

10.2018.372.1
CONDITIONS OF CONSENT:

SCHEDULE 1 DEFERRED CONSENT CONDITION PURSUANT TO SECTION 4.16(3)

The following condition concerns matters as to which Council must be satisfied before the consent can be issued:

1. Deferred commencement – Building Information Certificate

This consent does not operate until Council has issued a Building Information Certificate for the dwelling house subject to this consent.

Prior to issue of the Building Information Certificate the applicant is to demonstrate to Councils satisfaction with evidence in the form of detailed report/s from suitably qualified and experienced professionals the constructed works satisfies

1. The following Performance Provisions of the Building Code of Australia and
2. Section B (Water Services) and Section C (Sanitary Plumbing and Drainage Services) of the Plumbing Code of Australia and
3. Any Environmental Consultants report for the installation and/ or upgrade of the wastewater system installed on the property and
4. Any recommended works identified in this report/s or identified by Council must be completed prior to issue of the Building Information Certificate;

Performance Requirement of the Building Code of Australia

- P2.0.1 Application
- P2.1.1 Structural stability and resistance to actions
- P2.2.1 Surface water
- P2.2.2 Weatherproofing
- P2.2.3 Dampness
- P2.3.2 Fire detection and early warning
- P2.3.3 Heating appliances
- P2.4.1 Wet areas
- P2.4.2 Room heights
- P2.4.3 Facilities
- P2.4.4 Light
- P2.4.5 Ventilation
- P2.5.1 Stairways and ramps
- NSW P2.6.1(a) Building Fabric & (b) Building Sealing
- NSW P2.6.2 Services

Prior to activation of the development consent revised architectural plans and specifications must be submitted to Byron Shire Council demonstrating how the building will meet the construction requirements of the approved Bushfire Attack Level (BAL29) nominated in this development consent.

Evidence of compliance with the above condition(s), sufficient to satisfy the Council as to those matters, must be provided within 2 years of this notice. If satisfactory evidence is produced in accordance with this requirement, the Council will give notice to the applicant of the date from which the consent operates.

SCHEDULE 2 CONDITIONS OF CONSENT

Parameters of consent

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

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

| Plan No. | Description | Prepared by | Dated: |
|----------|-------------------------|-----------------|----------------------|
| 1 of 4 | Site Plan | Rainer Hartlieb | 03/07/17 |
| 2 of 4 | Sections | Rainer Hartlieb | 03/07/17 |
| 3 of 4 | East & South Elevations | Rainer Hartlieb | 03/07/17 |
| 4 of 4 | West & North Elevations | Rainer Hartlieb | 03/07/17 |
| Plan 5 | Floor Plan | Unknown | Received 28/11/18 |

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

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

2. **Bush fire safety measures**

This land is identified as being designated bush fire prone land and under section 79BA of the Act, Council must be satisfied prior to making a determination for development on bush fire prone land that the development complies with "Planning for Bush Fire Protection 2006". The development is approved subject to the following requirements applying:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. The property around the main dwelling shall be managed to a distance of 10 metres or to the boundary where insufficient, as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
2. The property around the existing building subject to this consent shall be managed as follows:
 - North for a distance of 8 metres as an Inner Protection Area.
 - East for a distance of 9 metres as an Inner Protection Area.
 - South for a distance of 12 metres as an Inner Protection Area.
 - West for a distance of 12 metres as an Inner Protection Area.

Requirements for an Inner Protection Area are outlined within section 4.1.3 and appendix 5 of 'Planning for Bush Fire Protection 2006' (PBP) and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. In recognition that no reticulated water supply is available to the development, a

total of 20,000 litres firefighting water supply shall be provided for firefighting purposes. The firefighting water supply shall be installed and maintained in the following manner:

- a) Firefighting water supply may be provided by a tank, a swimming pool or a dam that shall be located not less than 5 metres and not more than 20 metres from the approved structure.
- b) A hardened ground surface for firefighting truck access is to be constructed up to and within 4 metres of the firefighting water supply.
- c) New above ground firefighting water supply storage's are to be manufactured using non-combustible material (concrete, metal, etc). Where existing firefighting water supply storage's are constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials, they shall be shielded from the impact of radiant heat and direct flame contact.
- d) Non-combustible materials (concrete, metal, etc) will only be used to elevate or raise firefighting water supply tank(s) above the natural ground level.
- e) A 65mm metal Storz outlet with a gate or ball valve shall be fitted to any firefighting water supply tank(s) and accessible for a firefighting truck.
- f) The gate or ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material.
- g) All associated fittings to the firefighting water supply tank(s) shall be non-combustible.
- h) Any pipes not of metal material shall be buried 300mm below natural ground level.
- i) Any below ground firefighting water supply tank(s) constructed of combustible (polycarbonate, plastic, fibreglass, etc) materials shall be shielded from the impact of radiant heat and direct flame contact.
- j) Any firefighting water supply tank(s) located below ground shall be clearly delineated to prevent vehicles being driven over the tank.
- k) All water supplies for firefighting purposes shall be clearly signposted as a firefighting water supply.
- l) Below ground firefighting water supply tank(s) shall have an access hole measuring a minimum 200mm x 200mm to allow firefighting trucks to access water direct from the tank.
- m) A Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
 - i. Markers must be fixed in a suitable location so as to be highly visible; and
 - ii. Markers should be positioned adjacent to the most appropriate access for the water supply.

