

CONDITIONS OF CONSENT:

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) Biodiversity Development Assessment Report

A Biodiversity Development Assessment Report (BDAR) prepared and certified by a person accredited under Section 6.10 of the *Biodiversity Conservation Act 2016* (BC Act) must be submitted and approved by Council.

Prior to commencement of the development consent, Council must be satisfied that the certified BDAR meets the requirements of the Biodiversity Assessment Method as established under Part 6 of the BC Act.

Evidence is required to be submitted of compliance with the above condition, sufficient to satisfy the Council as to those matters, within 2 years 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 Section 97 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

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:
S-1	Site Plan 1:1500	Alok	25/02/2020
S-2	Site Plan 1:100	Alok	25/02/2020
S-3	Lower Floor Plan	Alok	25/02/2020
S-4	Upper Floor Plan	Alok	25/02/2020
S-5	South-East & North-West Elevations	Alok	25/02/2020
S-6	South-West & North-East Elevations	Alok	25/02/2020
S-7	Sections A-A and B-B	Alok	25/02/2020
S-8	Section CC	Alok	25/02/2020
S-9	Building Envelope to be established	-	20/04/2021

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. Support for neighbouring buildings

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

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

3. 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 3** of this consent.

4. Staged Development

The development is to be carried out in the following stages in any order:

Stage 1: New Dwelling to Create a Dual Occupancy (Detached)

Stage 2: Torrens Title Subdivision of One (1) Lot into Two (2) Lots

Where conditions are required to be satisfied prior to a particular event, those conditions are the conditions relevant to the works being carried out in the stage.

The relevant conditions are the conditions deemed necessary, by the Principal Certifying Authority (PCA) appointed for the development, or, where pursuant to the issue of a Construction Certificate, the relevant consent authority.

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

5. Water and Sewerage - Section 68 approval required

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

6. Consent required for Works within 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 in accordance with Council's Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings.

7. Slope Prone Land

A Stability Assessment Report must be submitted to the Principal Certifying Authority prior to issue of the construction certificate demonstrating a risk level of low or better to the site and its surrounds in relation to landslide during construction and completion of the development. Such report must be prepared by a professional Engineer experienced in Geotechnical Science and must be in accordance with Appendix C of the Australian Geomechanics Society

(AGS) "Practise Note Guidelines for Landslide Risk Assessment" March 2007.

The application for a Construction Certificate is to include plans and specifications demonstrating compliance with the recommendations of the stability assessment.

8. Sediment and Erosion Control Management Plan required

The application for a Construction Certificate is to include plans and specifications that indicate the 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 approved as part of the Construction Certificate.

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

9. On-site stormwater detention required

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. All stormwater drainage for the development must be conveyed via an on-site stormwater detention system by gravity to the kerb and gutter at the street frontage via a kerb adaptor in accordance with Council's Standard Drawing R-08.

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.

10. Access & 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 AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking. Plans are to include, but not be limited to, the following items:

- a) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- b) site conditions affecting the access;
- c) existing and design levels; and
- d) longitudinal section from the road centreline to the car space(s).

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

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

11. 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 consistent with the provisions of Development Control Plan 2014 – Chapter D1.2.4 - Character and Visual Impact. Please note that colours must be non-reflective earth tone colours and that the use of white and near

white colours is not permissible.

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

12. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. 1037655S_02, dated 27 February 2020.

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.

13. 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.

14. Bond required to guarantee against damage to public land

A bond of \$3000.00 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development, together with payment of an asset inspection fee in accordance with Council's fees and charges. Evidence is to be provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets.

Such bond will be held until Council is satisfied that the infrastructure is maintained/repaired to pre development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths etc.

15. Water service and meter to be connected to dual occupancy and strata subdivisions

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.

16. Water and Sewerage - Section 68 Part B approval required

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>

[permits/Plumbing-and-Drainage-Applications](#)

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

17. Certificate of Compliance – Water Management Act 2000

A Certificate of Compliance will be issued upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous Water Development Servicing Plans.

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

Note: Copies of the application forms for Certificates of Compliance are available on Council's website http://www.byron.nsw.gov.au/files/Forms/Section_305_Certificate.pdf or from Council's Administration Office. Copies of Byron Shire Council's Development Servicing Plans are available at Council's Administration Office.

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, Water on 02 6626 7081. Applicable charges can be found on Council's website:

<http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>

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

18. Developer Contributions to be paid

Contributions set out in the schedule below are to be paid to Council prior to the release of a Subdivision Certificate or for a Construction Certificate for the Dual Occupancy dwelling whichever comes first. Contributions are levied in accordance with the [Byron Shire Developer Contributions Plan 2012 \(as amended\)](#). The Plan may be viewed on line 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. Biodiversity credit retirement

- a) Prior to issue of a construction certificate the class and number of biodiversity credits listed in the biodiversity credit report of the approved Biodiversity Development Assessment Report must be retired to offset the residual biodiversity impacts of the development.
- b) The requirement to retire credits in condition 2(a) may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of biodiversity credits, as calculated by the BAM Credit Calculator (BAM-C)¹.
- c) Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of condition 2(a) must be provided to Council prior to issue of construction certification.
- d) The class and number of biodiversity credits required to be retired must meet the requirements of the like-for-like rules provided in Section 6.3 or the variation rules in Section 6.4 of the *Biodiversity Conservation Regulation 2017*.

20. Site Waste Minimisation and Management

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

21. Tree Removal

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

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

22. Erosion and Sediment measures

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

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

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

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

23. 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.

24. 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.

25. Care to be taken when placing services near trees

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

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

26. 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.

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- b) Saturday, from 8 am to 1 pm.

No construction work to take place on Sundays or public holidays.

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

27. 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).

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

28. 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.

29. Builders rubbish to be contained on site

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

30. Fill to be retained on the subject land

Fill material must not encroach onto any adjoining land.

31. 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.

32. 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.

33. Demolition

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

34. Removal of demolition and other wastes

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

[Classification Guidelines \(2008\).](#)

35. 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.

36. Protection of trees

All trees outside of the approved building envelope 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.

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

37. 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 Councils road/footpath reserve.

38. 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.

39. Stormwater drainage work

Stormwater drainage for the development must be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate.

40. 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.”

41. Stormwater disposal

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

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

42. 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 prior to issue of a Subdivision Certificate

43. 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.

44. 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, and where relevant effluent disposal areas and the 1 in 100 year flood and flood planning level extents on land within or adjacent to a flood planning area. 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.

45. Section 88B Instrument

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

a) Restricting Development – On-site Stormwater Detention

Restricting residential development of the vacant allotment until the proprietor has constructed or made provision for the construction of an on-site stormwater detention system to the requirements of Byron Shire Council as follows:

“No dwelling or other structure shall be erected, constructed or placed upon the Lot Burdened unless the Owner of the Lot Burdened has first constructed or made provision for the construction of an on-site stormwater detention system on the Lot, in accordance with the design, construction and/or provision requirements of Council and to the satisfaction of Council.”

The expression “on-site stormwater detention system” shall include all ancillary gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins, rainwater tanks and surfaces designed to temporarily detain stormwater as well as any surfaces graded to direct stormwater to the temporary storage.”

b) Restricting Development – Slip Prone Land

Restricting residential development of the vacant allotment as follows:

“No development shall be permitted on the lot hereby burdened without the support of a geotechnical investigation report by a suitably qualified geotechnical engineer having regard for the poor bearing capacity and likelihood of slip. Any development on the lot burdened must be designed, constructed and maintained in accordance with the recommendations of the detailed geotechnical report.”

c) Restricting Development – Building Envelope

Restricting residential development of the allotment outside of the nominated Building Envelope identified on the Stamped Approved Plans No. S-9, titled ‘Building Envelope

to be established' as follows:

“No dwelling or other structure shall be erected, constructed or placed outside of the nominated Building Envelope on the Lot Burdened without consent granted by Council.

Any works proposed outside of the approved Building Envelope have not been considered under the Biodiversity Conservation Act 2016, and are required to address the Act where necessary.”

46. Electricity Supply Certificate

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

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

47. Fibre-ready Facilities and Telecommunications Infrastructure

Prior to the issue of the Subdivision in connection with a development, the developer (whether or not a constitutional corporation) is to provide evidence satisfactory to the Certifying Authority that arrangements have been made for:

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

(Note real estate development project has the meanings given in section 372Q of the Telecommunications Act).

48. Developer Contributions to be paid

Contributions set out in the schedule below are to be paid to Council prior to the release of a Subdivision Certificate or for a Construction Certificate for the Dual Occupancy dwelling whichever comes first. Contributions are levied in accordance with the [Byron Shire Developer Contributions Plan 2012 \(as amended\)](#). The Plan may be viewed on line 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.

The following conditions are to be complied with at all times

49. Approved use

Dwelling house – Use of the development is approved for a dwelling house. Any activity other than that defined as dwelling house must not be carried out unless development consent is sought.

Note. *dwelling house* means “a building containing only one dwelling”, and 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". The dwelling house is not approved as short term rental accommodation, tourist and visitor accommodation or to be "holiday let".

50. Building Envelope

No dwelling or other structure shall be erected, constructed or placed outside of the nominated Building Envelope without consent granted by Council.

