

DA 10.2021.685.1 – 2 Keats Street – Recommended conditions

SCHEDULE 1. DEFERRED COMMENCEMENT CONDITION PURSUANT TO SECTION 4.16(3)

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

1. Deferred Commencement Consent

This consent does not operate until Council is satisfied as to the following matter:

(a) Removal of habitable components from shed

The southeast section of the building identified as “existing shed” on the Proposed Site Plan (1.02) must be restored to a shed which shall include removing the kitchen/cooking facilities, bathrooms, laundry, non-structural internal walls/partitions and glass sliding doors

Evidence is required to be submitted of compliance with the above condition, sufficient to satisfy the Council as to those matters, within 12 months of the date of this Notice of Determination. If satisfactory evidence is produced in accordance with this requirement, the Council will give written notice to the applicant of the date from which this consent commences operation.

If Council has not notified the applicant within a period of 28 days after the applicant’s evidence is produced to it, the Council is, for the purposes only of Division 8.3 of the *Environmental Planning and Assessment Act 1979*, taken to have notified the applicant that Council is not satisfied as to those matters on the date on which that 28-day period expires.

SCHEDULE 2. CONDITIONS OF CONSENT

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

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.	Revision No.	Plan Title	Drawn by	Dated
1.02	H	Proposed Site Plan	Harley Graham Architects	08/06/2021
2.01	H	Proposed Plan - Ground Floor	Harley Graham Architects	08/06/2021

2.01	H	Proposed Roof Plan	Harley Graham Architects	08/06/2021
3.01	H	Elevations – Sheet 1	Harley Graham Architects	08/06/2021
4.02	H	Short Sections	Harley Graham Architects	08/06/2021
4.02	H	Long Sections	Harley Graham Architects	08/06/2021
1.02	H	Proposed Strata Plan	Harley Graham Architects	08/06/2021
C1	P3	Site Layout Plan	Lucena	07/03/2022
C2	P3	Part Plan Road Access	Lucena	07/03/2022

Plan Title	Version No.	By	Dated
Proposed Stormwater Management Plan - Site Plan	SWMP1 rev P3	Lucena	07/03/2022
Acid Sulfate Soil Management Plan		Tim Fitzroy & Associates	
Vegetation Management Plan	3830-1015	GeoLink	04/06/2021

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. **Car parking to be available for the approved use**
Parking within the development, together with all driveways and turning areas, must be provided and maintained as follows:
 - a) Two (2) car spaces in the double garage for the existing dwelling; and
 - b) One (1) hardstand parking space for the proposed dwelling.
3. **No native tree removal**
This development consent does not authorise any native tree or vegetation to be ringbarked, cut down, lopped, removed or damaged, or caused to be ringbarked, cut down, lopped, removed or damaged.

4. **Payment of security deposits**

Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the certifier:

Security deposit	\$3000
Inspection fee	\$200

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 Public Road and Footpath Infrastructure Inspection Fee (under the *Roads Act 1993*). The amount payable must be in accordance with council's fees and charges at the payment date.

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 NSW Rural Fire Service (Ref. DA20220706009128-Original-1) dated 2 September 2022 contained in a **Schedule** of this Notice of Determination.

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

7. **Construction site management plan**

Before the issue of a construction certificate, the applicant must ensure a construction site management plan 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.

8. **Sewerage, water service and meter to be connected to dual occupancy**

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

Water metering to be in accordance with Byron Shire Council's water metering requirements

See: <https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications>

Any new water service and meter will be at applicants cost.

9. **Certificate of Compliance – s307 Water Management Act 2000**

Prior to issue of any Construction Certificate, a Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous County Council Development Servicing Plans. Where staging of the Construction Certificate occurs, a separate s307 Compliance Certificate must be obtained for each stage.

Byron Shire Council acts as Rous County Council's agent in this matter and will issue a Certificate of Compliance on behalf of Rous County Council upon payment of the Rous County Council Development Servicing Charge to this Council.

