laws must be consistent with the construction times approved by this development consent.

41) Completion of All Works

All roads, drainage and civil works, required by this stage of the development consent and relevant Construction Certificate and Roads Act consent, are to be completed. A final letter of approval / final compliance certificate for the satisfactory completion of the works must be submitted with the subdivision certificate application.

42) Works approved by Construction Certificate 11.2008.360

All of the site filling works approved by Construction Certificate 11.2008.360 are to be completed to the satisfaction of the Principal Certifying Authority. A final letter of approval / final compliance certificate for the satisfactory completion of the works must be submitted with the subdivision certificate application.

43) Certificates for engineering works

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

A separate certificate of compliance must be submitted to the Principal Certifying Authority certifying that all drainage and on-site stormwater detention works have been carried out in accordance with the approved plans. Such certificate to be in accordance with Part N5.6 of Chapter 1:Part N of Development Control Plan 2010.

44) Works-As-Executed Plans

Works-as-executed plans, being both hard copy and electronic format, certified by a suitably qualified engineer or a registered surveyor, are to be submitted with the application for a subdivision certificate.

45) Certificate for services within easements

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

46) Electricity Supply Certificate

Written evidence from an electricity supply authority is to be submitted with the application for a subdivision certificate stating that satisfactory arrangements have been made for the provision of underground electricity supply throughout the subdivision.

47) Telephone Supply Certificate

Written evidence from Telstra is to be submitted with the application for a subdivision certificate stating that satisfactory arrangements have been made for the provision of underground telephone supply throughout the subdivision.

48) Maintenance Bond

A maintenance bond of 5% (minimum bond amount of \$1,000.00) of the value of the public infrastructure works constructed is to be lodged with Council. A copy of the contract construction cost of the subdivision 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 Subdivision 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.

49) Record of Infrastructure

A record of infrastructure coming into Council ownership, upon registration of the final plan of subdivision, 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.

50) Compliance with bushfire conditions under Section 100B of Rural Fires Act 1997

Documentary evidence from a suitably qualified professional is to be submitted to the PCA demonstrating that the requirements of the Bushfire Safety Authority have been complied with.

51) Geotechnical Report (Lot Classification)

A certificate from a practicing Geotechnical Engineer must be provided in conjunction with a Lot Classification Report prepared in accordance with Australian Standard AS2870.1. Such certificate must certify that all vacant allotments have a building site of adequate size and shape on each lot that is not subject to slip or subsidence.

52) Certificate of Compliance – Water Management Act 2000

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

Payment of developer charges to Byron Shire Council for water supply and sewerage relevant to the stage that the allotment to be created is in.

A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of a Subdivision Certificate.

Application forms are available from Council's administration building or online at http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf to be submitted for a Certificate of Compliance.

53) Certificate of Compliance – Water Management Act 2000

Obtain a Certificate of Compliance from Rous Water confirming that all money payable to Rous Water in respect to the load the development imposes on the Regional Bulk Water Supply has been paid for the relevant stage.

Note: 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. The charge is calculated as the Rous Water Development Servicing Charge per Equivalent Tenement current at the time of payment multiplied by the assessed number of ET's for the development for water supply purposes.

54) Developer Contributions to be paid

Contributions relevant to this stage as set out in the attached Schedule are to be paid to Council. Contributions are levied in accordance with the Byron Shire Council Section 94 Development Contribution Plan 2005 dated June 2005 and Byron Shire Council Section 94 Development Contribution Plan 2005 Amendment No. 1 dated 20 July 2005 for Community Facilities, Open Space, Roads, Car Parking, Cycleways, Civic & Urban Improvements, Shire Support Facilities and Administration. The Plan may be viewed during office hours at the Council Offices located at Station Street, Mullumbimby.

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.

Payments will only be accepted by cash or bank cheque.

55) Completion of landscaping works

All landscaping works as approved within the Construction Certificate are to be completed.

PART B - THE FOLLOWING CONDITIONS ARE APPLICABLE TO EACH AND EVERY COMMERCIAL, LIGHT INDUSTRIAL, LIVE/WORK AND RESIDENTIAL STAGE:

Parameters of Consent

56) Application of conditions within this Part of the consent

The conditions outlined within this Part of the consent apply to each and every Commercial, Industrial, Live/Work and Residential Stage. As such, each independent Stage must satisfy all conditions outlined within this Part of the consent with timing determined by the headings shown in bold and shaded, unless stated otherwise within the condition.

57) Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

- (1) For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:
 - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia ,
 - (b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (2) This clause does not apply:
 - (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
 - (b) to the erection of a temporary building.
- (3) In this clause, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

58) Erection of signs

- (1) For the purposes of section 80A (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note: Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

59) Notification of Home Building Act 1989 requirements

- (1) For the purposes of section 80A (11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the Home Building Act 1989 .
- (2) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
 - (a) in the case of work for which a principal contractor is required to be appointed:
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
 - (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.

60) Signage

This development consent does not include any approval for signage within the site. Council's Planning Instruments require separate development consent for most forms of advertising signs and structures.

61) Easements and services

In accordance with the amended details shown within Illustration 1.0, prepared by GeoLINK, dated September 2008, no buildings or swimming pools associated with the development may encroach into the required easements shown on that plan.

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

62) Amended plans required

The plans that are submitted with and approved as part of the Construction Certificate are to be modified to include the following amendments:

- (a) Buildings C1, C3, C4, C5, C6 & C7 must be modified to meet the maximum overall height requirement of 9.0 metres (as measured from existing ground level). This could be achieved by lowering the floor to ceiling heights of either the first or second floor of the buildings (or both).
- (b) The Industrial Precinct GF Plan, numbered 0291 AR 18 B, dated 04/11/2011, is to be amended such that no approval is provided for the "Meeting Room" shown on the ground floor.
- (c) In order to achieve compliance with the maximum gross floor area requirement for the residential precinct, the areas nominated as 'verandah' within Dwelling Types D7, D7A, D8, D8A, 8B, D9, D9A, D10 & D10A are to be amended so that they are not covered by a roof structure (but may contain unroofed pergola structures only).
- (d) To achieve compliance with Chapter 20 of Development Control Plan 2010, amendments must be made to the Industrial Precinct GF Plan, numbered 0291 AR 18 B, dated 04/11/2011, to provide a minimum 2 metre wide vegetated area between the four buildings on the plan. This vegetated area must extend across the full faces of each adjoining building, but may include pedestrian paths across them where appropriate. Details of plantings to be undertaken within these vegetated areas are to be submitted with the landscaping plan for the site.
- (e) To increase the setback of residential development to 'Alphabet Street', the following changes are required to the three proposed dwellings fronting the south-eastern side of 'Alphabet Street' (ie. Dwelling Types D8, D5 & D3):
 - (i) The building element nominated as 'WKSP' on the ground floor of Dwelling Type D3 is to be removed.
 - (ii) The building element nominated as 'WKSP' on the ground floor of Dwelling Type D5 is to be removed.
 - (iii) The building element nominated as 'WKSP' on the ground floor of Dwelling Type D8 is to be removed.
- (f) To achieve a minimum 6.0 metre setback for residential development from the Sewage Treatment Plant Road and to provide additional solar access to the living areas, Dwelling Type D10 and Dwelling Type D10A must not include any roof structure over the area nominated as 'front deck' (other than an eave).
- (g) To achieve a minimum 4.0 metre setback for mixed use development from the Sewage Treatment Plant Road, the building shown on the 'Masterplan' numbered 0291 AR 01 D, dated 04/11/2011, as comprising Dwelling Types A4, A2, A2, A2 and A5, is to be replaced with a building comprises Dwelling Types A1, A2, A2, A3.

- (h) To achieve compliance with Chapter 20 of Development Control Plan 2010, no roof must have a highly reflective surface; any metal roof must have a colorbond or equivalent finish in a colour approved by Council. White or light coloured roofing will not be approved where likely to be intrusive.
- (i) To improve the level of compliance with Chapter 20 of Development Control Plan 2010 with respect to the provision of private landscaped area, the rear yards of all Dwelling Types A2 must be extended to the north-west to occupy the area shown on Plan No. 0291 AR 22 B, dated 04/11/2011, labelled as 'compacted yellow meta dust path'. As such, the path is to remain only at the rear of Dwelling Type A1 and Dwelling Type A3.
- (j) To achieve compliance with Chapter 20 of Development Control Plan 2010, full details must be provided of at least 7 adaptable dwellings within the development, designed in accordance with AS4299 Adaptable Housing.
- (k) To achieve compliance with Chapter 1 Part C of Development Control Plan 2010, details must be provided for each dwelling, demonstrating that clothes drying facilities can be provided with at least 7.5 metres of line per dwelling in a suitably screened external drying area having an area of 6m².
- (l) To achieve compliance with Chapter 1 Part C of Development Control Plan 2010, fencing throughout the development is limited to a maximum height of 1.2 metres where erected forward of the building line (that is within the setback area between any building and a boundary that is frontage to a street, road or lane), and a maximum height of 1.8 metres elsewhere.
- (m) The café and adjacent outdoor seating shown within Building IND 3 on the Masterplan, Drawing No. 0291 AR 01, dated 04/11/2011, must be removed from the approved plans.
- (n) To reduce the ability of the dwellings within the proposed development to be used for dual occupancy purposes, no workspace or home office that adjoins a dwelling is to be provided with its own kitchen or shower.
- (o) Details must be provided of the internal walls of the light industrial buildings IND 1, IND 2, IND 3 and IND 4, such that the ground floors of each building contain not more than 5 individual units and the first floors of each building contain not more than 10 individual units.

63) Provision of public art

In accordance with Chapter 1 Part E of Development Control Plan 2010, public art is to be provided within the development with a minimum value of \$25,000. Details are to be submitted for approval as part of the Construction Certificate of the 'sculpture' nominated within the Commercial Precinct GF Plan, numbered 0291 AR 02 B, dated 04/11/2011. Such details must achieve the following:

- (a) Relevance and appropriateness of the work in relation to its site;
- (b) Relevance and appropriateness of the work to Byron Shire, including the Shire's Aboriginal heritage, its particular natural environment and its diverse culture;
- (c) Consistency with the Byron Shire Cultural Plan and Public Art Policy;
- (d) Consideration of public safety, including public use of and access to the Public Art and associated space;
- (e) Consideration of maintenance and durability, including potential for vandalism;
- (f) Evidence of funding sources and satisfactory budget, including provision for ongoing maintenance; and
- (g) Evidence of Public Liability Insurance to cover construction and installation of the work.

64) Classification and Suitability of Fill

The fill material must be classified as suitable for the site. Such classification must conclude to the satisfaction of Council's Environmental Health Officers that the fill material is not contaminated and/or contain acid sulfate material. Classification must be in accordance with the NSW DECC 'Waste Classification Guidelines (2008)' and 'Acid Sulfate Soil Guidelines (ASSMAC, 1998)'.

65) Treatment of Fill

Where treatment of the fill material is required to ensure it is suitable for the site as specified in the preceding condition, such treatment must not occur on the subject site. Documented evidence of any remediation for contamination and/or treatment for acid sulfate material must be provided to Council's Environmental Health Officers. Once treated, the fill material must not exceed a pH of 4.5.

66) Geotechnical Report required – Building Works

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

67) Plans of retaining walls and drainage

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

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

68) 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 for the relevant stage. 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".

69) Stormwater management

The application for a Construction Certificate is to include plans and specifications that indicate stormwater management for the relevant stage, in accordance with the approved Integrated Water Cycle and Soil Management Plan, AS/NZS 3500.3:2003 - Plumbing and drainage, Part 3: Stormwater drainage and Part N of DCP 2010.

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

70) Flood Planning Level for new buildings

The flood planning level for this development is 0.5m above the top water level of the on-site stormwater detention system constructed in the first stage of development. The plans and specifications to accompany the construction certificate application are to indicate a minimum floor level that is at or above the flood planning level.

71) Consent required for works within the road reserve

Unless already constructed in a previous stage, 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 Specification for Engineering Works and are to provide for the following works:

Driveway/s

Driveway/s in accordance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings". Such works to include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities. A minimum clearance of 500mm shall be provided to power poles, stay poles and the like.

72) 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 for the relevant stage in accordance with the plans approved by this consent.

The access, parking and manoeuvring for the site is to comply with the requirements of Council's DCP 2010, AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking and AS 2890.2 – 2002 - Parking facilities, Part 2: Off-street commercial vehicle facilities. Plans are to include, but not be limited to, the following items:

- a) pavement description;
- b) site conditions affecting the access;
- c) existing and design levels;
- d) longitudinal section;
- e) cross sections every 15 metres;
- f) drainage;
- g) turning paths;
- h) linemarking and signage.
- i) 4 loading bays, comprising loading bays to accommodate 2 small rigid vehicles and 2 medium rigid vehicles, for Precinct 2 – Light Industrial stage; and
- j) 3 loading bays to accommodate 3 small rigid vehicles for Precinct 4 – Mixed Use stage.

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".

73) Certificate of Compliance – Water Management Act 2000

A Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of a Construction Certificate for payment of developer charges for water supply and sewerage for the relevant stage.

Application forms are available from Council's administration building or online at http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf to be submitted for a Certificate of Compliance.

74) Certificate of Compliance – Water Management Act 2000

Obtain a Certificate of Compliance from Rous Water confirming that all money payable to Rous Water in respect to the load the development imposes on the Regional Bulk Water Supply has been paid for the relevant stage.

Note: 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. The charge is calculated as the Rous Water Development Servicing Charge per Equivalent Tenement current at the time of payment multiplied by the assessed number of ET's for the development for water supply purposes.

75) Developer Contributions to be paid

Contributions set out in the attached Schedule for the relevant stage are to be paid to Council. Contributions are levied in accordance with the Byron Shire Council Section 94 Development Contribution Plan 2005 dated June 2005 and Byron Shire Council Section 94 Development Contribution Plan 2005 Amendment No. 1 dated 20 July 2005 for Community Facilities, Open Space, Roads, Car Parking, Cycleways, Civic & Urban Improvements, Shire Support Facilities and Administration. The Plan may be viewed during office hours at the Council Offices located at Station Street, Mullumbimby.

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.

PAYMENTS WILL ONLY BE ACCEPTED BY CASH OR BANK CHEQUE.

76) Access and facilities for disabled

The application for a Construction Certificate is to include plans and specifications that indicate access and facilities for persons with access disabilities to and within the development in accordance with AS 1428.1 - Design for Access and Mobility and Part D3 of the Building Code of Australia.

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

77) Equity of Access and Mobility

In accordance with Development Control Plan 2010, one adaptable dwelling designed in accordance with AS4299 must be provided for every ten dwellings or part thereof. As such, at least 7 adaptable dwellings designed in accordance with AS4299 must be located throughout the development. Details of the individual dwellings nominated to meet this requirement must be included within the plans that are submitted and approved with the Construction Certificate. Construction Certificate plans must also include design details demonstrating compliance with AS4299 and the following:

- (a) Access is to be provided in accordance with the Building Code of Australia and AS1428.2. A "continuous accessible path of travel" must be provided.
- (b) Appropriate access for all persons through the principal entrance of a building must be provided.
- (c) For every adaptable dwelling at least one of the parking spaces required must be designed in accordance with AS2890 Part 1.
- (d) One visitor parking space designed in accordance with AS2890 Part 1 must be provided for every 100 parking spaces or part thereof, throughout the development.

78) Water and Sewerage - Section 68 approval required

An Approval under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work and/or trade waste must be obtained prior to the issue of a Construction Certificate.

The application for approval under Section 68 must include two sets of hydraulic plans of the proposed development drawn by a practising hydraulic engineer. These plans are to be compliant with the following standards:

- AS3500 – 2003 plumbing and drainage
- The NSW Code of Practice for Plumbing and Drainage
- AS2419.1 Fire hydrants installations
- AS2441 installation of fire hose reels
- Water Services Association of Australia

79) 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 Section C3.1 of Council's Development Control Plan 2010 Chapter 1 Part C and Chapter 20. No roof must have a highly reflective surface. Any metal roof must have a colorbond or equivalent finish in a colour approved by Council. White or light coloured roofing will not be approved where likely to be intrusive.

