

Schedule 1. CONDITIONS OF CONSENT

Parameters of consent

1. **Approved plans and supporting documentation**

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

Plan No.	Description	Prepared by	Dated:
DA.1.03 REV E (RFI 4)	DA Masterplan Aerial	Venu Design Group	31/01/25 (E2025/18729)
DA.1.04 REV E (RFI 4)	DA Masterplan Lot Plan	Venu Design Group	31/01/25
10431 DA-C01 to C18 E	Civil Design – DA Plans	Ardill Payne & Partners	03/02/25
10431 DA-C16-2 F	Plan & Sections of Stormwater Drainage and Sewer LAA Sites, Lots 35-38	Ardill Payne & Partners	13/05/25
10431 C103 A	Intersection Layout Plans 1 & 2	Ardill Payne & Partners	12/12/2024
2023.320.2 Final Issue D	On-site Sewage Capability Plan (as amended by conditions)	HMC Environmental Consulting Pty Ltd	28/02/2025 (E2025/23616)
Ref: DWG 2023.320.2	Wastewater Buffer Plan (as amended by conditions)	HMC Environmental Consulting Pty Ltd	14/02/2025 (E2025/40288)

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

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

2. **Lot Consolidation**

Lot 37 shall be consolidated with Lots 36 and 38 to create two (2) separate lots. The newly created lots shall be formed by part of Lot 37 being consolidated with Lot 36 to form one lot; and the remaining part of Lot 37 being consolidated with Lot 38 to form the second lot.

3. **Payment of security deposits**

Before the commencement of any works on the site or the issue of a subdivision works certificate, a security deposit (bond) 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 and the principal certifying authority 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. The applicant must make all of the following payments to Council and provide written evidence of these payments to the certifier:

Security deposit	\$10,000
Inspection fee	In accordance with the current fees and charges .

The payments will be used for the cost of:

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

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

The security deposit (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, reserves or footpaths.

4. Support for neighbouring buildings

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made or builder must:

- a. Inform the neighbouring property owner immediately.
- b. Engage a structural engineer to determine any remedial works that may need to be undertaken.
- c. Preserve and protect the adjoining building from damage.
- d. If necessary, underpin and support the building in an approved manner.

5. Conditions prescribed by the Regulation

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

6. Integrated Approvals from other State Government Approval Bodies

This development consent includes an Integrated development approval under Sections 4.46 and 4.47 of the Environmental Planning and Assessment Act 1979, being *an authorisation under section 100B of the Rural Fires Act 1997 in respect of bush fire safety of subdivision of land that could lawfully be used for residential purposes*, and is subject to the General Terms of Approval from the NSW Rural Fire Service contained in a **Schedule** to this Notice of Determination.

7. Integrated Approvals from other State Government Approval Bodies

This development consent includes an Integrated development approval under Sections 4.46 and 4.47 of the Environmental Planning and Assessment Act 1979, being a controlled activity approval under section 91 of the *Water Management Act 2000*, and is subject to the General Terms of Approval from the Department of Planning and Environment–Water contained in a **Schedule** to this Notice of Determination.

The following conditions are to be complied with prior to issue of a Subdivision Works Certificate

8. Amended On-site Sewage Capability Plan

On-site Sewage Capability Plan prepared by HMC Environmental Consulting Pty Ltd dated 28/02/2025 must be amended to include consolidation of Lot 37 into Lots 36 and 38. Lots 36 and 38 are restricted by an effluent easement and therefore must be detailed in accordance with conditions of this consent. The report must demonstrate that the layout of each effluent land application area (LAA) is in accordance Wastewater Buffer Plan Ref: DWG 2023.320.2 dated 14/02/2025 (E2025/40288) and / or otherwise an alternative approach must be to Council EHOs satisfaction and approval.

9. Construction Environmental Management Plan

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

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

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

10. Long Service Levy to be paid

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

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

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

11. Site Waste Minimisation and Management Plan

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

A template is provided on Council's website to assist in providing this information

www.byron.nsw.gov.au/files/publication/swmmp-pro-forma.doc

12. Detailed landscaping plan required

The plans and specifications to accompany the Subdivision Works Certificate application are to include a detailed landscape plan indicating the locations, names, mature heights of shrub and tree species to be planted, the location of grassed and paved areas, and the location of trees/vegetation to be removed. The landscaping plan is to provide for street tree planting within the new roads must be in accordance with Byron Shire Development Control Plan 2014 – Chapter B9 – Landscaping with at least 90% of species selected to be natives endemic to North Coast of NSW and as identified in the Native Species Planting Guide – Byron Shire ([Native Plant Guides - Byron Shire Council](#) – see pages 16-19 in the guide), and address Appendix C Building in the Vicinity of Underground Infrastructure Policy

The landscape plan shall provide for the replacement of any native trees that are required to be removed for the provision of interallotment drainage. The replacement trees are to be planted along the rear boundary of the lots.

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

13. Engineering Construction Plans

Engineering construction plans and specifications must accompany the Subdivision Works Certificate application demonstrating compliance with Council's standards for the required engineering works.

Each set of drawings must be accompanied by a Certification Report which must be signed by a suitably qualified Civil Engineer or Registered Surveyor. The Certification Report will comprise the certificate and check lists set out in Annexure DQS-A of the [Northern Rivers Local Government Development & Design Manuals](#).

The information shown on the drawings must be logically collected on discrete sheets generally in accordance with Annexure DQS-B and the Sample Drawings of the Northern Rivers Local Government Development & Designs. The drawings are to provide for the following works :

a) External Works

(i) Pedestrian Path

Provision must be made to provide a pedestrian path from the development to the bus stop in Mullumbimby Rd.

(ii) Cycle Path

Provision must be made to provide a cycle path from the development to 180 Mullumbimby Rd.

(iii) Roadworks and access upgrades in accordance with Ardill Payne plan 10431 C103A dated 12/12/2024, including the following:

- Provide a turnaround area in McAuleys Ln to cater for up to an SRV service vehicle.
- Provide a break on the western island to allow entry into 180 Mullumbimby Rd.
- Access to 180 Mullumbimby Rd must be upgraded to current standard.
- Provide a break on the eastern island to allow access from 110 Mullumbimby Road back to Mullumbimby.
- The batter at 44 McAuleys Lane to be replaced with a rock gabion caged retaining wall or similar Council approved retaining structure, to provide a future maintenance free area. The plans to include details and provisions for drainage.