Note: For issue of the Certificate of Compliance, an application form and associated fee must be lodged via Council's website. Copies of Byron Shire Council's Development Servicing Plans are available via Council's website.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Utilities on 02 6626 7000. Applicable charges can also be found on Council's website:

<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.

Payment by Personal or Company Cheque will not be Accepted

10. **Geotechnical Report required – Soil classification**

A soil report is to be provided to the Principal Certifying Authority from a professional Engineer experienced in Geotechnical Science as to the classification of the soil type on the site, consistent with the requirements of Australian Standard 2870.

11. **On-site stormwater detention and bioretention required**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the approved Stormwater Management Plan and relevant Australian Standard. All stormwater drainage for the development must be conveyed via the bioretention basin and on-site stormwater detention system by gravity to the open drain within the existing easement on the south-eastern boundary.

The bioretention basin must be minimum 15m² in area and 600mm deep with the depth comprising 400mm filter media, 50mm transition layer and 150mm drainage layer.

The on-site stormwater detention must provide a permissible site discharge and storage volume in accordance with Council's Stormwater Guidelines.

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

All stormwater drainage systems within the lot and the connection to a public or an inter-allotment drainage system must:

- a) comply with any requirements for the disposal of stormwater drainage and on-site stormwater detention contained in Council's Development Control Plan, Stormwater Guideline and Local Approvals Policy; and
- b) unless exempt from obtaining an approval under section 68 of the *Local Government Act 1993* by a Local Approvals Policy, an approval must be obtained under that Act prior to issue of a Construction Certificate.

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

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

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

a) **Driveway**

A driveway generally consistent with the approved plan titled "Part Plan Road Access" and in accordance with Council's Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings. No trees are permitted to be removed.

b) **Removal of boom gate**

The plans are to indicate removal of the unauthorised boom gate constructed within the road reserve.

13. **Vehicular access and parking**

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

The access, parking and manoeuvring for the site is to comply with the requirements of Australian Standard 2890.1-2004: Parking facilities, Part 1: Off-street car parking and Council's current "Northern Rivers Local Government Development Design & Construction

Manuals and Standard Drawings". Plans are to include, but not be limited to, the following items:

- a) pavement design, comprising an all-weather surface, such as asphalt, bitumen seal, concrete, pavers or suitably designed permeable pavements;
- b) site conditions affecting the access;
- c) existing and design levels; and
- d) access requirements of any bushfire safety conditions.

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

14. Erosion and Sediment Control Plan required

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

Such plans and specifications must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings" and must be approved as part of the Construction Certificate.

15. Building materials and colours to be specified

The application for a Construction Certificate is to include plans and specifications that indicate the proposed building materials and colours. Highly reflective, white or light-coloured roofing may not be used.

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

16. Native trees to be identified on plans

All native trees within 5m of the development footprint, which includes the driveway and any infrastructure, must be illustrated on all relevant Construction Plans, along with their Tree Protection Zones formulated in accordance with *AS 4970-2009 – Protection of Trees on Development Sites*.

17. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. 1210454S, dated 8 June 2021.

The commitments indicated in the Certificate are to be indicated on the plans submitted for approval of the Construction Certificate.

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.

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

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

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

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

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

20. **Details of pool fence required**

The application for a Construction Certificate is to include plans and specifications that indicate the details of the fence around the swimming pool in accordance with the *Swimming Pools Act 1992* and Australian Standard 1926.1.

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

21. **Swimming pool backwash - Section 68 Part B approval (where required)**

An **Approval** under Section 68 Part B of the *Local Government Act 1993* to carry out sewerage work must be obtained where the swimming pool backwash is to be connected to the sewer via a new overflow relief gully.

22. **Waste Management Plan**

Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the Chapter B8 - Waste Minimisation and Management of the Byron Shire Development Control Plan 2014.

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

23. **Tree Removal**

No trees or vegetation to be cleared or removed until a Construction Certificate has been issued.