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

80) Bird strike strategies

Provide and implement strategies to decrease the likelihood of bird strike against windows of buildings including monitoring of effectiveness. A proposed strategy must be submitted to Council's Ecologist for approval.

81) Detailed landscaping plan required

Prior to the issue of a Construction Certificate for each Stage, a detailed landscaping plan must be submitted and approved by Council's Ecologist. The detailed plan must include all landscaping within areas of the site contained within the respective Residential, Live/Work, Industrial or Commercial polygons as shown on the approved Staging Plan (Illustration 3.1, dated April 2011). The landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Part H of Development Control Plan 2002. Species identified in Part H of Development Control Plan 2002 are to be planted wherever possible. The plan must not include species that represent translocation of native plants outside their geographic range, potential or known environmental weeds or species with potential for genetic pollution. The landscaping plan must indicate:

- a) proposed location for planted shrubs and trees
- b) botanical name of shrubs and trees to be planted
- c) 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.

The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist who has appropriate experience and competence in landscaping. The NSW Rural Fire Service requires that landscaping of the site is to comply with the principles of appendix 5 of Planning for Bush Fire Protection 2006.

Following approval by Council's Ecologist, such plans and specifications must be approved as part of the Construction Certificate.

82) Long Service Levy to be paid

A Long Service Levy must be paid to the Long Service Payments Corporation. These payments may be made at Council's Administration Office, Station Street, Mullumbimby. Cheques are to be made payable to 'Byron Shire Council'.

This is a State Government Levy and is subject to change.

83) Garbage storage areas to be provided

The application for a Construction Certificate is to include plans and specifications that indicate all garbage store areas as identified and approved within the Waste Management Strategy for the residential, commercial, retail and industrial uses within the site.

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

84) Compliance with BASIX Certificate

The Principal Certifying Authority (PCA) is to ensure that the proposed development is constructed in accordance with the requirements of the BASIX Certificates that were submitted to Council in support of the Development Application.

The Plans submitted for approval with the Construction Certificate must include all of the BASIX Certificate commitments.

Where changes to the development are proposed that may affect the water, thermal comfort or energy commitments, a new BASIX Certificate may be required.

85) Requirements of Bush Fire Safety Authority from NSW Rural Fire Service

The requirements of the Bush Fire Safety Authority issued by the NSW Rural Fire Service are to be incorporated into the plans that are submitted with and approved as part of the Construction Certificate.

86) Details pool fence required

The application for a Construction Certificate is to include plans and specifications that indicate the details of the fence around any swimming pool in accordance with the Swimming Pools Act 1992 and AS1926.1.

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

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

87) Erosion & sediment measures

Erosion and sedimentation controls are to be in place in accordance with the approved sediment and erosion control plan for the site.

88) 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 \$10 million, is to be maintained for the duration of the construction of the development. Council is not held responsible for any negligence caused by the undertaking of the works.

The following conditions are to be complied with during construction

89) 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 Sundays or Public Holidays.

90) 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).

91) 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.

92) 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.

93) No dewatering

No dewatering without prior written permission from Council.

94) 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.

95) Stormwater drainage work

Stormwater shall be collected and disposed of in a controlled manner in accordance with the approved plans. Drainage lines within the road reserve must be sewer class or other approved equivalent. All drainage works are to be installed by a suitably qualified person and in accordance with the requirements of AS/NZS 3500.3:2003 - Plumbing and drainage, Part 3: Stormwater drainage.

96) Plumbing Standards and requirements.

All Plumbing, Water Supply and Sewerage Works shall be installed and operated in accordance with the Local Government Act 1993, the NSW Code of Practice for Plumbing and Drainage and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications.

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

The following INSPECTIONS are required:

- a) Internal Drainage;

- b) External Drainage;
- c) Water Rough In;
- d) Stackwork; (where applicable);
- e) Final.

97) Requirements of NSW Rural Fire Service

The requirements of the Bush Fire Safety Authority issued by the NSW Rural Fire Service are to be applied as relevant.

The following conditions are to be complied with prior to occupation

98) Works to be completed

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of an 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.

99) Waste management

Measures must be in place to comply with the requirements of the report titled '*Waste Management Strategy Bayshore Village, Byron Bay. Geolink. Report No. 291884. 14 April 2011*'.

100) Car parking areas to be completed and signs to be provided

The car parking areas are to be constructed in accordance with the approved plans for the relevant stage. Signs are to be erected clearly indicating the availability of off-street parking and the location of entry/exit points, visible from both the street and the subject site.

101) Works as executed drawings are required.

The submission of works as executed drawings for the storm water management facilities for the relevant stage.

102) Stormwater drainage – Certification of works

- a) Stormwater must be collected and disposed of in a controlled manner in accordance with the approved construction plans for the relevant stage.
- b) Certificates, such as 'hydraulic/hydrological compliance' and 'structural adequacy' must be submitted to the Principal Certifying Authority (PCA) prior to occupation.
- c) The certificates are to be from a suitably qualified engineer certifying that all works have been constructed in accordance with the approved plans, Council's current 'Design & Construction Manuals, Section 68 Approvals and Part N of DCP 2010 (Certificate of Compliance form).

103) Completion of landscaping works

All landscaping works as approved within the Construction Certificate are to be completed.

104) 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.

105) Food standards

Food premises shall be constructed to comply with the New South Wales Food Act 2003 and Food Regulation 2004. Requirements of Food Standard Code 3.2.3 and Australian Standard AS 4674 – 2004 Design, construction and fit-out of food premises to be satisfied to achieve the minimum construction standards for the food business. The operator shall obtain a satisfactory inspection from Council's Environmental Health Officer prior to commencing operation. A minimum of 24 hours notice is required prior to inspection. Inspections can be arranged by telephoning (02) 6626 7054 during normal office hours. A fee is levied upon the operator for such inspections.

106) Kitchen exhaust

Prior to use of the kitchen exhaust-hood installation associated with the canteen, a certificate and system specifications detailing the air flow velocity readings to be provided to Council. The certificate should be completed by a suitably qualified professional and shall ensure that the installation satisfies the requirements of AS 1668 Parts 1 and 2.

107) Waste disposal facilities

The operator shall demonstrate to Council's Environmental Health Officer's satisfaction that adequate waste disposal facilities are available on the premises for use by the canteen, and that such facilities can be maintained to prevent environmental harm or public nuisance.

108) 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.

109) 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.

110) Lighting Requirements

Adequate lighting that complies with Australian Standard AS1680.1 "*Interior lighting*" must be provided throughout the area of sauna/steam room facility and any pertinent showers, corridors, hallways and change rooms.

111) Plumbing

All plumbing, water supply and sewerage works shall be installed in accordance with the Local Government Act 1993, the NSW Code of Practice for Plumbing and Drainage and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications.

112) Public use of swimming pools and spa pools

Continuous disinfection dosing system and effective water circulation shall be provided to all treated water swimming pools and spa pools. Sufficient residual bactericidal effect shall be achieved as required by the NSW Public Health Regulation, and the "Public Swimming Pools and Spa Pools Guidelines" (as amended).

The following conditions must be complied with prior to issue of a Subdivision Certificate for the Precinct or Neighbourhood Scheme (Illustration 3.3 dated August 2011)

113) Subdivision Certificate application required

An application for a Subdivision Certificate must be made on the approved form. The Subdivision Certificate fees, in accordance with Council's adopted schedule of fees and charges, must accompany such application.

NOTE: The application must address ALL conditions of consent for the relevant stage with a clear explanation of how that condition has been complied with, together with supplying ALL the relevant information/documents/certificate and/or plans that is required by that condition.

The application **MUST** be one complete, concise package, addressing all those conditions. Failure to provide the abovementioned information in one package, will likely result in the application being refused/rejected and returned to you.