(iv) McAuleys Lane

- Roadworks and associated drainage construction, footpath formation including any necessary relocation of services between Mullumbimby Rd and the development access in accordance with recommendations 11 to 18 in Ardill Payne Traffic Impact Assessment Rev 5 dated 08/06/24.
- The minimum road carriageway to be 7.5m plus 1.5m shoulders.
- Development access in McAuleys Lane must be designed to provide a BAL (Figure 7.1)/BAR (Figure 8.2) intersection treatment in Austroads Guide to Road Design Part 4A.

b) Internal roads, intersection and footpath

(i) Internal roads and intersection

Internal roads and intersection must be designed and constructed in accordance with section 5.8 in Ardill Payne Traffic Impact Assessment Rev 5 dated 08/06/24.

(ii) Service Conduits

Service conduits to each of the proposed new allotments laid in strict accordance with the service authorities' requirements.

(iii) Street Name Signs

Street name signs and posts to all proposed new roads.

(iv) Driveways and Footpath Construction

Driveways and 1.2 metre wide footpath within the internal road network to be provided in accordance with Council's standard and Venu drawing DA1.03 Rev E. The footpath to connect onto the future external pedestrian paths in McAuleys Ln.

(v) Stripping and Stockpiling

Stripping and stockpiling of existing topsoil on site, prior to commencement of earthworks, and the subsequent re-spreading of this material together with a sufficient quantity of imported topsoil so as to provide a minimum thickness of 80mm over the allotments and footpaths and public reserves, upon completion of the development works.

(vi) Piping of Watercourse

The piping of watercourse traversing within the development site to be designed to suit a 1 in 20 year storm event. An overland flow path is to be provided above the constructed pipeline to accommodate the pipe exceedance for all storm events, up to and including the 1 in 100 year storm event.

(vii) Stormwater Drainage

Stormwater is to be collected and discharged in accordance with Council's standards, currently [Northern Rivers Local Government Development Design & Construction Manuals](#). A full and detailed stormwater management plan for the site must be provided for Council's records at the time of lodging detailed engineering plans for Subdivision Works Certificate approval. The drawings and management plan must be accompanied by a Design Submission Checklist as set out in APPENDIX C of the Northern Rivers Local Government Handbook of Stormwater Drainage Design, which must be signed by a suitably qualified Civil Engineer or Registered Surveyor. The drawings and management plan are to include, but not be limited to, the following items:

- a) Catchment plan (included in the drawing set);
- b) Hydrological and hydraulic calculations based on the methods outlined in the Queensland Urban Design Manual (QUDM) and Australian Rainfall & Runoff (AR&R) 1987. A summary of the calculations must be included on the drawings consistent with the Sample Drawings of the Northern Rivers Local Government Development & Design Manuals.
- c) Stormwater detention/retention, designed so that the peak flow from the proposed development for the 5, 10, 20, 50 and 100 year ARI events, for durations from 5 minutes to 3 hours, does not exceed the existing peak flow from the site i.e. post-development flows must not exceed pre-development flows.
- d) Stormwater management structures/facilities that have minimum impact on Council's maintenance program. All maintenance activities must be specified in a maintenance plan (and associated maintenance inspection forms) to be developed as part of the design procedure and included in the stormwater management plan.

(viii) Stormwater Quality

Stormwater quality must be suitable for discharge in accordance with Council's standards, currently [Chapter B3 Services of Development Control Plan 2014](#) and [Northern Rivers Local Government Development Design & Construction Manuals](#). The proposed water quality management devices and treatment train must have minimum impact on Council's maintenance program. All maintenance activities must be specified in a maintenance plan (and associated maintenance inspection forms) to be developed as part of the design procedure and submitted with the Subdivision Works Certificate documentation.

14. Planning Agreement – Acquisition of Land

Prior to the issue of a Subdivision Works Certificate, the acquisition of land addressed in Clause 29 of the signed Planning Agreement, entered into by Byron Shire Council, Boreas Group Pty Ltd & Tareeda Developments Pty Ltd, the Trustee for Tareeda Developments Unit Trust ABN 72 347 964 155 and McAuleys No1 Pty Ltd, shall be completed in accordance with the terms of that Agreement.

15. Section 68 Approval – Community Building

An Approval under Section 68 of the Local Government Act 1993 to install fittings and fixtures and connect drainage to the approved on-site sewage management system must be obtained. Such approval must be issued after the date of this consent.

The application for Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters, which addresses the site-specific design of sewage management in accordance with the requirements of the NSW Local Government Act, and Approvals Regulation and Guidelines approved by the Director General.

16. **Imported Fill Material**

Prior to the issue of a Subdivision Works Certificate for each stage, the type of fill material to be used is to be nominated by a suitably qualified geotechnical engineer.

The fill is to be provided with certification that it is clean, uncontaminated, and suitable for use as engineering fill.

The nominated fill for areas that rely on infiltration is to be provided to the Certifying Authority for approval showing that the parameters of the fill on Lots 35, 36 and 38, meet the minimum infiltration rates as required by the wastewater disposal.

17. **Noise and Vibration Management Plan required**

A Noise and Vibration Management Plan must be submitted to Council for approval prior to the issue of the construction certificate for subdivision works. The Noise and Vibration Plan must be prepared by a duly qualified professional and detail the methods that will be implemented for the whole project to minimise construction noise and vibration. Information should include:

- a. Identification of the specific activities likely to generate noise or vibration impacts.
- b. Identification of nearby residences and other sensitive land uses.
- c. Identification of all potentially affected sensitive receivers.
- d. Assessment of expected noise and vibration from the construction activities that are likely to affect their amenity or cause structural damage through vibration.
- e. Detailed examination of feasible and reasonable work practices that will be implemented to minimise noise impacts.
- f. Noise and vibration monitoring, reporting and response procedures.
- g. Strategies to promptly deal with and address noise complaints.
- h. Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction.
- i. Details of performance evaluating procedures (for example, noise monitoring or checking work practices and equipment).
- j. Procedures for notifying nearby residents of forthcoming works that are likely to produce noise impacts.
- k. Reference to relevant consent conditions.
- l. Name and qualifications of person who prepared the report.
- m. Nomination of an appropriate *responsible person* with appropriate qualifications and experience to implement and manage noise and vibration matters arising from the construction phase of the development. The *responsible person* must be available to receive neighbourhood inquiries and complaints at any time while work is proceeding and must record monitoring levels and response actions when exceedances or complaints occur.
- n. Contingency plans to be implemented in the event of non-compliance and/or complaints.