24. **Insect screening required**

The application for a Construction Certificate is to include plans and specifications that provide effective insect screening to all windows, doors and other openings to all parts of the new dwelling.

Such plans are to be approved as part of the Construction Certificate.

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

25. **Erosion and Sediment Control Plan implementation**

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

26. **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.

27. **Water service to be connected**

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

Any new water service will be at the applicants cost.

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

28. **Hours of work**

The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:

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

The principal certifier must ensure building work, demolition or vegetation removal is not 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.

29. **Construction Noise**

While building work is being carried out, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

30. **Implementation of BASIX commitments**

While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

31. **Implementation of Vegetation Management Plan**

Prior to building work commencing, the first round of weed monitoring and weed control, as required by the approved Vegetation Management Plan (VMP) must be carried out.

32. **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.

33. **Builder's rubbish to be contained on site**

All builder's rubbish is to be contained on the site in a 'Builder's Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

34. **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.

35. **Maintenance of erosion and sediment control measures**

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

36. **Acid sulfate soils management**

All earthworks and excavation associated with the development must be carried out in accordance with the approved Acid Sulfate Soil Management Plan.

37. **Removal of demolition and other wastes**

All excavated soils to be disposed of off-site and all 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 \(2014\)](#)

38. **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

39. **Protection of native trees**

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

40. **Aboriginal Relics**

While demolition or building 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.

41. **Site Location**

The location of the building on the site to be established by a suitably qualified Surveyor and must comply with this approval including any required setbacks to boundaries.

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

42. **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.

43. **Plumbing Works**

All works in relation to any associated Section 68 Water and Sewerage approval must be fully complied with and have a Final Plumbing Certificate issued prior to the issue of an Interim or Final Occupation Certificate.

44. **Vehicular access and parking areas to be completed**
The access and parking areas are to be constructed in accordance with the approved plans and Roads Act consent prior to the issue of an occupation certificate.
45. **On-site stormwater detention – Certification of works**
All stormwater drainage works, including on-site stormwater detention and stormwater quality works, for the development must be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate. Certificate/s of Compliance and Work-As-Executed (WAE) plans for the stormwater works must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.
- The certificate/s and WAE plans are to be prepared by a suitably qualified engineer and must be in accordance with Council's [Comprehensive Guidelines for Stormwater Management](#).
46. **Vegetation Management Plan report**
A report by a suitably qualified expert must be provided that details progress with implementation of the VMP prior to the issue of an occupation certificate. The report must include evidence to demonstrate the first round of weed monitoring and weed control, has been carried out.
47. **Site Location Survey**
A final survey of the structures showing setbacks to boundaries to be submitted to the Private Certifier with the Occupation Certificate demonstrating compliance with the approved plans.
48. **Swimming pool fencing**
Swimming pool fencing is to comply with the requirements of the *Swimming Pools Act 1992* and Regulations.
49. **Swimming pool backwash**
Swimming pool backwash is to be connected to a sewer overflow relief gully.
50. **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.
51. **New Street number**
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 with an appropriate plan showing dwellings/units approved for separate occupation and pedestrian access to each dwelling/unit from the public road servicing the development. The approved street number must be displayed in a prominent location near the approved main point of access prior to issue of any occupation certificate.

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

52. **Strata plan**

The strata plan must be in accordance with the approved plan/s.

53. **Completion of building works**

A final occupation certificate must be obtained for the building works approved by this development consent prior to issue of the strata certificate. A copy of the final occupation certificate must be submitted with the application for the strata certificate.

54. **Certificate of compliance – *Water Management Act 2000***

A Certificate of Compliance under Section 307 of the *Water Management Act 2000* is to be obtained from Byron Shire Council for the subdivision prior to the issue of the Strata Certificate.

Application forms are available from Council's administration building or online to be submitted for a Certificate of Compliance with the required payment.

