

SCHEDULE 1. CONDITIONS OF CONSENT

Parameters of consent

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

Plan No.	Description	Prepared by	Dated:
DA1 Rev G	Site Plan	Doug Cope	18/03/2021
SP1 Rev B	Staging	Doug Cope	23/02/2021
DA2 Rev C	Pool Cabana	Doug Cope	23/02/2021
DA3 Rev A	Pavilion 5 Plans	Doug Cope	23/02/2021
DA4 Rev E	Pavilions 6 & 7 Plans	Doug Cope	23/02/2021
DA5 Rev B	Pavilion 1 Floor Plan Section	Doug Cope	23/02/2021
DA6 Rev B	Pavilion 1 Roof & Elevations	Doug Cope	23/02/2021
DA7 Rev B	Sections	Doug Cope	23/02/2021
10101 SMP01 ISSUE D	PROPOSED STORMWATER MANAGEMENT PLAN (AS ANNOTATED BY COUNCIL)	Ardill Payne & Partners	03/08/2021

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. **Staged Development**
The development is to be carried out in the following stages:

Stage 1: Relocation of buildings, construction of new carpark, construction of three (3) new pavilions 5, 6, 7 & pool cabana, including paths, fences, landscaping, and infrastructure.

Stage 2. Two (2) bedroom pavilion to be reinstalled, elevated above new car park.

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.

3. **Coastal Erosion**
The development must cease if at any time the coastal erosion escarpment comes within 50 metres of any building associated with this development. The buildings and works used in connection with the development must be removed immediately to an approved location by the owner of the land. The owner must return the landform of the subject land to the predevelopment state and suitably revegetate the land.

In this condition coastal erosion escarpment means the landward limit of erosion in the dune system caused by storm waves.

Note: at the end of a storm the escarpment may be nearly vertical; as it dries out, the escarpment slumps to a typical slope of 1 vertical to 1.5 horizontal

4. **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.

5. **Environmental Planning & Assessment Regulation and Building Code of Australia**

The Principal Certifying Authority is to ensure that the existing structures are upgraded in accordance with clause 93 of Environmental Planning & Assessment Regulation 2000 to address to address a class 3 classification for parts C,D and E of the BCA.

Section C Fire Resistance,
Section D Access and Egress, and
Section E services and Equipment.

The scope of this report is to be implemented prior to the issue of any Occupation Certificate

The proposed works will require a Construction Certificate to comply with Class 3 classification in accordance with the BCA.

6. **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.

7. **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 a Special Fire Protection Purpose that could lawfully be used for tourist purposes* and is subject to the General Terms of Approval from the Rural Fire Service dated 04/11/2020 contained in **Schedule 3** of this Notice of Determination.

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

8. **Previous development consent to be surrendered**

Development Consent No. 10.2015.65.1 as amended, originally granted on 09/06/2015 is to be surrendered. This must be in the form of a written memorandum to Council from the owner of the subject property, in accordance with Clause 97 of the Environmental Planning and Assessment Regulation, 2000.

9. **Development adjacent to rail corridor**

The land is identified as being adjacent to a rail corridor and in determining the consent the Council must be satisfied that the development is consistent with "SEPP (2007) Infrastructure" and "Development Near Rail Corridors and Busy Roads (2008)"

<https://www.rms.gov.au/documents/projects/guideto-infrastucture-development-near-rail-corridors-and-busy-roads.pdf>

The development is approved subject to applicable Transport for New South Wales Requirements, as follows

Risk Assessment and Management Plan

Prior to the issue of a construction certificate the applicant must submit a copy of a Risk Assessment and Management Plan (for development near a rail corridor) that has been endorsed by John Holland and RailCorp.

The Construction Certificate must not be issued by the PCA until this condition has been satisfied.

Construction and operation impacts

The applicant is required to submit a Risk Assessment / Management Plan and detailed Safe Work Method Statements to John Holland Rail (JHR) for its review and comment, before the construction certificate is issued. The applicant must consult with the heritage operator of the Solar Train on this issue and include documentation of this in the Risk Assessment / Management Plan. A copy of all correspondence with the Solar Train operator and JHR endorsement of the Risk Assessment / Management Plan must be sent to Byron Shire Council to be saved in Council records associated with this consent.

Note. As buildings including pool cabana, pavilions 5 to 7 (inclusive) are in close proximity to the common boundary line of the rail corridor, it is vital for JHR to be satisfied that the Proposal does not have any adverse impacts on the rail corridor land and the existing rail infrastructure during construction and operation of the Proposal.