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

18. **Developer Contributions to be paid**

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

schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

The contributions as set out in the schedule may either be paid in full or they may be paid in stages on a proportional basis dependent on the number of lots to be released in the subdivision certificate. The first credit for a site will be retained on the residual lot. Any additional credits over one (1) will be allocated at the first stage(s).

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

19. **Planning Agreement – Cycle Contributions**

Prior to the issue of a Subdivision Works Certificate, the Cycle Contributions specified in the signed Planning Agreement, entered into by Byron Shire Council, Boreas Group Pty Ltd & Tareeda Developments Pty Ltd, the Trustee for Tareeda Developments Unit Trust ABN 72 347 964 155 and McAuleys No1 Pty Ltd, shall be paid.

20. **Erosion and Sedimentation Control Plan**

The plans and specifications to accompany the Subdivision Works Certificate application are to include a sediment and erosion control plan to indicate the measures to be employed to control erosion and loss of sediment from the site. The sediment and erosion control plan is to be designed in accordance with the requirements of the *NSW Department of Housing Manual (1989), Managing Urban Stormwater, Soils and Construction*.

A suitably experienced person must prepare the sediment and erosion control plan. Suitably experienced people include those certified by:

- The Institution of Engineers, Australia, for engineering and hydrology matters.
- The International Erosion Control Association for soil conservation matters.
- The Australian Society of Soil Science for collection or analysis of soil data.

The plan must incorporate (without being limited to) information on general site management, material handling practices, soil stabilisation, water control, sediment control, wind erosion control and access measures.

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

The plans and specifications to accompany the Subdivision Works Certificate application are to include a traffic guidance scheme (TGS) to indicate the measures to be employed to control traffic during construction of the subdivision. The TGS is to be designed in accordance with the requirements of the current version of the Transport for NSW *Traffic Control at Work Sites Technical Manual*.

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

The TGS must be prepared by a suitably qualified Transport for NSW accredited person.

22. **Street Name Application to be lodged**

Street / road names for the subdivision must be submitted for Council approval prior to issue of the Subdivision Works Certificate.

An application for approval of a street name must be in writing (letter or email) and is to include:

- a) at least 2 names for each proposed road in preferential order;
- b) the location and extent of the road;
- c) background/history of the selected name/s;
- d) details on why the selected name is considered to be appropriate;
- e) details on how the selected name conforms with Council's Street Name Policy and the NSW Address Policy;
- f) a locality plan;
- g) a layout plan showing proposed road/s and selected name/s suitable for publishing in the local newspaper; and
- h) payment of fees in accordance with Council's adopted schedule of fees and charges.

23. Fibre-ready Facilities and Telecommunications Infrastructure

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

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

Notes:

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

24. Vegetation Management Plan

An amended Vegetation Management Plan must be prepared in accordance with the current Guidelines for preparing a Vegetation Management Plan (VMP) available on the Byron Shire Council website and the plan submitted to and approved by Council.

The VMP must detail protection and compensation measures proposed to protect native flora and fauna and their habitats, and must retain and improve habitat on that part of the site covered by the Management Plan.

The plan must:

- a. illustrate on maps of a suitable scale (1:200 or better) the accurate extent of approved no build zones and asset protection zones on the subject site.
- b. detail the methodology for habitat restoration and specify the use of qualified and experienced bush regenerators only. Areas outside the approved development footprint and APZs must be restored or replanted.
- c. specify that planting and/or restoration works will commence immediately upon approval of the Management Plan.

- d. include lists of locally occurring native tree, shrub and ground cover plant species endemic to the north coast of NSW suitable for planting as part of the ecological restoration program and site landscaping.
- e. Include a list of environmental weeds, comprising introduced plant species known to have the capacity to invade native vegetation communities to prevent their introduction to the site. This list must be reproduced in separate form to inform individual community members when establishing plantings about future dwellings and detailing the threats posed by environmental weeds to local vegetation communities.
- f. Include clear and concise key performance indicators over a minimum 5 years period with monitoring requirements with primary weed removal and plantings completed by the end of Year 1.

25. **No tree removal prior to subdivision works certificate**

No native trees or vegetation may be cleared or removed until a Subdivision Works Certificate has been issued.

26. **Retained trees**

All trees to be retained in accordance with this development consent must be illustrated on any and all relevant Construction Plans, along with their Tree Protection Zones formulated in accordance with AS 4970-2009 – *Protection of Trees on Development Sites*.

27. **Water Management Act 2000**

If a controlled activity approval under the Water Management Act 2000 is required to be obtained for the proposed works within and adjacent to existing watercourses it must be obtained and a copy of the approval submitted to the Principal Certifying Authority prior to issue of the Subdivision Works Certificate.

28. **Retirement of biodiversity credits**

Prior to issue of a subdivision works certificate, the class and number of ecosystem and species credits cited in Tables 32 & 233 of the *Biodiversity Development Assessment Report* (BDAR), prepared by Biodiversity Assessments & Solutions (2024) must be retired to offset the residual biodiversity impacts of the development.

NOTE: The BAM biodiversity credit reports appended to the BDAR are no longer current and must be re-calculated and supplied to Council, along with advice as to whether any changes to credit numbers have occurred.

On the basis of the BDAR calculations (as submitted) – the follow credit obligations apply (but may be subject to change as noted above):

- PCT 3002 – Low (0.38 ha) – 4 ecosystem credits: VZ 2 (VIS = 21.1)
- PCT 3002 – Moderate (0.08 ha) – 1 ecosystem credits: VZ 3 (VIS = 32.3)
- PCT 3002 – Good (0.03 ha) – 1 ecosystem credit: VZ 4 (VIS = 53.1)
- PCT 3147 – Low (1.12 ha) – 9 ecosystem credits: VZ 7 (VIS = 17.4)
- PCT 3147 – Moderate (1.04 ha) – 22 ecosystem credits: VZ 8 (VIS = 49.2)
- PCT 3147 – Good (0.08 ha) – 3 ecosystem credits: VZ 9 (VIS = 74.9)
- PCT 3967 – Low (0.07 ha) – 1 ecosystem credit: VZ 10 (VIS = 24.5)
- Koala (*Phascolarctos cinereus*) – 25 species credits (VZ 2 & VZ 7 - 8) (1.14 ha)
- Common Planigale (*Planigale maculata*) - 44 species credits (VZ 2 - 4 & VZ 7 - 9) (2.59 ha); and
- Brush-tailed Phascogale (*Phascogale tapoatafa*) – 36 species credits (VZ 2 - 4 & VZ 7 - 9) (1.74 ha).