55. **Section 88B instrument**

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

a) **Easement for Services**

The creation of suitable easements for services over all services and/or service conduits located within the proposed allotments, where not created as common property.

b) **Easement for Electricity**

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

c) **Restriction of use for Conservation**

A restriction of use applying to the area of land identified as "coastal wetlands" on the Coastal Wetlands and Littoral Rainforests Area Map pursuant to clause 2.7 of the *State Environmental Planning Policy (Resilience and Hazards) 2021*. The restriction on user must prohibit, except as otherwise permissible by law, all the following within the area covered by the restriction on user:

- the destruction or removal of any local indigenous trees, shrubs, grasses or other vegetation, or the planting of any flora other than local indigenous flora;
- any act or omission which may adversely affect any local indigenous flora or any indigenous fauna or their related habitats;
- any act or omission which may result in the deterioration in the natural state or in the flow, supply, quantity or quality of any body of water or in the natural moisture regime of the area;
- the creation or maintenance of any new tracks through the area;
- the removal, introduction or disturbance of any soil, rock or other minerals;
- any structures or dwellings other than as approved by this development consent;
- deposition of rubbish or refuse, including garden refuse and weed propagules; and/or
- the use of the area for storage of any substance or material.

d) **Restriction of use – cats and dogs**

A restriction of use that prohibits the keeping of cats and dogs on the land other than "assistance animals" as defined by the *Companion Animals Act 1998*.

56. **Electricity supply certificate**

Prior to the issue of the Strata 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.

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

The following conditions are to be complied with at all times

57. Approved use

Use of the development is approved for dwelling house / dual occupancy (detached). The dwelling houses are not approved as short-term rental accommodation, tourist and visitor accommodation or to be “holiday let”. Any activity other than that defined as dwelling house / dual occupancy (detached) must not be carried out unless development consent is sought.

Note:

dual occupancy (detached) means 2 detached dwellings on one lot of land, but does not include a secondary dwelling.

dwelling house means “a building containing only one dwelling”.

dwelling means “a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile”.

58. Vegetation Management Plan ongoing implementation

Weed monitoring and weed control, as required by the approved Vegetation Management Plan (VMP) must be carried out for at least five (5) years. Annual progress reports on the implementation of the VMP must be prepared, in accordance with the approved VMP, by a suitably qualified expert and provided to Council on request.

59. Pool Safety Sign

The occupier of the premises must ensure that there is a sign in the immediate vicinity of the swimming pool bearing the words ‘Young children must be supervised when using this swimming pool’. The sign is to be a prominent position and be otherwise in accordance with clause 9 of the Swimming Pools Regulation.

A pool resuscitation sign is to be installed in a conspicuous location within the pool area to the satisfaction of the Principle Certifying Authority.

60. Swimming pool discharge (backwash and overflow)

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

This work is exempt development in accordance with Councils Local Approvals Policy (2009), however, where it is not possible to discharge to an existing overflow retention gully, a new charged gully may be required. In such circumstances, an application under Section 68 of the Local Government Act is required.

61. Swimming pool pump location

The filter pump is to be located such that noise from its operations does not cause a nuisance to adjoining residents. If necessary, an acoustic enclosure must be provided around the pump to achieve the required noise attenuation.

62. **Swimming Pool Fencing**

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

63. **Swimming pool health requirements**

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

SCHEDULE 3. PRESCRIBED CONDITIONS

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

Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

Clause 98A Erection of signs

Clause 98B Notification of Home Building Act 1989 requirements

Clause 98C Conditions relating to entertainment venues

Clause 98D Condition relating to maximum capacity signage

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

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

SCHEDULE 4. INTEGRATED DEVELOPMENT GENERAL TERMS OF APPROVAL



NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (CNR-31702) 10.2021.685.1
Our reference: DA20220706009128-Original-1

ATTENTION: Ivan Holland

Date: Friday 2 September 2022

Dear Sir/Madam,

Integrated Development Application
s100B – Subdivision – Strata Title Subdivision
2 KEATS STREET BYRON BAY 2481, 1//DP1257709

I refer to your correspondence dated 18/07/2022 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:

Asset Protection Zones

The intent of measures is 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.

1. At the issue of a subdivision certificate, and in perpetuity, the site around the proposed dwelling must be maintained as an inner protection area (IPA) as follows:

- north for a distance of 20 metres;
- east to the boundary;
- south to the boundary; and,
- west for a distance of 20 metres.

When establishing and maintaining an inner protection area, the following requirements apply:

- a. tree canopy cover should be less than 15% at maturity,
- b. trees at maturity should not touch or overhang the building,
- c. lower limbs should be removed up to a height of 2m above the ground,
- d. tree canopies should be separated by 2 to 5m,
- e. preference should be given to smooth-barked and evergreen trees,
- f. large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings,
- g. shrubs should not be located under trees,
- h. shrubs should not form more than 10% ground cover,

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

- i. clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation,
- j. grass should be kept mowed (as a guide, grass should be kept to no more than 100mm in height), and
- k. leaves and vegetation debris should be removed.

2. At the issue of a subdivision certificate, and in perpetuity, the site around the existing dwelling must be maintained as an inner protection area (IPA) as follows:

- north to the boundary;
- east to the boundary;
- south to the boundary; and,
- west for a distance of 15 metres.

When establishing and maintaining an inner protection area, the following requirements apply:

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

Construction Standards

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

3. New construction must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 'Construction of buildings in bushfire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.

4. At the issue of the subdivision certificate, the existing dwelling must 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.

5. Fences and gates must comply with Section 7.6 of Planning for Bush Fire Protection 2019. New fences and gates are to be made of either hardwood or non-combustible material. Where a fence or gate is constructed within 6m of a dwelling or in areas of BAL-29 or greater, they must be made of non-combustible material only.

6. The proposed dwelling is to be located a minimum of 6.7 metres from the existing shed adjacent to the southern boundary.

Access – Property Access

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

7. Internal access roads must comply with the following requirements of Table 7.4a of 'Planning for Bush Fire Protection 2019':

- a. property access roads are two-wheel drive, all-weather roads;



- b. the capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes); bridges and causeways clearly, indicate load rating.
- c. there is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available;
- d. at least one alternative property access road is provided for individual dwellings or groups of dwellings that are located more than 200 metres from the public through road;
- e. minimum 4m carriageway width;
- f. in a forest, woodland and heath situations, rural property roads have passing bays every 200m that are 20m long by 2m wide, making a minimum trafficable width of 6m, at the passing bay;
- g. a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;
- h. property access must provide a suitable turning area in accordance with Appendix 3;
- i. curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;
- j. the minimum distance between inner and outer curves is 6m;
- k. the cross fall is not more than 10 degrees; and
- l. maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads;

Water and Utility Services

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

8. The provision of water must comply with the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019:

- a. a 10,000 litre static water supply must be provided on-site,
- b. an outlet for firefighting purposes is located within the IPA or non-hazard side and away from the structure (5-20 metres),
- c. 65mm Storz connection with a ball valve is fitted to the outlet,
- d. 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,
- e. underground tanks have an access hole of 200mm to allow tankers to refill, direct from the tank,
- f. a hardened ground surface for truck access is supplied within 4m of the water outlet or access hole,
- g. above-ground tanks are manufactured from concrete or metal,
- h. 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,
- i. unobstructed access can be provided at all times,
- j. underground tanks are clearly marked,
- k. tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters,
- l. all exposed water pipes external to the building are metal, including any fittings,
- m. where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack,
- n. any hose and reel for firefighting connected to the pump shall be 19mm internal diameter,
- o. fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005,
- p. 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 to be highly visible, and
 - ii. Markers should be positioned adjacent to the most appropriate access for the water supply.