114) Plan of Subdivision

An Administration Sheet (Original plus one (1) copy) and four (4) copies of the plan of subdivision, in accordance with the approved plans (Illustration 3.3 dated August 2011), are to be submitted with the application for a subdivision certificate.

115) Statutory Easement/s

Statutory easements, as necessary, in accordance with section 36 of the Community Land Development Act 1989 must be shown for creation.

116) Management Statements

The management statement and development contract, together with 1 copy, are to be submitted with the application for a subdivision certificate. The management statement must provide for the following:

a) Stormwater Management

Suitable by-laws must be included detailing the maintenance requirements of the stormwater management systems.

b) Construction Times

Any relevant by-laws must be consistent with the construction times approved by this development consent.

117) Electricity Supply Certificate

Written evidence from an electricity supply authority is to be submitted with the application for a subdivision certificate stating that satisfactory arrangements have been made for the provision of underground electricity supply throughout the subdivision.

118) Telephone Supply Certificate

Written evidence from Telstra is to be submitted with the application for a subdivision certificate stating that satisfactory arrangements have been made for the provision of underground telephone supply throughout the subdivision.

119) Geotechnical Report (Lot Classification)

A certificate from a practicing Geotechnical Engineer must be provided in conjunction with a Lot Classification Report prepared in accordance with Australian Standard AS2870.1. Such certificate must certify that all vacant allotments have a building site of adequate size and shape on each lot that is not subject to slip or subsidence.

120) Certificate of Compliance – Water Management Act 2000

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

Payment of developer charges to Byron Shire Council for water supply and sewerage relevant to the stage that the allotment/s are to be created is in.

A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of a Subdivision Certificate.

Application forms are available from Council's administration building or online at http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf to be submitted for a Certificate of Compliance.

121) Certificate of Compliance – Water Management Act 2000

Obtain a Certificate of Compliance from Rous Water confirming that all money payable to Rous Water in respect to the load the development imposes on the Regional Bulk Water Supply has been paid relevant to the stage that the allotment/s are to be created is in.

Note: 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. The charge is calculated as the Rous Water Development Servicing Charge per Equivalent Tenement current at the time of payment multiplied by the assessed number of ET's for the development for water supply purposes.

122) Developer Contributions to be paid

Contributions are to be paid to Council, relevant to the stage in which the allotment/s are to be created within, as set out in the attached Schedule and in accordance with the approved staging plan (Illustration 3.1 dated April 2011). Contributions are levied in accordance with the Byron Shire Council Section 94 Development Contribution Plan 2005 dated June 2005 and Byron Shire Council Section 94 Development Contribution Plan 2005 Amendment No. 1 dated 20 July 2005 for Community Facilities, Open Space, Roads, Car Parking, Cycleways, Civic & Urban Improvements, Shire Support Facilities and Administration. The Plan may be viewed during office hours at the Council Offices located at Station Street, Mullumbimby.

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.

Payments will only be accepted by cash or bank cheque.

PART C - THE FOLLOWING CONDITIONS ARE APPLICABLE FOR ALL STAGES:

The following conditions are to be complied with at all times

123) No dewatering

No dewatering without prior written permission from Council.

124) 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.

125) Swimming pool discharge

Swimming pools discharge for waste water is to be in accordance with AS/NZS 3500.2.2, Section 10.9 & Figure 10.2.

126) Swimming pool pump locations

The filter pumps of all swimming pools are to be located such that noise from their operation 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.

127) Swimming pool health requirements

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

128) No interference with amenity

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) The noise level emanating from the use of the premises must comply with the New South Wales Industrial Noise Policy.
- b) Only clean and unpolluted water is permitted to be discharged to Council's stormwater drainage system or any waters.
- c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.

129) Community Management

Comply with the report titled '*Community Management Statement. Bayshore Village. Lot 3 DP 1004514, Bayshore Drive, Byron Bay. Hickey Lawyers*' (undated), or subsequent documents.

130) Car Parking spaces are to be available for the approved use

Four hundred and seven (407) car parking spaces are to be provided and maintained, together with all necessary access driveways and turning areas, to the satisfaction of Council. The allocation of car spaces is as follows:

○ **Precinct 1 – Residential (Neighbourhood Lots 1 to 17)**

34 large dwellings @ 2 spaces / dwelling	=	68 car spaces
Visitor car parking @ 1 space / 4 dwellings	=	9 car spaces
34 work spaces @ 1 space each	=	34 car spaces
Sub total	=	111 car spaces

○ **Precinct 2 – Light Industrial (Community Lot 5)**

Industrial building "IND 1"	=	15
Industrial building "IND 2"	=	14
Industrial building "IND 3"	=	14
Industrial building "IND 4"	=	14
Sub tota	=	57 car spaces

○ **Precinct 3 – Live-Work Area (Community Lot 4)**

24 small dwellings @ 1.5 spaces / dwelling	=	36 car spaces
Visitor car parking @ 1 space / 4 dwellings	=	6 car spaces
24 work spaces @ 1 space each	=	24 car spaces
Sub total	=	66 car spaces

○ **Precinct 4 – Mixed Use (Community Lot 2)**

1,399m ² retail @ 1/20m ²	=	70 car spaces
244.5m ² canteen @ 1/20m ²	=	12 car spaces
662.1m ² health spa @ 1/20m ²	=	33 car spaces
218.9m ² home office @ 1/40m ² x 70%	=	4 car spaces
2,147m ² office @ 1/40m ² x 70%	=	38 car spaces
9 small dwellings @ 1.5 spaces / dwelling	=	14 car spaces
Visitor car parking @ 1 space / 4 dwellings	=	2 car spaces
Sub total	=	173 car spaces

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.

131) 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.

132) Loading and unloading not to occur on the street

Loading and unloading bays must be available at all times for the loading and unloading of goods for the development. All loading and unloading to is take place within the curtilage of the premises.

133) Stormwater Maintenance

The stormwater collection and treatment devices must be inspected and maintained in accordance with the maintenance program contained in the approved Integrated Water Cycle and Soil Management Plan.

134) 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.

135) Access for emergency vehicles and personnel

Access must be permitted to and throughout the site for emergency vehicles and personnel. No gates are permitted across the vehicle access roads to the development.

136) Access for waste management vehicles and personnel

Access must be permitted to and throughout the site for waste management vehicles and personnel. No gates are permitted across the vehicle access roads to the development.

137) Security Lighting

Lighting for security and crime prevention purposes must be provided to each of the car parking areas, pedestrian paths and entries to commercial buildings. Lighting must be positioned so that it does not spill onto the adjoining properties in such a way that it adversely impacts the amenity of the occupants of those properties.

138) Requirements of NSW Rural Fire Service

The requirements of the Bush Fire Safety Authority issued by the NSW Rural Fire Service are to be adhered to.

139) Common antennae

Where buildings contain multiple units, shared television antennae/satellite dishes are to be provided to reduce the visual impact of multiple services.

140) 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.

141) Swimming pool discharge

Swimming pools discharge for waste water is to be in accordance with AS/NZS 3500.2.2, Section 10.9 & Figure 10.2.

142) Swimming pool pump locations

The filter pumps of all swimming pools are to be located such that noise from their operation 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.

143) Swimming pool health requirements – this condition applies to the common swimming pools located within the recreation facility only

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

144) Food premises

Any food premises shall be operated and maintained to ensure that the statutory requirements of the New South Wales *Food Act 2003* and *Food Regulation 2004* (incorporating *Food Standard Codes*) are satisfied at all times. Access to the *Food Standard Codes* is available on-line 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 on-line at <http://www.foodnotify.nsw.gov.au>.

145) Control of emissions from food premises

Any food premises uses shall not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) The noise level emanating from the use of the premises must comply with the New South Wales Industrial Noise Policy.
- b) Only clean and unpolluted water is permitted to be discharged to Council's stormwater drainage system or any waters.
- c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.

146) Toilet and washing facilities

The operator of any food premises shall comply with the *Occupational Health and Safety Act* 2001 statutory requirements. Staff shall be provided with adequate toilet and washing facilities. NSW WorkCover should be consulted in the event that further information is required in regard to this condition.