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the BAM Credit Calculator (BAM-C).

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund must be provided to the consent authority prior to issue of the Subdivision Works Certificate.

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

An Unexpected Findings Protocol (UFP) shall be prepared and submitted to Council for approval prior to the issue of Subdivision Works Certificate. The UFP shall be prepared by a suitable qualified person experienced in matters relating to Contamination of Land and Remediation.

The following conditions must be complied with prior to the commencement of subdivision works

30. **Subdivision Work**

Subdivision work in accordance with the development consent must not be commenced until a Subdivision Works Certificate has been issued, a principal certifying authority has been appointed and at least 2 days' written notice for the intention to commence works has been made, in accordance with the requirements of the Environmental Planning and Assessment Act and Regulations. The written notice for the intention to commence works must also include names and contact details of the certifying engineer and principal contractor.

Note. Subdivision work means any physical activity authorised to be carried out under the conditions of this development consent for the subdivision of land, including earthwork, road work, stormwater drainage work, landscaping work, tree/vegetation removal, erosion and sediment control, traffic control, etc.

31. **Public Liability Insurance**

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

32. **Erosion and sediment measures**

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

No soil or fill material is to be placed within the dripline of a tree so as to cause changes in surface level by more than 50mm from the existing level and such soil is not to be compacted. Such soil fill must not be finer than that being covered in situ, e.g. clay must not be placed over loam soil.

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

33. **Prestart Meeting**

The Environmental Manager must arrange a prestart site meeting with Council Officers (Engineers and Environmental Health) prior to commencement of any works.

Advisory note: A minimum 2 weeks' notice must be given to Council prior to the meeting.

34. **Imported Fill Material**

All fill material imported to the site for the purpose of the development must be from a clean source. Documentation must accompany the material certifying it as clean or virgin material. A copy of the certification must be provided to Council prior to any subdivision work commencing.

Note: Any fill material that includes the beneficial reuse of treated Acid Sulfate Soils under an EPA exemption will require an approval from Councils Environmental Health Section.

35. Toilet facilities

Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council or be a building and construction site portable chemical toilet.

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

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

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

36. Trees to be retained and protected

Trees to be retained are to be protected by a Tree Protection Zone (TPZ) exclusion fence. The fence is to be constructed in accordance with Sections 3.2 and 4.3 of AS4970-2009 Protection of trees on development sites (Standards Australia 2009). The fence must:

- a. Be located outside the dripline of the tree so as to minimise disturbance to tree roots;
- b. have a minimum height of 1.8 metres;
- c. be constructed of wire mesh panels, plywood, steel star pickets or similar, with a maximum distance of 2metres between star pickets;
- d. have a minimum of 3 strands of steel wire or similar;
- e. have high visibility barrier mesh (eg orange), shade cloth or similar, attached to the outside of the fence and continuing around its perimeter;
- f. include at least one Tree Protection Zone (TPZ) sign in accordance with Section 4.4 of AS4970-2009.

Activities that are excluded within the TPZ (as per section 4.2 of AS4970-2009) include excavation, construction activity, grade changes, surface treatment and storage of material. If these activities are required within the TPZ they may only occur under the supervision of the project arborist (minimum AQF level 5 qualified arborist).

The Tree Protection Zone (TPZ) exclusion fence is to be maintained for the duration of the site clearing, preparation, construction and landscaping works.

The following conditions must be complied with during the construction of subdivision works

37. Hours of work

Subdivision work, demolition or vegetation removal is only carried out between:

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

No building work, demolition or vegetation removal is to be carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

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

38. **Construction Environmental Management Plan**

Construction works must be in accordance with the approved Environmental Management Plan. The applicant is required to ensure that the construction management and all construction staff must be made aware of their responsibility to abide by the plan. A copy of the plan must be in a prominent position on site at all times.

39. **Imported Fill Material**

All fill material imported to the site for the purpose of the development must be from a clean source. Documentation must accompany the material certifying it as clean or virgin material. A copy of the certification must be provided to Council prior to any building work or construction commencing.

40. **Construction Noise**

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

41. **Public safety requirements**

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. Council is not held responsible for any negligence caused by the undertaking of the works.

42. **Council Specification**

All works to be constructed to at least the minimum requirements of the "[Northern Rivers Local Government Design and Construction Manual](#)"

43. **Approved Plans to remain on site**

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

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

Construction works must be carried out in accordance with the approved Unexpected Findings Protocol (UFP).

45. **Maintenance of erosion and sediment controls**

Erosion and sediment controls must be maintained in accordance with the approved. Erosion and Sediment Control Plan and until the site has been stabilised by permanent vegetation cover or hard surface.

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

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

- a. stating that unauthorised entry to the work site is prohibited, and

- b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

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

47. Builders rubbish to be contained on site

All 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, materials and all other items.

48. Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

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

49. Council Specification

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

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

50. Protection of Native Trees

All trees nominated to be retained by notation or condition as a requirement of the development consent shall be maintained and protected during demolition, excavation and construction on the site in accordance with AS 4970-2009 – Protection of Trees on Development Sites.

51. Care to be taken when placing services near trees

To minimise root disturbance where services are to be laid in close proximity to trees, any excavation within the Tree Protection Zone (TPZ) for installation of underground services is to be done by directional drilling or in manually excavated trenches in accordance with Section 4.5.5 of AS4970-2009. Works must be conducted under the supervision of the project arborist (minimum AQF level 5 qualified arborist), and may include the use of pneumatic or hydraulic tools such as air knives.

52. Maintenance of fencing to protect trees

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

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

A qualified arborist experienced in tree management must be present on a full or part-time basis to advise on the maintenance of the trees for their protection for the duration of the project.

53. Protection of koalas/ native fauna from disturbance

- a. Clearing of native vegetation and/or earthworks as part of any development approval from Council must be temporarily suspended within a range of 25m from any tree which is

concurrently occupied by a koala and must not resume until the koala has moved from the tree of its own volition.

- b. Any clearing of land must not commence until the area proposed for clearing has been inspected for the presence of koalas and approval given in writing by a suitably qualified individual.
- c. Approval to proceed with the clearing of vegetation in accordance with this section is only valid for the day on which the inspection has been undertaken.
- d. The individual referred to in (ii) above, or a nominated representative, must remain on site during any approved clearing of vegetation.