Excavation in, above, below or adjacent to rail corridors

The applicant must provide JHR with information in relation to the depth and location of excavation and the distance from the rail corridor.

Note. Clause 86 of the ISEPP stipulates that the consent authority must not grant consent without consulting with the rail authority and obtaining concurrence consistent with clauses 86(2) - (5) in the event that the development involves the penetration of ground to a depth of at least 2m below ground level on land within 25m of a rail corridor.

Cranes

Clause 85 of the ISEPP 2007 states that if the development involves use of a crane in air space above any rail corridor, the consent authority must take into consideration any response from the rail authority. The Guideline provides that a crane, concrete pump or other equipment (Equipment) must not be used in airspace over the rail corridor without approval in writing from the rail authority.

In the event that such Equipment is required to be used in air space above the rail corridor of the line, the applicant is required to provide a safety assessment of the works necessary for the Proposal assessing any potential impact or intrusion on the Danger Zone (as defined in the JHR Network Rules and Procedures <http://www.jhrcrn.com.au/what-we-do/network-operations-access/network-rules-procedures-forms>) and that any works are undertaken by a qualified Protection Officer (as defined in the JHR Network Rules and Procedures <http://www.jhrcrn.com.au/what-we-do/network-operations-access/network-rules-procedures-forms>), should the line be determined to be re-opened before the construction certificate is issued.

Use of Equipment must be in accordance with the AS 2550 series of Australian Standards, Cranes, Hoist and Winches, including AS2550 15-1994 Cranes - Safe Use- Concrete Placing Equipment.

Stormwater

All stormwater must be managed on-site. Refer to conditions within this consent relating to Stormwater Drainage Works, Stormwater Drainage – Infiltration Trench and internal stormwater system and On-site Stormwater System – Certification of works.

Noise vibration and air quality

Refer to acoustic conditions within this consent.

Fencing

The security of fencing along the rail corridor is essential to prevent unauthorised entry and ensure safety. The boundary fences along the rail corridor should be installed and maintained during construction and operation in accordance with JHR's engineering standards which are available at <http://jhrcrn.com.au/media/2071/crn-cp-511-v1-1.pdf> .

The applicant is required to submit an application to install new boundary fences to JHR for its endorsement and for RailCorp's approval. Please JHR's Third party works team via CRN.3rdpartyworks@jhgc.com.au for more information and also refer to JHR website <http://www.jhrcrn.com.au/what-we-do/property-services/third-party-work-enquiries/>.

Lighting, external finishes and design

The Guideline provides information regarding lighting and external finishes of buildings which may have potential impacts on the rail corridor. In particular, it is requested that Council ensure that the use of red and green lights is to be avoided in all signs, lighting building colour schemes on any part of a building which faces the rail corridor.

No access to Rail Corridor - Access to the Land

Access to the Land will remain unchanged as it will still be via Cavvanbah Street during construction and operation. Access to the rail corridor is strictly prohibited unless otherwise permitted in writing.

10. **Details and specification – Acoustic Fencing**

The application for the construction certificate is to include the details and specification for a 1.8m high acoustic fencing to be installed along the boundary between Lot 10 and 11 and the rail corridor. The design must be in accordance with the requirements provided by John Holland Rail and Transport for New South Wales in this consent.

11. **Landscaping plan required**

The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the entire site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Chapter B9 of Development Control Plan 2014. Species identified in Chapter B9 of Development Control Plan 2014 are to be planted wherever possible. The landscaping plan must indicate:

- a) proposed location for planted shrubs and trees
- b) botanical name of shrubs and trees to be planted
- c) mature height of trees to be planted
- d) location of grassed and paved areas, and
- e) location of trees identified for retention in the development application plans.
- f) The plan is to be prepared by a suitably qualified landscape architect / architect / ecologist who has appropriate experience and competence in landscaping.

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

Note: Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bushfire Protection 2006.

12. **Stormwater Drainage – Infiltration Trench and internal stormwater system**

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 by a gravity system to an infiltration trench or trenches complying with the requirements of Council's *Comprehensive Guidelines for Stormwater Management*.

The infiltration trench or trenches must be designed by a qualified practising Civil Engineer to fully infiltrate the 20 year ARI runoff from all impervious areas of the proposed development for all storm durations without surcharge onto neighbouring properties. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

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

The following must be included:-

- a) Underground stormwater system within the carparking area in lot 10 and along the footpath area in lot 11 including the drainage connection of the upstream lots.
- b) Minimum net volume of the Infiltration System of 20m³ for crate box infiltration system or 40m³ for gravel filled infiltration system.
- c) