

CONDITIONS OF CONSENT:

SCHEDULE 1. CONDITIONS OF CONSENT

Parameters of consent

1. **Development is to be in accordance with approved plans**
The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
HM200760-2	Proposed Layout Plan	Heath & McPhail Surveying	5/6/2020

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. **Conditions prescribed by the Regulation**
This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in **Schedule 2** of this consent.
3. **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 dated 31 August contained in **Schedule 3** of this Notice of Determination.

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

4. **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) **Driveway in Coolamon Scenic Drive**
Sealed driveway in accordance with Council's rural driveway standards, from the edge of the carriageway to 3 metres within the property boundary of Proposed Lot 10.

The detailed design and construction of the driveway must include the following:-

- To meet current standard drawing - Northern Rivers Local Government standard R15D and R14C or R16B
- The existing driveway servicing the dwelling must be removed and reinstate the disturbed area to match the existing (e.g. remove the seal and reinstate with turf);
- To be square to the road carriageway and not encroach on neighbouring frontages, any tapering/widening of the driveway width must be inside the property boundary only.

5. **Traffic Control Plan**

The plans and specifications to accompany the Subdivision Works Certificate application are to include a traffic control plan to indicate the measures to be employed to control traffic during construction of the subdivision. The traffic control plan is to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual (1998), *Traffic Control at Work Sites*, and Australian Standard 1742.3 - 1985, *Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'*.

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

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

6. **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.

7. **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.

8. **Erosion & sediment measures**

Erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. A copy may be downloaded from Council's website. Particular attention is to be given to the provision of the following sediment and erosion control measures:

- Temporary driveway from the edge of road to the building site
- Temporary downpipes immediately that the roof has been erected

- Silt fence or sediment barrier

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

9. Construction noise

Construction noise is to be limited as follows:

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

10. Construction times

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

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

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

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

11. 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.

12. Council Specification

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

13. 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.

14. 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.

15. Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

16. Aboriginal Relics

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

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

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

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

17. 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.

Any encroachments affecting new boundaries or the road reserve must be removed or relocated wholly within the allotment or other measures to remove encroachments of structures in the road reserve. The new boundaries must not cause any existing building/s to contravene the Building Code of Australia.

This plan must be endorsed by a Registered Surveyor.

18. 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.

19. 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

20. No Tree Removal

This development consent does not authorize any native tree to be ringbarked, cut down, lopped, removed or damaged, or caused to be ringbarked, cut down, lopped, removed or

damaged in contravention of Byron Development Control Plan 2014 and Development Control Plan 2010 as applicable to the land.

21. **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.

22. **Window screening**

To minimize the risk of bird strikes, screens are to be installed on all windows to prevent the reflection of sky and adjacent vegetation on windows and must be retained in perpetuity.

SCHEDULE 2. 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 |
| 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 3. INTEGRATED DEVELOPMENT GENERAL TERMS OF APPROVAL



NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (CNR-10300) 10.2020.346.1
Our reference: DA20200726002692-Original-1

ATTENTION: Greg Smith

Date: Monday 31 August 2020

Dear Sir/Madam,

Integrated Development Application
s100B – Subdivision – Boundary Readjustment
874 Coolamon Scenic Drive Coorabell NSW 2479, 1//DP557721, 3//DP577281, 7//DP243714, 9//DP243714

I refer to your correspondence dated 21/07/2020 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, 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 Conditions

1. The development proposal is to comply with the subdivision layout identified on the drawing; prepared by Heath & McPhail Surveying, titled "Figure 2 Proposed Layout Plan of Lot 10 & 11" and dated 5/6/2020.

Asset Protection Zones

Intent of measures: to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact. To achieve this, the following conditions shall apply:

2. At the issue of a subdivision certificate, and in perpetuity (to ensure ongoing protection from the impact of bush fires), the site around the existing building on lot 10 shall be maintained as an inner protection area (IPA) as follows:

- north for a distance of 20 metres;
- east to the proposed boundary with proposed lot 11;
- south to the existing boundary and,
- west to the existing boundary with the road reserve.

When establishing and maintaining an IPA the following requirements apply in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019:

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

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth-barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover; and
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

Construction Standards

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

3. The existing dwelling, on proposed lot 10 shall be upgraded to improve ember protection by 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. External doors are to be fitted with draft excluders.

Water and Utility Services

Intent of measures: 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:

4. The provision of water, electricity and gas shall comply with the following in accordance with Table 5.3c of Planning for Bush Fire Protection 2019:

- a. a 10,000 litre fire fighting water supply shall be provided on-site to service the existing dwelling on proposed lot 10;
- b. a 20,000 litre fire fighting water supply shall be provided on-site to service the existing dwelling on proposed lot 11;
- c. an outlet for firefighting purposes is located within the IPA or non-hazard side and away from the structure, (5-20 metres);
- d. 65mm Storz connection with a ball valve is fitted to the outlet;
- e. the 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;
- f. underground tanks have an access hole of 200mm to allow tankers to refill, direct from the tank;
- g. a hardened ground surface for truck access is supplied within 4m of the water outlet or access hole;
- h. above-ground tanks are manufactured from concrete or metal;
- i. raised tanks have their stands constructed from non-combustible material or bush fire-resisting timber. The bush fire-resisting timbers are Silvertop Ash, Blackbutt, Red or River Gum, Spotted Gum, Red Ironbark, Kwila (Merbau) or Turpentine;
- j. unobstructed access can be provided at all times;
- k. underground tanks are clearly marked;
- l. tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters;
- m. all exposed water pipes external to the building are metal, including any fittings;
- n. 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:
 1. Markers must be fixed in a suitable location so as to be highly visible; and
 2. Markers should be positioned adjacent to the most appropriate access for the water supply.

o. reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;

p. all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;

q. connections to and from gas cylinders are metal;

r. polymer-sheathed flexible gas supply lines are not used; and

s. above-ground gas service pipes are metal, including and up to any outlets.

General Advice - Consent Authority to Note

- Establishment of asset protection zones on proposed Lot 10 may require the clearing of vegetation. This bush fire safety authority does not authorise the clearing of any vegetation, nor does it include an assessment of potential ecological impacts of clearing vegetation for the purpose of establishing asset protection zones. Approvals necessary for the clearing of vegetation should be obtained prior to the establishment of any asset protection zones.

For any queries regarding this correspondence, please contact Bradford Sellings on 1300 NSW RFS.

Yours sincerely,

Alan Bawden

Team Leader, Dev. Assessment & Planning

Planning and Environment Services



NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

Subdivision - Boundary Readjustment

874 Coolamon Scenic Drive Coorabell NSW 2479, 1//DP557721, 3//DP577281, 7//DP243714,
9//DP243714

RFS Reference: DA20200726002692-Original-1

Your Reference: (CNR-10300) 10.2020.346.1

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 confirms that, subject to the 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*.

Alan Bawden

Team Leader, Dev. Assessment & Planning
Planning and Environment Services

Monday 31 August 2020

SCHEDULE 4. 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 1988.
The proposed development complies with relevant State Environmental Planning Policies.
The proposed development complies with relevant provisions of Development Control Plan 2010.
The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.
The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.
The proposed development is considered suitable for the proposed site.
The proposed development is unlikely to prejudice or compromise the public interest.

SCHEDULE 5. NOTES

Construction Certificate required:

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

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.

Occupation Certificate required:

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

Protection of the Environment Operations Act 1997:

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

Penalties apply for failure to comply with development consents

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

Plumbing Standards and requirements.

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

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).