54. Air Quality Controls

Air quality controls during construction must include:

- a. Water sprays and/or water carts are to be used as required for dampening stockpiles, cleared areas and other exposed surfaces to control dust generation. This form of dust suppression is to be targeted to protect sensitive receivers.
- b. No burning or incineration of any wastes is to be permitted at any time.
- c. Disturbed areas are to be stabilised as soon as practicable after completion of construction works.
- d. Silt accumulated in erosion control devices (e.g. silt fences) are to be inspected and maintained daily.
- e. A 40 kilometres per hour construction speed limit is to be established and enforced to ensure dust generation from vehicle movements are minimised.
- f. Wheels and undercarriage of trucks are to be cleaned prior to the vehicle(s) exiting the worksite onto public roadways.
- g. Loads are to be covered on both internal and public roads where there is a risk of release of material/dust/liquid.
- h. Plant operators are required to switch off plant whenever the equipment is not going to be used for a period of more than 15 minutes.
- i. Exhaust systems of construction plant, vehicles and equipment are to be maintained to minimise exhaust emissions to the atmosphere.
- j. All site accesses are to be designed to cope with the planned construction traffic volumes and duration. At a minimum, all site accesses are to be stabilised with gravel to minimise dust generation and tracking of sediments.
- k. During high winds (greater than 35 kilometres per hour), additional dust control measures are to be implemented to prevent the movement of nuisance dust into sensitive areas.

55. Demolition

Any required demolition works must be undertaken in accordance with the relevant requirements of Australian Standard AS 2601–1991: The Demolition of Structures published by Standards Australia, and the WorkCover Authority of NSW.

56. Any excavated soils to be disposed of off-site

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

57. Removal of demolition and other wastes

All wastes, including asbestos and lead-contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licenced Waste Facility. All wastes removed from the site

must be managed and disposed of in accordance with the [NSW EPA Waste Classification Guidelines \(2014\)](#)

58. Excavated natural materials and demolition waste disposal

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

59. Aboriginal Relics

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

In this condition:

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

The following conditions must be complied with before a Subdivision Certificate can be issued

60. 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.

61. Plan of Subdivision

The final plan of subdivision must be in accordance with the approved plan/s. A Deposited Plan Administration Sheet (original plus one (1) copy), two (2) copies of the plan of subdivision and any necessary section 88B instrument (original plus one (1) copy) are to be submitted with the application for a subdivision certificate.

An additional copy of the final plan of subdivision is to be submitted showing the location of all buildings and/or other permanent improvements including any fences and internal access driveways/roads. Where the building/s or improvements are close to boundaries, offset distances are to be included on the additional copy of the plan. This plan must be endorsed by a Registered Surveyor. Any encroachments affecting new boundaries or the road reserve must be removed or relocated wholly within the allotment. The new boundaries must not cause any existing building/s to contravene the Building Code of Australia.

62. Street addressing

In accordance with clause 60(c) of the Surveying and Spatial Information Regulation 2017 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each lot in the final plan of subdivision. The street addressing for this property must be approved by Council. A written request seeking approval of street addresses is to be submitted to Council's Land

Information Officer (planning.certificates@byron.nsw.gov.au) with a copy of the final plan of subdivision showing driveway access to each lot from the public road servicing the lots.

Prior to issue of the subdivision certificate, the approved street number must be displayed in a prominent location near the approved driveway access for each lot with an existing dwelling/building approved for separate occupation.

63. **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) Easement for Services

The creation of suitable easements for services for the development.

b) Easement for Electricity

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

64. **Management Statements**

The management statement and development contract and a copy are to be submitted with the application for a subdivision certificate, together with a letter from a Solicitor, experienced in Community Title legislation, certifying that the management statement and development contract have been prepared in accordance with Community Title legislation and acceptable for registration with NSW Land and Property Information.

The Management Statement must include within the By-Laws required by a public authority provisions for:

a) No Build Zones

No buildings or structures of any kind are permitted on the areas within the lots identified on Plan DA1.04 Rev E DA Masterplan Lot Plan, as “no build zone”.

b) Effluent Disposal Area

Restrictions to limit any development, other than effluent disposal systems and associated works, to the nominated effluent disposal areas on all lots, as shown on HMCDWG2023.320.2 OSSM Buffers Lot Layout (7) contained in On-site Sewage Capability Plan Ref: 2023.320.2 dated 14/02/2025.

c) Community On-site Wastewater Management Plan

The Community On-site Wastewater Management Plan (the Plan) must be prepared by a suitably qualified and experienced professional for approval by Council.

The Plan must adopt provisions for:

- **Environmental Protection:** To reduce the risk of pollution to water bodies and groundwater.
- **Public Health:** To minimise the risk of waterborne diseases and other health hazards.
- **Property Values:** To encourage well-maintained on-site systems to help maintain property values
- **Community Sustainability:** To promote sustainable practices and resource conservation.

The Plan must include (but not be limited by):

- **Inventory and Assessment:** Steps to identify and assess the condition of existing on-site wastewater systems within the community.
- **Regulatory Compliance:** Steps to ensure compliance with local, state, and federal regulations governing on-site wastewater systems.
- **Maintenance and Operation:** Steps to establish guidelines and procedures for the proper maintenance and operation of on-site systems to minimise environmental impact and public health risks.
- **Monitoring and Inspection:** Steps to implement a program to monitor the performance of on-site systems and conduct regular inspections to identify potential issues.
- **Education and Outreach:** Steps to provide education and outreach to community members about the importance of proper wastewater management and system maintenance.
- **Future Planning:** Steps to develop a long-term plan for the management of on-site wastewater systems, including potential upgrades or alternative solutions as needed

d) Use of Dwellings

Provisions to prohibit holiday letting / short term rental accommodation or use of dwellings as tourist and visitor accommodation other than that permitted under *State Environmental Planning Policy (Housing) 2021*.

e) Keeping of Cats and Dogs

Provisions to prohibit the keeping of cats and dogs other than assistance animals as defined under the Companion Animals Act 1988.

f) Vegetation Management Plan

Provisions requiring that the Executive Committee shall be responsible for the implementation and management of the Vegetation Management Plan provided that the proprietors of Neighbourhood Lots shall be responsible for the implementation of the Vegetation Management Plan to the extent that it applies to such Neighbourhood Lots.

65. Completion of All Works

All subdivision works required by this development consent, and associated Subdivision Works Certificate, are to be completed prior to issue of the subdivision certificate. A copy of the final completion letter/s, issued by the Principal Certifying Authority, and final plumbing certificate, issued by the water supply authority, for the relevant subdivision works must be submitted with the application for a subdivision certificate.

66. Erection of Street Signs

The subdivider is to supply and erect street signs for the approved street names in accordance with this development consent and the Subdivision Works Certificate approval.

67. 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".

68. Works-As-Executed Plans

Following completion of works and prior to the final inspection of subdivision works, Work-as-Executed Drawings, together with a Work-As-Executed Certification Report, in accordance with

Council's requirements are to be submitted to Council. Two categories of Work-as-Executed Drawings are to be submitted to Council in accordance with Council's adopted engineering specifications, currently section C101.11 of the [Northern Rivers Local Government Development Design and Construction Manuals](#), as follows.

- a) **Amended Design Work-as-Executed Drawings**, being certified copies of all approved design plans with as constructed departures, deletions and additions clearly noted and detailed on the plans, are to be submitted to Council as an electronic copy in PDF format.
- b) **Summary Work-as-Executed Drawings**, prepared on a background plan of lot layout and kerb lines with a set of separate plans for stormwater drainage, sewerage, water supply, other services (eg telecommunications and electricity) and site works. The site works drawing/s must include the 1% AEP flood and flood planning level extents and levels, where relevant. Such drawings are to be submitted to Council as an electronic copy in PDF format and AutoCAD DWG or DXF format. The AutoCAD (DWG or DXF) files are to be spatially referenced to MGA Zone 56.

A copy of the above Work-as-Executed Drawings must be submitted with the application for a Subdivision Certificate.

69. **CCTV Inspection and Report**

CCTV inspection must be undertaken on all completed underground pipe systems, **including minor sewer main extensions**, in accordance with Council's specification.

Electronic copies of the report (submitted in PDF format and DVD medium in a format suitable to Council) of the CCTV inspection must be provided to Council for consideration prior to the Final Inspection of Subdivision/S68 Application Works and prior to issue of the Subdivision Certificate.

70. **Certificate for services within easements**

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

71. **Electricity Supply Certificate**

Prior to the issue of the Subdivision Certificate, a Notice of Arrangement (NOA) requested from the Distribution Network Service Provider, currently Essential Energy, must be submitted to the Principal Certifying Authority. The NOA must confirm that satisfactory electricity supply has been provided to each of the proposed lots and all necessary street lighting has been energised for the development.

Note: Requests for a NOA are to be made to the Contestable Works section at Essential Energy.

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

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

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

If an exemption has been granted, then the plan of subdivision must include a public positive covenant with terms similar to the following:

“No fixed line telephone service is available to the lot burdened. The lot burdened is outside the NBN fixed line footprint area and is eligible to receive NBN fixed wireless or satellite technology. The owner of the lot burdened is responsible to make arrangements for telecommunications and is responsible for any costs associated with the connection.”

Notes:

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

73. 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.

74. Maintenance Bond

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

75. 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.

76. External lighting plan to be submitted for approval – private tennis court

The application for a Subdivision Certificate is to include plans and specifications that demonstrate that safe minimum standards of lighting can be provided without generation of undue glare and nuisance from the private tennis court lighting installations. The lighting assessment and design should be undertaken by a suitably qualified professional with competence in the fields of illuminating engineering and environmental design in accordance with AS4282-2019: Control of the obtrusive effects of outdoor lighting and NSW Workcover OH&S requirements.

The lighting plan must be approved by the principal certifying authority prior to the issue of a subdivision certificate.

77. Potable Water Supply Management Plan – community building

Prior to the issue of a Construction Certificate provided to the Principle Certifying Authority a Quality assurance program (or drinking water management system). For further information refer to <http://www.health.nsw.gov.au/environment/water/Publications/private-water-supply-guidelines.pdf> The QAP must be prepared by a suitable qualified professional.

78. 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.

79. Compliance with bush fire conditions

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

80. Completion of Vegetation Management Plan works

Prior to the issue of a *Subdivision Certificate*, a monitoring report from a qualified and experienced ecologist and/or Bush Regenerator to demonstrate that all works required by the approved Vegetation Management Plan (VMP) for the site have been completed up to and including year 2 of the approved VMP and that all performance criteria have been met, must be submitted and approved by Council and any private certifier.

81. Habitat protection

Restored and protected habitat (as covered by the VMP) must be clearly signposted to ensure companion animals do not enter this habitat area. Signage must be clearly erected at suitable intervals stating: "*Habitat protection area - no dogs permitted under any circumstances*" (or words of similar intention). Signage to be installed prior to the issued of the subdivision certificate

The following conditions are to be complied with at all times

82. Must not interfere with the amenity of the neighbourhood

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

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

83. Replanting and restoration works

Replanting and restoration works must be undertaken and continued until the performance criteria have been achieved in accordance with the Vegetation Management Plan for a minimum period of five years, during which annual monitoring reports must be submitted to Council for approval.

84. Native vegetation is not permitted to be cleared under Schedule 5A and/or Division 5 of the Local Land Services Act 2013

Clearing of native vegetation that would be authorised under Schedule 5A and Division 5 of the *Local Land Services Act 2013* (LLS Act) is not permitted to be carried out without development consent under part 4 of the *Environmental Planning and Assessment Act 1979*.

In accordance with the Objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Section 1.3(e) of that Act the purpose of this condition is "to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats".

Section 60Q(2) of the LLS Act provides that “Schedule 5A does not permit clearing or any other activity—

- a. without an approval or other authority required by or under another Act or another Part of this Act (or in anticipation of the grant of any such approval or other authority), or
- b. in contravention of any provision of or made under (or in contravention of any agreement made under) another Act or another Part of this Act.”

Similarly, Section 60S(4) of the LLS Act provides that “A land management (native vegetation) code does not permit clearing or any other activity—

- a. Without an approval or other authority required by or under another Act or another Part of this Act, or
- b. In contravention of any provision of or made under another Act or another Part of this Act”

As this condition is imposed under section 4.17 of the EP&A Act, sections 60Q and 60S of the LLS Act apply and the clearing of native vegetation under Schedule 5A and Division 5 of the LLS Act is not permitted.

85. Private tennis court

The tennis court is only to be used for private use and is not to be used in conjunction with any commercial activity or let to the general public.

86. Landscaping

All landscaping on any part of the site must accord with the requirement to plant only appropriate local native species as marked on the stamped plans.

