

SCHEDULE 1. CONDITIONS OF CONSENT**Parameters of consent****1. Approved plans and supporting documentation**

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

Plan No.	Revision No.	Plan Title	Drawn by	Dated
Sheet 1	-	Plan of Subdivision	Steven Richard Gott	8/8/2017
Sheet 2	-	Plan of Subdivision	Steven Richard Gott	8/8/2017
-	-	Preliminary SEPP55 Investigation	Ardill Payne & Partners	December 2012

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. 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 28/10/2022 contained in **Schedule 3** of this Notice of Determination.

The following conditions are to be complied with prior to issue of a Subdivision Certificate**4. Subdivision Certificate application required**

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

5. 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, internal access driveways/roads. Where the building/s or improvements are close to boundaries, offset distances are to be included on the additional copy of the plan. This plan must be endorsed by a Registered Surveyor. Any encroachments affecting new boundaries or the road reserve must be removed or relocated wholly within the allotment. The new boundaries must not cause any existing building/s to contravene the Building Code of Australia.

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

A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of a Subdivision Certificate. Where staging of the Subdivision occurs, a separate s307 Compliance Certificate must be obtained for each stage.

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

7. **Compliance with bush fire conditions**

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

8. **New BAM Credit Summary Reports and Credit Retirement**

Prior to issue of the Subdivision Certificate:

- (a) The currency of the BAM Credit Summary Reports at Appendix G of the Biodiversity Development Assessment Report prepared by Eco Logical (April 2022) dated 7 April 2022 has expired and new Reports must be submitted to Council based on re-running the BAM-C prior to issue of the Subdivision Certificate; and
- (b) Credits required from the new Credit Summary Reports must be retired in accordance with requirements of the Biodiversity Conservation Fund Charge System and evidence of credit retirement must be submitted to Council.

Note: Following retirement of biodiversity credits, for any future development proposals for development within the additional acquired portion of the site where tree removal may be required, no further assessment or offset is required.

The following conditions are to be complied with at all times

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9. **Retention of native vegetation within 10/50 Vegetation Clearing Entitlement Area**
All native vegetation that the 10/50 Vegetation Clearing Code of Practice would otherwise authorize to be removed, destroyed or pruned must be retained for conservation purposes.
10. **No Tree Removal**
This development consent does not authorise 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.
11. **Protection of Native Trees**
All trees nominated to be retained by notation or condition as a requirement of the development consent shall be maintained and protected during demolition, excavation and construction on the site in accordance with AS 4970-2009 – Protection of Trees on Development Sites.

SCHEDULE 2. 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 3. INTEGRATED DEVELOPMENT GENERAL TERMS OF APPROVAL



NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (CNR-39352) 10.2022.159.1
Our reference: DA20220512007740-Original-1

ATTENTION: Greg Smith

Date: Friday 28 October 2022

Dear Sir/Madam,

Integrated Development Application
s100B – Subdivision – Boundary adjustment
25 Cavvanbah Street, Byron Bay, //SP63960, 101//DP1263764

I refer to your correspondence dated 08/06/2022 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 entire Lot //SP63960 must be maintained as an Inner Protection Area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.

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,

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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

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- 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.

General Advice – Consent Authority to Note

The assessment has relied on the referred documents identified below;

- The plan titled 'Plan of Subdivision of Lot 101 in D.P.1263764', prepared by Steven Richard Gott, dated 8 August 2017.

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

Yours sincerely,

Michael Gray
Manager Planning & Environment Services
Built & Natural Environment



NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

Subdivision – Boundary adjustment

25 Cavanbah Street, Byron Bay, //SP63960, 101//DP1263764

RFS Reference: DA20220512007740-Original-1

Your Reference: (CNR-39352) 10.2022.159.1

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*.

Michael Gray

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

Friday 28 October 2022

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 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 development application was notified/advertised in accordance with Council's Community Participation Plan. No submissions were received.
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 5. NOTES

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.

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).