147) Public use of swimming pools and spa pools

The operation of all treated water swimming pools and spa pools used by members of the public shall maintain a continuous disinfection dosing system and effective water circulation so as to maintain the minimum standards established under the NSW Public Health Regulation. The NSW Health "Public Swimming Pool and Spa Pool Guidelines" (as amended) offers advice and specific water quality objectives to ensure that public health and safety conditions are maintained at all times.

148) Steam Room Safety Requirements and Operations

The temperature within any sauna/steam room shall not exceed either:

- a) 95°C (185°F) in dry air conditions (sauna), or,
- b) 60°C (140°F) in humid air conditions (steam room).

Every operator shall check, determine and record:

- a) the operating temperature of the facility daily;
- b) the condition of floors, walls, handrails and benches/seats daily for sanitation, deterioration or safety hazards.

Every floor, wall and ceiling in a sauna/steam room, or room containing a sauna/steam room shall be washed, cleaned and disinfected at least once per week. Clean more often if necessary to keep it in a clean and sanitary condition.

A temperature control device that can only be increased above 90 °C by a member of staff.

The heater must be provided with an external casing that is not capable of becoming hot, i.e. the surface remains below 40 °C; or is surrounded completely by a barrier or shield to prevent accidental contact with the hot surface.

The heating unit should be fitted with a thermal cut-out device, which is activated if the temperature within the sauna rises above 95 °C.

A highly visible tag system shall be available to prevent the use of such sauna / steam room when cleaning, maintenance or a fault is occurring.

149) Public use of day spa generally

The operation of the day spa must adhere to all public health requirements.

150) Land uses

The various land uses contained within the development are to operate in accordance with the Statement of Environmental Effects (prepared by GeoLINK, dated 2 May 2011), Chapter 20 of Byron Development Control Plan 2010 and the following requirements:

- (a) The canteen located within Buildings C2 is to be operated in accordance with the definition of a restaurant [a restaurant means premises in which food or beverages (or both) are supplied for sale to the public for consumption on the premises] with the exception that it is generally to be used to service the residents/workers within the development and shall only be open for trade during the same hours as the adjacent commercial buildings.
- (b) The workspace and/or home office areas that are attached to individual dwellings must not be used for any form of residential habitation or adapted for dual occupancy purposes. Such may only be used in conjunction with the dwelling in which they are attached to and must not be leased or used by persons other than those residing in the attached dwelling.
- (c) The areas nominated as 'retail' located within Buildings B1 – B2 and C1 – C7 are to be operated in accordance with the definition of a shop. A shop means a building or place used for the purpose of selling, exposing or offering for sale by retail, goods, merchandise or materials.
- (d) The areas nominated as 'offices' located within Buildings B1 – B2 and C1 – C7 are to be operated in accordance with the definition of a commercial premises. A commercial premises means a building or place used as an office or for other business or commercial purposes (other than uses separately defined within Byron Local Environmental Plan 1988).
- (e) The industrial buildings nominated on the Masterplan (Plan No. 0291 AR 01D, dated 04/11/2011) as IND 1, IND2, IND 3 and IND 4 are to be operated in accordance with the definition of light industry. Light Industry means an industry, not being an offensive or hazardous industry, in which the processes carried on, the transportation involved or the machinery or materials used to not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise. Industry means any handicraft or process in or incidental to the making, assembling, altering, repairing, renovating, preparing, ornamenting, finishing, cleaning, washing, breaking up, or adapting of any goods or any articles or any part of an article for trade or sale or gain, or as ancillary to any business, but does not include an extractive industry.
- (f) The workshops located within Dwelling Types LW1 – LW3 are to be operated as creative industries in accordance with Chapter 20 of Development Control Plan 2010. Creative Industry means industries that generate copyrights, patents, designs or trademarks and include businesses and industries involved in:
 - advertising, graphic design and marketing;
 - architecture, visual arts and design;
 - music composition and production;
 - computing and intellectual technologies;
 - performing arts;
 - writing, publishing and print media; and
 - film, television and entertainment.

Such workshops may only be used in conjunction with the dwelling in which they are attached to and must not be leased or used by persons other than those residing in the attached dwelling. The workspaces must not be used for any form of residential habitation or be adapted for dual occupancy purposes by providing a separately accessible entry for the dwelling above.

151) Hours of operation

The hours of operation of the various land uses contained within the development are limited to those provided below:

- Retail areas within Buildings B1 – B2 and C1 – C7 : 8am to 6pm Monday to Friday and 8am to 1pm Saturday.
- Office areas within Buildings B1 – B2 and C1 – C7 : 8am to 6pm Monday to Friday and 8am to 1pm Saturday.
- Day Spa within Building B1 : 8am to 6pm Monday to Friday and 8am to 1pm Saturday.
- Light Industrial uses within Buildings IND 1, IND 2, IND 3 & IND 4 : 9am to 5pm Monday to Friday and 9am to 12pm Saturday.
- Creative Industry uses within Buildings LW1-1, LW1-2, LW1-3 & LW1-4 : 9am to 5pm Monday to Friday and 9am to 12pm Saturday.
- Office uses within Dwelling Types A1, A2 & A3 : 9am to 5pm Monday to Friday and 9am to 12pm Saturday.
- Workspace uses within Dwelling Types D1 – D10A : 9am to 5pm Monday to Friday and 9am to 12pm Saturday.
- Canteen within Building C3 : 9am to 5pm Monday to Friday and 9am to 12pm Saturday.
- Recreation facilities : 6am to 10pm Monday to Sunday.

Notes

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.

STAGE: Subdivision – Community Scheme (Site Preparation Stage), Illustration 3.2

RESIDENTIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Community and Cultural Facilities	(CF-BB)	2.00	SDU @	\$995.72	=	\$1,991.44
" - Shire Wide	(CF-SW)	2.00	SDU @	\$526.15	=	\$1,052.30
Open Space	(OS-BB)	2.00	SDU @	\$6,266.05	=	\$12,532.10
" - Shire Wide	(OS-SW)	2.00	SDU @	\$2,650.73	=	\$5,301.45
Roads	(R-BB)	18.00	trips @	\$717.72	=	\$12,918.93
Cycleways	(CW-BB)	2.00	SDU @	\$776.41	=	\$1,552.82
Civic & Urban Improvements	(IM-BB)	2.00	SDU @	\$1,585.14	=	\$3,170.28
Surf Lifesaving	(SL-BB)	2.00	SDU @	\$25.80	=	\$51.60

Administration	(OF-SW)	2.00	SDU @	\$714.53	=	\$1,429.06
Total					=	\$40,000.00

STAGE: Commercial Stage 1 - "COM 1", Illustration3.1

TOURIST, RETAIL, COMMERCIAL & INDUSTRIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Roads	(R-BB)	1224	trips @	\$823.89	=	\$1,008,438.42
Civic & Urban Improvements	(IM-BB)	72.17	SDU @	\$1,819.62	=	\$131,322.23
Administration	(OF-SW)	72.17	SDU @	\$820.23	=	\$59,196.02
Total					=	\$1,198,956.67

STAGE: Commercial Stage 2 - "COM 2", Illustration3.1

RESIDENTIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Community and Cultural Facilities	(CF-BB)	1.62	SDU @	\$1,143.01	=	\$1,846.41
" - Shire Wide	(CF-SW)	1.62	SDU @	\$603.98	=	\$975.67
Open Space	(OS-BB)	1.62	SDU @	\$7,192.96	=	\$11,619.40
" - Shire Wide	(OS-SW)	1.62	SDU @	\$3,042.84	=	\$4,915.35
Roads	(R-BB)	8.00	trips @	\$823.89	=	\$6,591.10
Cycleways	(CW-BB)	1.62	SDU @	\$776.41	=	\$1,254.20
Civic & Urban Improvements	(IM-BB)	1.62	SDU @	\$1,819.62	=	\$2,939.39
Surf Lifesaving	(SL-BB)	1.62	SDU @	\$29.62	=	\$47.84
Administration	(OF-SW)	1.62	SDU @	\$820.23	=	\$1,324.99
Total					=	\$31,514.35

TOURIST, RETAIL, COMMERCIAL & INDUSTRIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Roads	(R-BB)	8.0	trips @	\$823.89	=	\$6,591.10
Civic & Urban Improvements	(IM-BB)	1.89	SDU @	\$1,819.62	=	\$3,439.09
Administration	(OF-SW)	1.89	SDU @	\$820.23	=	\$1,550.24
Total					=	\$11,580.42

STAGE: Commercial Stage 3 - "COM 3", Illustration3.1

RESIDENTIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Community and Cultural Facilities	(CF-BB)	3.27	SDU @	\$1,143.01	=	\$3,736.77
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" - Shire Wide	(CF-SW)	3.27	SDU @	\$603.98	=	\$1,974.56
Open Space	(OS-BB)	3.27	SDU @	\$7,192.96	=	\$23,515.46
" - Shire Wide	(OS-SW)	3.27	SDU @	\$3,042.84	=	\$9,947.73
Roads	(R-BB)	22.00	trips @	\$823.89	=	\$18,125.53
Cycleways	(CW-BB)	3.27	SDU @	\$776.41	=	\$2,538.27
Civic & Urban Improvements	(IM-BB)	3.27	SDU @	\$1,819.62	=	\$5,948.77
Surf Lifesaving	(SL-BB)	3.27	SDU @	\$29.62	=	\$96.83
Administration	(OF-SW)	3.27	SDU @	\$820.23	=	\$2,681.52
Total					=	\$68,565.44

TOURIST, RETAIL, COMMERCIAL & INDUSTRIAL DEVELOPMENT
SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Roads	(R-BB)	10.0	trips @	\$823.89	=	\$8,238.88
Civic & Urban Improvements	(IM-BB)	2.32	SDU @	\$1,819.62	=	\$4,221.53
Administration	(OF-SW)	2.32	SDU @	\$820.23	=	\$1,902.93
Total					=	\$14,363.34

STAGE: Residential Stage 1 - "RES 1", Illustration3.1

RESIDENTIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL
PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Community and Cultural Facilities	(CF-BB)	9.00	SDU @	\$1,143.01	=	\$10,287.11
" - Shire Wide	(CF-SW)	9.00	SDU @	\$603.98	=	\$5,435.85
Open Space	(OS-BB)	9.00	SDU @	\$7,192.96	=	\$64,736.68
" - Shire Wide	(OS-SW)	9.00	SDU @	\$3,042.84	=	\$27,385.53
Roads	(R-BB)	25.0	trips @	\$823.89	=	\$20,597.19
Cycleways	(CW-BB)	9.00	SDU @	\$776.41	=	\$6,987.71
Civic & Urban Improvements	(IM-BB)	9.00	SDU @	\$1,819.62	=	\$16,376.61
Surf Lifesaving	(SL-BB)	9.00	SDU @	\$29.62	=	\$266.56
Administration	(OF-SW)	9.00	SDU @	\$820.23	=	\$7,382.07
Total					=	\$159,455.30

TOURIST, RETAIL, COMMERCIAL & INDUSTRIAL DEVELOPMENT
SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Roads	(R-BB)	31.0	trips @	\$823.89	=	\$25,540.52
Civic & Urban Improvements	(IM-BB)	6.97	SDU @	\$1,819.62	=	\$12,682.78
Administration	(OF-SW)	6.97	SDU @	\$820.23	=	\$5,717.01
Total					=	\$43,940.30

STAGE: Residential Stage 2 - "RES 2", Illustration3.1

RESIDENTIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Community and Cultural Facilities	(CF-BB)	10.00	SDU @	\$1,143.01	=	\$11,430.13
" - Shire Wide	(CF-SW)	10.00	SDU @	\$603.98	=	\$6,039.83
Open Space	(OS-BB)	10.00	SDU @	\$7,192.96	=	\$71,929.64
" - Shire Wide	(OS-SW)	10.00	SDU @	\$3,042.84	=	\$30,428.36
Roads	(R-BB)	34.0	trips @	\$823.89	=	\$28,012.18
Cycleways	(CW-BB)	10.00	SDU @	\$776.41	=	\$7,764.12
Civic & Urban Improvements	(IM-BB)	10.00	SDU @	\$1,819.62	=	\$18,196.24
Surf Lifesaving	(SL-BB)	10.00	SDU @	\$29.62	=	\$296.18
Administration	(OF-SW)	10.00	SDU @	\$820.23	=	\$8,202.30
Total					=	\$182,298.97

TOURIST, RETAIL, COMMERCIAL & INDUSTRIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Roads	(R-BB)	31.0	trips @	\$823.89	=	\$25,540.52
Civic & Urban Improvements	(IM-BB)	6.96	SDU @	\$1,819.62	=	\$12,664.58
Administration	(OF-SW)	6.96	SDU @	\$820.23	=	\$5,708.80
Total					=	\$43,913.90

STAGE: **Residential Stage 3 - "RES 3", Illustration3.1**

RESIDENTIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Community and Cultural Facilities	(CF-BB)	10.00	SDU @	\$1,143.01	=	\$11,430.13
" - Shire Wide	(CF-SW)	10.00	SDU @	\$603.98	=	\$6,039.83
Open Space	(OS-BB)	10.00	SDU @	\$7,192.96	=	\$71,929.64
" - Shire Wide	(OS-SW)	10.00	SDU @	\$3,042.84	=	\$30,428.36
Roads	(R-BB)	34.0	trips @	\$823.89	=	\$28,012.18
Cycleways	(CW-BB)	10.00	SDU @	\$776.41	=	\$7,764.12
Civic & Urban Improvements	(IM-BB)	10.00	SDU @	\$1,819.62	=	\$18,196.24
Surf Lifesaving	(SL-BB)	10.00	SDU @	\$29.62	=	\$296.18
Administration	(OF-SW)	10.00	SDU @	\$820.23	=	\$8,202.30
Total					=	\$182,298.97

TOURIST, RETAIL, COMMERCIAL & INDUSTRIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Roads	(R-BB)	33.0	trips @	\$823.89	=	\$27,188.29
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Civic & Urban Improvements	(IM-BB)	7.35	SDU @	\$1,819.62	=	\$13,374.23
Administration	(OF-SW)	7.35	SDU @	\$820.23	=	\$6,028.69
					Total	\$46,591.22

STAGE: **Residential Stage 4 - "RES 4", Illustration3.1**

RESIDENTIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Community and Cultural Facilities	(CF-BB)	4.00	SDU @	\$1,143.01	=	\$4,572.05
" - Shire Wide	(CF-SW)	4.00	SDU @	\$603.98	=	\$2,415.93
Open Space	(OS-BB)	4.00	SDU @	\$7,192.96	=	\$28,771.86
" - Shire Wide	(OS-SW)	4.00	SDU @	\$3,042.84	=	\$12,171.35
Roads	(R-BB)	22.0	trips @	\$823.89	=	\$18,125.53
Cycleways	(CW-BB)	4.00	SDU @	\$776.41	=	\$3,105.65
Civic & Urban Improvements	(IM-BB)	4.00	SDU @	\$1,819.62	=	\$7,278.49
Surf Lifesaving	(SL-BB)	4.00	SDU @	\$29.62	=	\$118.47
Administration	(OF-SW)	4.00	SDU @	\$820.23	=	\$3,280.92
					Total	\$79,840.24

TOURIST, RETAIL, COMMERCIAL & INDUSTRIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Roads	(R-BB)	11.0	trips @	\$823.89	=	\$9,062.76
Civic & Urban Improvements	(IM-BB)	2.41	SDU @	\$1,819.62	=	\$4,385.29
Administration	(OF-SW)	2.41	SDU @	\$820.23	=	\$1,976.76
					Total	\$15,424.81

STAGE: **Recreation Stage**

No contributions apply to the recreation stage.

STAGE: **Live/Work Stage 1 - "L/W 1", Illustration3.1**

RESIDENTIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Community and Cultural Facilities	(CF-BB)	2.23	SDU @	\$1,143.01	=	\$2,549.80
" - Shire Wide	(CF-SW)	2.23	SDU @	\$603.98	=	\$1,347.35
Open Space	(OS-BB)	2.23	SDU @	\$7,192.96	=	\$16,045.84
" - Shire Wide	(OS-SW)	2.23	SDU @	\$3,042.84	=	\$6,787.87
Roads	(R-BB)	11.0	trips @	\$823.89	=	\$9,062.76
Cycleways	(CW-BB)	2.23	SDU @	\$776.41	=	\$1,732.00
Civic & Urban Improvements	(IM-BB)	2.23	SDU @	\$1,819.62	=	\$4,059.16

Surf Lifesaving	(SL-BB)	2.23	SDU @ \$29.62	=	\$66.07
Administration	(OF-SW)	2.23	SDU @ \$820.23	=	\$1,829.74
Total				=	\$43,480.59

TOURIST, RETAIL, COMMERCIAL & INDUSTRIAL DEVELOPMENT
SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Roads	(R-BB)	16.0	trips @ \$823.89	=	\$13,182.20
Civic & Urban Improvements	(IM-BB)	7.09	SDU @ \$1,819.62	=	\$12,901.13
Administration	(OF-SW)	7.09	SDU @ \$820.23	=	\$5,815.43
Total				=	\$31,898.77

STAGE: **Live/Work Stage 2 - "L/W 2", Illustration3.1**

RESIDENTIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Community and Cultural Facilities	(CF-BB)	3.23	SDU @ \$1,143.01	=	\$3,692.81
" - Shire Wide	(CF-SW)	3.23	SDU @ \$603.98	=	\$1,951.33
Open Space	(OS-BB)	3.23	SDU @ \$7,192.96	=	\$23,238.81
" - Shire Wide	(OS-SW)	3.23	SDU @ \$3,042.84	=	\$9,830.70
Roads	(R-BB)	20.0	trips @ \$823.89	=	\$16,477.75
Cycleways	(CW-BB)	3.23	SDU @ \$776.41	=	\$2,508.41
Civic & Urban Improvements	(IM-BB)	3.23	SDU @ \$1,819.62	=	\$5,878.78
Surf Lifesaving	(SL-BB)	3.23	SDU @ \$29.62	=	\$95.69
Administration	(OF-SW)	3.23	SDU @ \$820.23	=	\$2,649.97
Total				=	\$66,324.25

TOURIST, RETAIL, COMMERCIAL & INDUSTRIAL DEVELOPMENT
SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Roads	(R-BB)	16.0	trips @ \$823.89	=	\$13,182.20
Civic & Urban Improvements	(IM-BB)	7.09	SDU @ \$1,819.62	=	\$12,901.13
Administration	(OF-SW)	7.09	SDU @ \$820.23	=	\$5,815.43
Total				=	\$31,898.77

STAGE: **Live/Work Stage 3 - "L/W 3", Illustration3.1**

RESIDENTIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Community and Cultural Facilities	(CF-BB)	3.23	SDU @ \$1,143.01	=	\$3,692.81
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" - Shire Wide	(CF-SW)	3.23	SDU @	\$603.98	=	\$1,951.33
Open Space	(OS-BB)	3.23	SDU @	\$7,192.96	=	\$23,238.81
" - Shire Wide	(OS-SW)	3.23	SDU @	\$3,042.84	=	\$9,830.70
Roads	(R-BB)	20.0	trips @	\$823.89	=	\$16,477.75
Cycleways	(CW-BB)	3.23	SDU @	\$776.41	=	\$2,508.41
Civic & Urban Improvements	(IM-BB)	3.23	SDU @	\$1,819.62	=	\$5,878.78
Surf Lifesaving	(SL-BB)	3.23	SDU @	\$29.62	=	\$95.69
Administration	(OF-SW)	3.23	SDU @	\$820.23	=	\$2,649.97
Total					=	\$66,324.25

TOURIST, RETAIL, COMMERCIAL & INDUSTRIAL DEVELOPMENT
SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Roads	(R-BB)	16.0	trips @	\$823.89	=	\$13,182.20
Civic & Urban Improvements	(IM-BB)	7.09	SDU @	\$1,819.62	=	\$12,901.13
Administration	(OF-SW)	7.09	SDU @	\$820.23	=	\$5,815.43
Total					=	\$31,898.77

STAGE: **Live/Work Stage 4 - "L/W 4", Illustration3.1**

RESIDENTIAL DEVELOPMENT

SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Community and Cultural Facilities	(CF-BB)	3.23	SDU @	\$1,143.01	=	\$3,692.81
" - Shire Wide	(CF-SW)	3.23	SDU @	\$603.98	=	\$1,951.33
Open Space	(OS-BB)	3.23	SDU @	\$7,192.96	=	\$23,238.81
" - Shire Wide	(OS-SW)	3.23	SDU @	\$3,042.84	=	\$9,830.70
Roads	(R-BB)	20.0	trips @	\$823.89	=	\$16,477.75
Cycleways	(CW-BB)	3.23	SDU @	\$776.41	=	\$2,508.41
Civic & Urban Improvements	(IM-BB)	3.23	SDU @	\$1,819.62	=	\$5,878.78
Surf Lifesaving	(SL-BB)	3.23	SDU @	\$29.62	=	\$95.69
Administration	(OF-SW)	3.23	SDU @	\$820.23	=	\$2,649.97
Total					=	\$66,324.25

TOURIST, RETAIL, COMMERCIAL & INDUSTRIAL DEVELOPMENT
SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Roads	(R-BB)	16.0	trips @	\$823.89	=	\$13,182.20
Civic & Urban Improvements	(IM-BB)	7.09	SDU @	\$1,819.62	=	\$12,901.13
Administration	(OF-SW)	7.09	SDU @	\$820.23	=	\$5,815.43
Total					=	\$31,898.77

STAGE: **Industrial Stage 1 - "IND 1", Illustration3.1**

TOURIST, RETAIL, COMMERCIAL & INDUSTRIAL DEVELOPMENT
SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Roads	(R-BB)	69.0 trips @ \$823.89	=	\$56,848.24
Civic & Urban Improvements	(IM-BB)	7.75 SDU @ \$1,819.62	=	\$14,102.08
Administration	(OF-SW)	7.75 SDU @ \$820.23	=	\$6,356.79
Total			=	\$77,307.11

STAGE: Industrial Stage 2 - "IND 2", Illustration 3.1

TOURIST, RETAIL, COMMERCIAL & INDUSTRIAL DEVELOPMENT
SCHEDULE OF CONTRIBUTIONS PURSUANT TO SECTION 94 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

(Office Use Only)

Roads	(R-BB)	69.0 trips @ \$823.89	=	\$56,848.24
Civic & Urban Improvements	(IM-BB)	7.80 SDU @ \$1,819.62	=	\$14,193.06
Administration	(OF-SW)	7.80 SDU @ \$820.23	=	\$6,397.80
Total			=	\$77,439.10

Certificate of Compliance – Water Management Act 2000

A Certificate of Compliance will be issued on completion of construction of water management works to serve the development and/or on payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous Water Development Servicing Plans.

Note: Copies of the application forms for Certificates of Compliance are available on Council's website www.byron.nsw.gov.au or from Council's Administration Office. Copies of Byron Shire Council's Development Servicing Plans are available at Council's Administration Office.

The following charges are indicative only. 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.

Subdivision Stage:

- Payment of Developer Servicing Charges for Bulk Water, Water and Sewerage for 9.5 ET.

Water	(S64W Other)	9.50 ET @ \$1,283.78	=	\$12,195.96
Bulk Water	(BW-BB)	9.50 ET @ \$8,377.00	=	\$79,581.50
Sewer	(S64S Other)	9.50 ET @ \$9,732.66	=	\$92,460.23
Total			=	\$184,237.69

Commercial Stage 1:

- Payment of Developer Servicing Charges for Bulk Water, Water and Sewerage for 23.2 ET.

Water	(S64W Other)	23.20 ET @ \$1,283.78	=	\$29,783.81
Bulk Water	(BW-BB)	23.20 ET @ \$8,377.00	=	\$194,346.40
Sewer	(S64S Other)	23.20 ET @ \$9,732.66	=	\$225,797.62
Total			=	\$449,927.83

Commercial Stage 2:

- Payment of Developer Servicing Charges for Bulk Water, Water and Sewerage for 3.6 ET.

Water	(S64W Other)	3.60	ET @	\$1,283.78	=	\$4,621.63
Bulk Water	(BW-BB)	3.60	ET @	\$8,377.00	=	\$30,157.20
Sewer	(S64S Other)	3.60	ET @	\$9,732.66	=	\$35,037.56
Total					=	\$69,816.39

Commercial Stage 3:

- Payment of Developer Servicing Charges for Bulk Water, Water and Sewerage for 4.5 ET.

Water	(S64W Other)	4.50	ET @	\$1,283.78	=	\$5,777.03
Bulk Water	(BW-BB)	4.50	ET @	\$8,377.00	=	\$37,696.50
Sewer	(S64S Other)	4.50	ET @	\$9,732.66	=	\$43,796.95
Total					=	\$87,270.48

Residential Stage 1:

- Payment of Developer Servicing Charges for Bulk Water, Water and Sewerage for 9 ET.

Water	(S64W Other)	9.00	ET @	\$1,283.78	=	\$11,554.06
Bulk Water	(BW-BB)	9.00	ET @	\$8,377.00	=	\$75,393.00
Sewer	(S64S Other)	9.00	ET @	\$9,732.66	=	\$87,593.90
Total					=	\$174,540.97

Residential Stage 2:

- Payment of Developer Servicing Charges for Bulk Water, Water and Sewerage for 10 ET.

Water	(S64W Other)	10.00	ET @	\$1,283.78	=	\$12,837.85
Bulk Water	(BW-BB)	10.00	ET @	\$8,377.00	=	\$83,770.00
Sewer	(S64S Other)	10.00	ET @	\$9,732.66	=	\$97,326.56
Total					=	\$193,934.41

Residential Stage 3:

- Payment of Developer Servicing Charges for Bulk Water, Water and Sewerage for 10 ET.

Water	(S64W Other)	10.00	ET @	\$1,283.78	=	\$12,837.85
Bulk Water	(BW-BB)	10.00	ET @	\$8,377.00	=	\$83,770.00
Sewer	(S64S Other)	10.00	ET @	\$9,732.66	=	\$97,326.56
Total					=	\$193,934.41

Residential Stage 4:

- Payment of Developer Servicing Charges for Bulk Water, Water and Sewerage for 4.3 ET.

Water	(S64W Other)	4.30	ET @	\$1,283.78	=	\$5,520.27
Bulk Water	(BW-BB)	4.30	ET @	\$8,377.00	=	\$36,021.10
Sewer	(S64S Other)	4.30	ET @	\$9,732.66	=	\$41,850.42
Total					=	\$83,391.80

Recreation Stage:

- Payment of Developer Servicing Charges for Bulk Water, Water and Sewerage for 2 ET.

Water	(S64W Other)	2.00	ET @	\$1,283.78	=	\$2,567.57
Bulk Water	(BW-BB)	2.00	ET @	\$8,377.00	=	\$16,754.00
Sewer	(S64S Other)	2.00	ET @	\$9,732.66	=	\$19,465.31
Total					=	\$38,786.88

Live/Work Stage 1:

- Payment of Developer Servicing Charges for Bulk Water, Water and Sewerage for 4.2 ET.

Water	(S64W Other)	4.20	ET @	\$1,283.78	=	\$5,391.90
Bulk Water	(BW-BB)	4.20	ET @	\$8,377.00	=	\$35,183.40
Sewer	(S64S Other)	4.20	ET @	\$9,732.66	=	\$40,877.16
		Total			=	\$81,452.45

Live/Work Stage 2:

- Payment of Developer Servicing Charges for Bulk Water, Water and Sewerage for 5.2 ET.

Water	(S64W Other)	5.20	ET @	\$1,283.78	=	\$6,675.68
Bulk Water	(BW-BB)	5.20	ET @	\$8,377.00	=	\$43,560.40
Sewer	(S64S Other)	5.20	ET @	\$9,732.66	=	\$50,609.81
		Total			=	\$100,845.89

Live/Work Stage 3:

- Payment of Developer Servicing Charges for Bulk Water, Water and Sewerage for 5.2 ET.

Water	(S64W Other)	5.20	ET @	\$1,283.78	=	\$6,675.68
Bulk Water	(BW-BB)	5.20	ET @	\$8,377.00	=	\$43,560.40
Sewer	(S64S Other)	5.20	ET @	\$9,732.66	=	\$50,609.81
		Total			=	\$100,845.89

Live/Work Stage 4:

- Payment of Developer Servicing Charges for Bulk Water, Water and Sewerage for 5.2 ET.

Water	(S64W Other)	5.20	ET @	\$1,283.78	=	\$6,675.68
Bulk Water	(BW-BB)	5.20	ET @	\$8,377.00	=	\$43,560.40
Sewer	(S64S Other)	5.20	ET @	\$9,732.66	=	\$50,609.81
		Total			=	\$100,845.89

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.

Occupation Certificate required:

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

Signs require consent:

Council's Planning Instruments requires development consent for most forms of advertising signs and structures. The Council has adopted a policy relating to outdoor advertising that sets out standards for various forms of advertising. Information is available from Council's Local Approvals Branch.

Disability Discrimination Act:

Council has assessed this application under the provisions of the Environmental Planning and Assessment Act 1979. It is the responsibility of applicants for BCA Class 3, 5, 6, 7, 8, 9 and 10a

development (generally all commercial, industrial and professional offices) to make themselves aware of the provisions of the Disability Discrimination Act 1992 under which civil action may be taken if access for people with disabilities is denied or provided in a discriminatory way.

Principal Certifying Authority:

Work must not commence until the applicant has:-

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

Protection of the Environment Operations Act 1997:

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

Penalties apply for failure to comply with development consents:

Failure to comply with conditions of development consent may lead to an on the spot fine (generally \$600) being issued pursuant to section 127A of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 125 of the Environmental Planning & Assessment Act 1979.

Civil Works:

The civil works shall be designed and constructed in accordance with Council's Engineering Standard current at the time of submission of Engineering Plans for approval by Council. Approval of Engineering Plans will be current for a period of two years after which time Council may require the alteration to the Engineering Design to comply with standard current at that date.

Plan of Management:

The development is to operate in accordance with the controls and mitigation measures that are identified in the Draft Plan of Management (Ref: 291450 GeoLINK September 2008) for the subject development.

Enclosed public places (smoke-free environment):

The applicant and occupier of the premises are alerted to the requirements of the Smoke-Free Environment Act 2000 and the Smoke-Free Environment Regulation 2000 and the guidelines in the Regulation for determining what is an *enclosed public place*. 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>

Reasons

- 1 To comply with the provisions of Byron Local Environmental Plan 1988, Byron Development Control Plan 2002 and Byron Development Control Plan 2010 Chapter 20 – Bayshore Village.
- 2 To ensure the development is completed in accordance with conditions of consent and approved plans.
- 3 To ensure adequate access to and from the development.
- 4 To ensure that appropriate landscaping is provided.
- 5 To provide funds for the provision of services and facilities as required by the increased population or activity.

- 6 To ensure compliance with engineering standards.
- 7 To protect the environment.
- 8 To preserve the amenity and traffic safety of the area.
- 9 To ensure adequacy of services to the development.
- 10 To ensure public health and safety.
- 11 To ensure compliance with Section 68 of the Local Government Act 1993.
- 12 To ensure compliance with the Roads Act 1993.
- 13 To ensure access for people with access disabilities.
- 14 To preserve the environment and existing or likely future amenity of the neighbourhood.

7. DISCLOSURE OF POLITICAL DONATIONS AND GIFTS

Has a Disclosure Statement been received in relation to this application	No
Have staff received a 'gift' from anyone involved in this application that needs to be disclosed. Where the answer is yes, the application is to be determined by the Director or Manager of the Planning, Development and Environment Division.	No