87. Site Waste Minimisation and Management

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

Schedule 2. PRESCRIBED CONDITIONS

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

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

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

Schedule 3. INTEGRATED DEVELOPMENT GENERAL TERMS OF APPROVAL



RFS



Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (CNR-63688) 10.2023.454.1
Our reference: DA20231213005644-538-2

ATTENTION: Rob van Iersel

Date: Monday 5 May 2025

Dear Sir/Madam,

Integrated Development Application
s100B – Subdivision – Community Title Subdivision
53 Mcauleys Lane Myocum NSW 2481, 8//DP589795

I refer to your correspondence dated 30/04/2025 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions.

General

1. Development must be carried out in accordance with the following plans, except where the General Terms of Approval expressly require otherwise:

- The plan titled 'DA MASTERPLAN - AERIAL', prepared by Venu Design Group, Job No 1819, Dwg No DA.1.03, Revision E, sheet 1 of 2, dated 31/01/2025.

Asset Protection Zones

2. Before the issue of a subdivision certificate and in perpetuity, the areas adjacent to the proposed roads are to be maintained as an inner protection area compliant with vegetation management plan provided in figure 3 of the bush fire report prepared by Sustainable Home Solutions, dated 31/07/2024.

3. Before the issue of a subdivision certificate, execute an instrument under section 88 of the *Conveyancing Act 1919 (NSW)* to establish a:

- a. Restriction requiring dwellings to solely be located within the building envelope for each lot to be created in accordance with the plan titled 'DA MASTERPLAN - AERIAL', prepared by Venu Design Group, Job No 1819, Dwg No DA.1.03, Revision D, sheet 1 of 2, dated 02/09/2024. The restriction must:
 - i. Prohibit the construction of buildings (other than class 10b structures) within the APZ; and
 - ii. Require the maintenance of the APZ in accordance with the recommendations detailed in the Bush Fire Assessment report and Appendix 4 of *Planning for Bush Fire Protection 2019* and the NSW RFS's Standards for asset protection zones.

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

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

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

The restriction and positive covenant must be created at the applicants cost with Council having the sole authority to release or modify.

4. Before the issue of an occupation certificate, execute an instrument under section 88 of the *Conveyancing Act 1919 (NSW)* to establish a positive covenant on the Certificate of Title detailing the areas adjacent to the proposed access roads to be managed as an asset protection zone (APZ) in accordance with the plan titled 'Figure 3 - Vegetation within 140m of the development' prepared by Sustainable Home Solutions, dated 31/07/2024. The restriction must ensure the APZ is maintained in accordance with the recommendations detailed in the Bush Fire Assessment report and Appendix 4 of *Planning for Bush Fire Protection 2019* and the NSW RFS's Standards for asset protection zones.

The restriction must be created at the applicants cost with Council having the sole authority to release or modify.

Construction Standards

5. Before the issue of a subdivision certificate, the existing dwelling must be upgraded to improve ember protection to the satisfaction of the Principal Certifier, by:

- a. Enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any subfloor areas, openable windows, vents, weep holes and eaves; and
- b. Fitting external doors with draft excluders.

Access – Public Roads

6. Access roads must comply with the following general requirements of Table 5.3b of *Planning for Bush Fire Protection 2019*:

- traffic management devices are constructed to not prohibit access by emergency services vehicles;
- maximum grades for sealed roads do not exceed 15 degrees and an average grade of not more than 10 degrees or other gradient specified by road design standards, whichever is the lesser gradient;
- All dead end roads incorporate a minimum 12 metres outer radius turning circle, and are clearly sign posted as a dead end;
- where kerb and guttering is provided on perimeter roads, roll top kerbing should be used to the hazard side of the road;
- the capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges/causeways are to clearly indicate load rating;
- minimum 5.5m carriageway width kerb to kerb;
- parking is provided outside of the carriageway width;
- curves of roads have a minimum inner radius of 6m;
- the road crossfall does not exceed 3 degrees; and
- a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches, is provided.

General Advice – Consent Authority to Note

- All conditions within this General Terms of Approval must be complied with and attached as a schedule to any consent.
- The conditions are recommended to ensure the development conforms with the relevant specifications and requirements of *Planning for Bush Fire Protection 2019*, and to ensure that measures are taken to protect persons, property and the environment from danger that may arise from a bush fire.





RFS



- The consent authority is advised that where a minor amendment to the plans and documents is proposed, the consent authority may use its discretion to determine whether the minor amendment warrants further assessment by the NSW RFS.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 03/12/2024.

For any queries regarding this correspondence, please contact Jonathan Hardy on 1300 NSW RFS.

Yours sincerely,

Allyn Purkiss
Manager Planning & Environment Services
Built & Natural Environment





RFS



BUSH FIRE SAFETY AUTHORITY

Subdivision – Community Title Subdivision
53 Mcauleys Lane Myocum NSW 2481, 8//DP589795
RFS Reference: DA20231213005644-S38-2
Your Reference: (CNR-63688) 10.2023.454.1

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority supersedes the previous Bush Fire Safety Authority DA20231213005644-S38-1 issued on 03/12/2024 and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under s100b of the Rural Fires Act 1997.

Allyn Purkiss

Manager Planning & Environment Services
Built & Natural Environment

Monday 5 May 2025



Department of Planning and Environment



Contact: Department of Planning and Environment-Water
Phone: 1300081047
Email: waterlicensing.servicedesk@dpie.nsw.gov.au

Our ref: IDAS-2023-10775
Your ref: 10.2023.454.1

11 July 2024

The General Manager
BYRON SHIRE COUNCIL
70 STATION STREET MULLUMBIMBY 2482

Attention: Steve Denize

Uploaded to the ePlanning Portal

Dear Sir/Madam

Re: IDAS-2023-10775 - Integrated Development Referral – General Terms of Approval
Dev Ref: 10.2023.454.1
Description: To undertake a Community Title subdivision to create 38 x community title residential lots and 1 x community (common) lot including the construction of private infrastructure and community facilities (including community building, tennis court and maintenance shed)
Location: Lot 8, DP589795, 53 MCAULEYS LANE MYOCUM 2481

I refer to your recent referral regarding an Integrated Development Application (DA) proposed for the above location. Attached, please find Department of Planning and Environment-Water's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.46 of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the department requests these GTA be included (in their entirety) in Council's development consent. Please also note the department requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

The Department of Planning and Environment-Water will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- if Council receives an application under s4.46 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, the department recommends the following condition be included in the development consent:

The attached GTA issued by the Department of Planning and Environment-Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to the department for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application must be submitted to the department together with any required plans, documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required

supporting documentation is received.