Note: The definition of below ground dedicated firefighting water supply tank(s) is when the outlet valve is located below natural ground level.

4. Electricity services where practicable shall be located underground. Where aboveground services are proposed the following specifications apply:

- a) Lines with short pole spacing (30 metres) are required, unless crossing gullies, gorges or riparian areas; and
- b) No part of a tree is closer to a power line than the distance set out in accordance with the specifications in 'Guide for the Management of Vegetation in the Vicinity of Electricity Supply Infrastructure' issued by the Industry Safety Steering Committee 3 (ISSC3 2016).

Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

5. Property access roads shall comply with the following requirements of section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

- a) Bridges clearly indicate load rating and pavements and bridges are capable of carrying a load of 15 tonnes.

- b) Roads do not traverse a wetland or other land potentially subject to periodic inundation (other than a flood or storm surge).
- c) A minimum carriageway width of 4 metres.
- d) Any carriageway constriction along the property access road shall be no less than 3.5 metres in width and for a distance of no greater than 30m.
- e) A minimum vertical clearance of 4 metres to any overhanging obstruction, including tree branches.
- f) Internal roads provide a loop road around the second dwelling or incorporate a turning circle with a minimum 12 metre outer radius.
- g) Curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress.
- h) The minimum distance between the inner and outer curves is 6 metres.
- i) The crossfall is not to exceed 10 degrees.
- j) Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- 6. The dwelling house subject to this consent shall comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2009 'Construction of buildings in bush fire prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection' 2006'.
- 7. The existing approved dwelling house must be upgraded to minimise the impacts of ember attack. The openable portions of windows must be screened with a mesh or perforated sheets with a maximum aperture of 2mm and made of corrosion resistant steel. Doors (including roller doors) must be tightfitting to prevent ember entry and any constructions gaps or service penetrations in the external fabric of the building greater than 3mm must be screened or protected. Subfloor areas must be protected or screened in accordance with Section A3.7 Addendum Appendix 3 of 'Planning for Bushfire Protection 2006'

3. 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.

4. Erosion & sediment measures

Erosion and sedimentation controls are to be in place during any required construction works in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. A full copy may be downloaded from Council's web site at www.byron.nsw.gov.au.

5. Muted bushland tones external finishes

To ensure the development is compatible with the surrounding environment, colours and finishes are to be muted bushland tones. In this regard white, light or bright colours are not permissible.

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

6. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. 981325S, dated 28 November 2018.

The commitments indicated in the Certificate are to be indicated on submitted plans.

Note that the plans submitted must clearly indicate all windows numbered or identified in a manner that is consistent with the identification on the Basix Certificate.

Minor changes to the measures may be undertaken without the issue of any amendment under Section 4.55 of the Act, provided that the changes do not affect the form, shape or size of the building.

7. **On-site sewage management facility Section 68 approval required**

An approval under Section 68 of the Local Government Act 1993 for on-site effluent disposal must be obtained from Council prior to issue of an Occupation Certificate. 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.

Government Act 1993 to carry out water supply work and sewerage work must be obtained.

8. **Inspection for on-site sewage management**

All plumbing and drainage works is to be installed by a suitably qualified person. The plumber must adhere to the requirements of the NSW Code of Practice and AS/NZ 3500. The plumber is to arrange for the following inspections to be undertaken:

- a. Internal drainage prior to covering of the works.
- b. External drainage prior to the covering of works.
- c. Irrigation installation prior to the covering of works.
- d. Final

9. **On-site sewage management system must be completed**

The on-site sewage management system is to be constructed in accordance with approved plans and in accordance with current specifications and standards. The system is not to be used and/or operated until a Council Officer has inspected the system and authorised its use.

10. **Approval to Operate required**

In accordance with the Local Government Act, an Approval to Operate the onsite sewage management system must be obtained from Council. Forms may be downloaded from Council's website with '<http://www.byron.nsw.gov.au/on-site-sewage>'.