9. The provision of electricity must comply with the following in accordance with Table 7.4a of Planning for Bush Fire Protection 2019:

- a. where practicable, electrical transmission lines are underground,
- b. where overhead, electrical transmission lines are proposed as follows:



- i. lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas, and
- ii. no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines

General Advice – Consent Authority to Note

The assessment has considered the referred documents identified below;

- The plan titled 'Proposed Strata Plan', prepared by Harley Graham Architects, reference HGA276, drawing number 1.02 revision H.
- Bush Fire Assessment prepared by Bushfire Certifiers, reference 21/080 dated 31 May 2021.

For any queries regarding this correspondence, please contact Wayne Sketchley on 1300 NSW RFS.

Yours sincerely,

Ivan Perkins
Manager Planning & Environment Services
Built & Natural Environment



NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

Subdivision – Strata Title Subdivision
2 KEATS STREET BYRON BAY 2481, 1//DP1257709
RFS Reference: DA20220706009128-Original-1
Your Reference: (CNR-31702) 10.2021.685.1

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*.

Ivan Perkins

**Manager Planning & Environment Services
Built & Natural Environment**

Friday 2 September 2022

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

Note: From July 1 2018, Councils 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 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 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.

How community views were addressed
The DA was notified/advertised in accordance with Council's Community Participation Plan. No submissions were received.

SCHEDULE 6. 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 for a Construction Certificate must be made online using the [NSW Planning Portal](#).

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.

Swimming pool discharge (reticulated systems)

Swimming pool waste - irrespective of the filtering system is to be disposed into the property's house drainage - sewerage system via an overflow relief gully with a 100mm visible air gap in accordance with AS/NZS 3500.2, Section 10.9 & Figure 10.2.

This activity is now an exempt activity and does not require approval under Section 68 of the Local Government Act.

If, however, site conditions prevent discharge through the existing gully and a new gully is required, this activity will require an approval under S68 before this work can commence. Note also that this activity must be carried out by a licensed plumber.

Relics Provisions- Advice

Attention is directed to the *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).

Water payments under the *Water Management Act 2000*

Charges will be calculated based on the additional water and sewerage load that the proposed development generates, shown in Equivalent Tenements (ET) by the following table:

ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT
(ET Policy 2018)

Water	1.20 ET
Bulk Water	1.20 ET
Sewer	1.00 ET

NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>).

These charges will enable you to calculate the total contribution charges payable when you are ready to pay them. Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment.

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 only be accepted by cash or bank cheque.**

Section 7.11 contributions Schedule**Byron Bay Suffolk Park****Catchment**

This schedule was calculated in spreadsheet #E2021/99005

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 =		2	@	1	=	2
Less Site Credits =		1	@	-1	=	-1
Total SDU					=	1
Schedule valid until		25 Jan 2023	After this date contact Council for CPI update.			
Local Open Space & Recreation	(OS-BB)	1.00	SDU @	\$ 4,661.06	=	\$ 4,661.06
LGA Wide Open Space & Recreation	(OS-SW)	1.00	SDU @	\$ 838.94	=	\$ 838.94
LGA wide Community Facilities	(CF-SW)	1.00	SDU @	\$ 1,228.73	=	\$ 1,228.73
Local Community Facilities	(CF-BB)	1.00	SDU @	\$ 1,384.57	=	\$ 1,384.57
Bikeways & Footpaths	(CW-BB)	1.00	SDU @	\$ 1,534.94	=	\$ 1,534.94
Shire Wide Bikeways & Footpaths	(CW-SW)	1.00	SDU @	\$ 90.13	=	\$ 90.13
Urban Roads	(R-BB)	1.00	SDU @	\$ 3,357.03	=	\$ 3,357.03
LGA Wide Roads	(R-SW)	1.00	SDU @	\$ 253.86	=	\$ 253.86
Rural Roads	#N/A	1.00	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	1.00	SDU @	\$ 1,268.98	=	\$ 1,268.98
Total						\$ 14,618.24