Applications for controlled activity approval should be made to the department, by lodgement of a Controlled Activity Approval – New approval application on the NSW Planning Portal at:
<https://www.planningportal.nsw.gov.au/>

The Department of Planning and Environment-Water requests that Council provide a copy of this letter to the development consent holder.

The Department of Planning and Environment-Water also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) the EPA Act.

Yours Sincerely



For
Patrick Pahlow
Team Leader
Licensing and Approvals
Department of Planning and Environment-Water

General Terms of Approval

for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

Reference Number:	IDAS-2023-10775
Issue date of GTA:	11 July 2024
Type of Approval:	Controlled Activity
Location of work/activity:	Lot 8, DP589795, 53 MCAULEYS LANE MYOCUM 2481
Waterfront Land:	Tributaries of Simpsons Creek
DA Number:	10.2023.454.1
LGA:	BYRON

The GTA issued by Department of Planning and Environment-Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to the Department of Planning and Environment-Water for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
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TC-G001	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Department of Planning and Environment-Water, and obtained, for a controlled activity approval under the Water Management Act 2000.
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TC-G004	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application 10.2023.454.1 provided by Council to Department of Planning and Environment-Water.
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B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Department of Planning and Environment-Water, must be notified in writing to determine if any variations to the GTA will be required.

TC-G005	<p>A. The application for a controlled activity approval must include the following plan(s):</p> <ul style="list-style-type: none"> Detailed civil construction plans Construction watercourse crossing design plans Erosion and sediment control plans Construction detailed drainage plans Construction stormwater drainage outlet plan - for all stormwater outlets Vegetation management plan - detailing the revegetation and maintenance of a Vegetated Riparian Zone for a distance of at least 20m beyond both banks of the watercourse. Itemised VMP Costings - for VMP Implementation and Maintenance for at least a two-year maintenance period. <p>B. The plan(s) must be prepared in accordance with Department of Planning and Environment-Water's guidelines located on the website https://www.dpie.nsw.gov.au/water/licensing-and-trade/approvals/controlled-activity-approvals/what/guidelines</p>
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TC-G006	A. A security deposit must be provided, if required by Department of Planning and Environment-Water.
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B. The deposit must be:

- a bank guarantee, cash deposit or equivalent, and
- equal to the amount required by Department of Planning and Environment-Water for that controlled activity



General Terms of Approval

for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by Department of Planning and Environment-Water for integrated development associated with IDAS-2023-10775 as provided by Council:

- Statement of Environmental Effects, Ref. 10431, prepared by Ardill Payne & Partners, Rev. 0, dated 22/11/2023
- Proposed Plan of Subdivision and Concept Engineering Plans, Ref. 10431, prepared by Ardill Payne & Partners, dated 18/10/2023
- Landscape Master Plans, Ref. 1819, prepared by Venu Design Group, Rev. A, dated 18/09/2023
- Bushfire Assessment Report, prepared by Sustainable Home Solutions, undated
- AHIMS Search Result, dated 28/06/2023

Schedule 5. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

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

Statement of Reasons

The proposed development complies with the provisions of Byron Local Environmental Plan 2014.

The proposed development complies with relevant State Environmental Planning Policies.

The proposed development complies with relevant provisions of Development Control Plan 2014.

The proposed development complies with Environmental Planning & Assessment Regulation 2021 considerations.

The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.

The proposed development is considered suitable for the proposed site.

The development application was notified/advertised in accordance with Council's Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application.

The proposed development is unlikely to prejudice or compromise the public interest.

How community views were addressed

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

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

Schedule 6. NOTES

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 Council at least two days notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- 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 being issued pursuant to section 4.2(1) of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 9.50 of the Environmental Planning & Assessment Act 1979.

Plumbing Standards and requirements.

All Plumbing, Water Supply, Sewerage and Stormwater Works shall be installed in accordance with the Local Government Act 1993, Plumbers Code of Australia and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications. Any plumbing inspections required under a Section 68 Approval are to occur in accordance with that approval.

Relics Provisions- Advice

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

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

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

Fire Ants

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

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

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

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

Essential Energy

- As part of the subdivision, an easement is created for any existing electrical infrastructure. The easement is to be created using Essential Energy's standard easement terms current at the time of registration of the plan of subdivision;
- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;

- Council should ensure that a Notification of Arrangement (confirming satisfactory arrangements have been made for the provision of power) is issued by Essential Energy with respect to all proposed lots which will form part of the subdivision, prior to Council releasing the Subdivision Certificate. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the subdivision, which may include the payment of fees and contributions;
- In addition, Essential Energy's records indicate there is electricity infrastructure located within the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure;
- Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW);
- Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice - Work near Overhead Power Lines and Code of Practice - Work near Underground Assets.

S7.11 Schedule of Development Contributions

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

Payments will be accepted through BPAY, over the telephone or in person at Council's administration building. You will need to complete the [Developer Contributions update and payment request form](#) or www.byron.nsw.gov.au/contributions to confirm the total contribution amount due and request an invoice with payment details.

Section 7.11 contributions Schedule						
Mullumbimby						
Catchment						
This schedule was calculated in spreadsheet #E2024/55327						
1 bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		0	@	0.75 SDU	=	0
3 bedroom units/dwellings =		0	@	1 SDU	=	0
Allotments =		38	@	1	=	38
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	37
		No further indexation. Contributions are at the Ministerial cap.				
Local Open Space & Recreation	(OS-ML)	37.00	SDU @	\$ 13,117.47	=	\$ 485,346.33
LGA Wide Open Space & Recreation	(OS-SW)	37.00	SDU @	\$ 775.38	=	\$ 28,689.23
LGA wide Community Facilities	(CF-SW)	37.00	SDU @	\$ 1,135.63	=	\$ 42,018.38
Local Community Facilities	(CF-ML)	37.00	SDU @	\$ 223.30	=	\$ 8,261.98
Bikeways & Footpaths	(CW-ML)	37.00	SDU @	\$ 2,144.41	=	\$ 79,343.18
Shire Wide Bikeways & Footpaths	(CW-SW)	37.00	SDU @	\$ 83.30	=	\$ 3,082.13
Urban Roads	(R-ML)	37.00	SDU @	\$ 1,113.05	=	\$ 41,182.85
LGA Wide Roads	(R-SW)	37.00	SDU @	\$ 234.63	=	\$ 8,681.14
Rural Roads	#N/A	37.00	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	37.00	SDU @	\$ 1,172.83	=	\$ 43,394.80
Total						\$ 740,000.00