11. **Access & Parking**

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

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

- a) pavement design, comprising a sealed surface for grades greater than 12%;
- b) site conditions affecting the access;
- c) existing and design levels;

- d) longitudinal section from the road centreline to the car space(s); and
- e) minimum 3 metre wide access way from the principal dwelling to the new dwelling with 150mm gravel depth.

Such plans and specifications must be approved prior to issue of an Occupation Certificate.

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

12. **Access and parking areas to be completed**

The access and parking areas are to be constructed in accordance with the approved plans prior to the issue of a Final Occupation Certificate.

13. **Rainwater tank to be provided**

A rainwater tank with a minimum capacity of 40,000L must be provided to service the use of the dwelling house subject to this consent.

14. **Long Service Levy to be paid**

A Long Service Levy must be paid to the Long Service Payments Corporation. This is a State Government Levy and is subject to change.

These payments may be made online at www.longservice.nsw.gov.au or at Council's Administration Office, Station Street, Mullumbimby. When paying to Council, cheques are to be made payable to 'Byron Shire Council'.

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

15. **Developer Contributions to be paid**

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

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.

16. **Works to be completed prior to issue of a Final Occupation Certificate**

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development including approvals issued under the Local Government Act 1993 and the Roads Act 1993, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Council's road/footpath reserve.

17. **Stormwater disposal**

Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

- a. Clear of buildings and infrastructure,
- b. Clear of effluent disposal areas,
- c. Not concentrated so as to cause soil erosion,
- d. Not directly to a watercourse, and
- e. Not onto adjoining land.

18. **Compliance with bushfire conditions**

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

The following conditions are to be complied with at all times

19. **Use of Dual Occupancy**

The dual occupancy is not approved for holiday letting, bed & breakfast accommodation and/or for the use as tourist and visitor accommodation.

SCHEDULE 3 PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the Environmental Planning and Assessment Regulation apply as are of relevance to this application:

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

Clause 98A Erection of signs

Clause 98B Notification of Home Building Act 1989 requirements

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

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

SCHEDULE 4 REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

Statement of Reasons

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

The proposed development is considered suitable for the proposed site.

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

How community views were addressed

The DA was advertised in accordance with Level 1 notification as per Development Control Plan 2014. All issues raised within submissions have been taken into consideration in determining this application.

SCHEDULE 5 NOTES

Occupation Certificate required:

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

Protection of the Environment Operations Act 1997:

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

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine being issued pursuant to section 4.2(1) of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 9.50 of the Environmental Planning & Assessment Act 1979.

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.**

| Updated Section 94 contributions Schedule for DA | | | | | | |
|--|---------|------------|----------|--|----|--------------|
| Rural South | | | | | | |
| Catchment | | | | | | |
| This schedule was calculated in spreadsheet #E2015/28112 | | | | | | |
| 1 bedroom units = | 0 | @ | 0.55 SDU | = | 0 | |
| 2 bedroom units = | 0 | @ | 0.75 SDU | = | 0 | |
| 3 bedroom units/dwellings = | 2 | @ | 1 SDU | = | 2 | |
| Number of allotments = | 0 | @ | 1 | = | 0 | |
| Less Site Credits = | 1 | @ | -1 | = | -1 | |
| Total SDU | | | | = | 1 | |
| Schedule valid until | | 24/04/2019 | | After this date contact Council for CPI update. | | |
| Local Open Space & Recreation | (OS-RS) | 1.00 | @ | \$ - | = | \$ - |
| LGA Wide Open Space & Recreation | (OS-SW) | 1.00 | @ | \$ 751.53 | = | \$ 751.53 |
| LGA wide Community Facilities | (CF-SW) | 1.00 | @ | \$ 1,100.69 | = | \$ 1,100.69 |
| Local Community Facilities | (CF-RS) | 1.00 | @ | \$ - | = | \$ - |
| Bikeways & Footpaths | #N/A | 1.00 | @ | \$ - | = | \$ - |
| Shire Wide Bikeways & Footpaths | (CW-SW) | 1.00 | @ | \$ 80.74 | = | \$ 80.74 |
| Urban Roads | #N/A | 1.00 | @ | \$ - | = | \$ - |
| LGA Wide Roads | (R-SW) | 1.00 | @ | \$ 227.41 | = | \$ 227.41 |
| Rural Roads | (R-RS) | 1.00 | @ | \$ 14,839.57 | = | \$ 14,839.57 |

| | | | | | | |
|---------------------|---------|------|-------|-------------|---|---------------------|
| Administration Levy | (OF-SW) | 1.00 | SDU @ | \$ 1,136.75 | = | \$ 1,136.75 |
| Total | | | | | = | \$ 18,136.69 |