Any works proposed outside of the approved Building Envelope have not been considered under the Biodiversity Conservation Act 2016, and are required to address the Act where necessary.

51. 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.

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. NSW RURAL FIRE SERVICE CONDITIONS



NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (CNR-5643) 10.2020.102.1
Our reference: DA20200318001012-Original-1

ATTENTION: Jordan Vickers

Date: Monday 28 September 2020

Dear Sir/Madam,

Integrated Development Application
s100B – Subdivision – Torrens Title Subdivision
18 Red Bean Cl Suffolk Park NSW 2481 AUS, 19//DP1009620

I refer to your correspondence dated 17/03/2020 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 EXPANDesign, titled "Proposed two lot subdivision and dual occupancy" and dated 25/2/2020.

Asset Protection Zones

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

2. At the commencement of building works, and then in perpetuity, the following identified areas around the proposed dwelling on proposed lot 2, shall be managed as an Inner Protection Area (IPA).

- West to the boundary,
- North for 5 metres or to the boundary (whichever is the least),
- East for 5 metres, and
- South for 5 metres or to the boundary (whichever is the least).

The IPA shall comprise:

- Minimal fine fuel at ground level;
- Grass mowed or grazed;

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

- Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- Trees and shrubs located far enough from buildings so that they will not ignite the building;
- Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- Minimal plant species that keep dead material or drop large quantities of ground fuel;
- Tree canopy cover not more than 15%;
- Tree canopies not located within 2 metres of the building;
- Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and,
- Lower limbs of trees removed up to a height of 2 metres above the ground.

3. At the issue of a subdivision certificate, a suitable mechanism, such as an instrument pursuant to section 88 of the 'Conveyancing Act 1919', shall be in place over proposed lot 1 to ensure that a specified area of that lot is managed, in perpetuity, as an Inner Protection Area (IPA).

The easement, covering the IPA and located within proposed lot 1, shall be that area of land located within 10 metres of the proposed dwelling on proposed lot 2. The 10 metre measurement shall be in accordance with the method described in Section 2.2.4 of AS 3959-2018.

The inner protection area (IPA) shall comprise:

- At least 4 metres of land measured from the common boundary with proposed lot 2
- Minimal fine fuel at ground level;
- Grass mowed or grazed;
- Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- Trees and shrubs located far enough from buildings so that they will not ignite the building;
- Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- Minimal plant species that keep dead material or drop large quantities of ground fuel;
- Tree canopy cover not more than 15%;
- Tree canopies not located within 2 metres of the building;
- Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and,
- Lower limbs of trees removed up to a height of 2 metres above the ground.

The name of authority empowered to release, vary or modify any instrument shall be [2.8 Council].

Construction Standards

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

4. New construction must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas – 2014 as appropriate and Section 7.5 of Planning for Bush Fire Protection 2019.

5. The existing dwelling on proposed lot 1 shall be upgraded to improve ember protection. This must be achieved 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 sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

6. Any new fences and gates shall comply with Section 7.6 of Planning for Bush Fire Protection 2019.

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.

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

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

Statement of Reasons

The proposed development complies with the provisions of Byron Local Environmental Plan 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. Issues raised in the submissions have been addressed during assessment of the application.

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

How community views were addressed

The DA was 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 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).

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 (<http://www.byron.nsw.gov.au/development-contributions-plans-section-94-and-64>). 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 for
Byron Bay Suffolk Park
Catchment**

This schedule was calculated in spreadsheet #E2018/73086

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 **24/04/2021**

**After this date contact Council for
CPI update.**

Local Open Space & Recreation	(OS-BB)	1.00	SDU @	\$ 4,276.86	=	\$ 4,276.86
LGA Wide Open Space & Recreation	(OS-SW)	1.00	SDU @	\$ 769.79	=	\$ 769.79
LGA wide Community Facilities	(CF-SW)	1.00	SDU @	\$ 1,127.45	=	\$ 1,127.45
Local Community Facilities	(CF-BB)	1.00	SDU @	\$ 1,270.44	=	\$ 1,270.44
Bikeways & Footpaths	(CW-BB)	1.00	SDU @	\$ 1,408.42	=	\$ 1,408.42
Shire Wide Bikeways & Footpaths	(CW-SW)	1.00	SDU @	\$ 82.70	=	\$ 82.70
Urban Roads	(R-BB)	1.00	SDU @	\$ 3,080.33	=	\$ 3,080.33
LGA Wide Roads	(R-SW)	1.00	SDU @	\$ 232.94	=	\$ 232.94
Rural Roads	#N/A	1.00	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	1.00	SDU @	\$ 1,164.38	=	\$ 1,164.38
Total					=	\$ 13,413.31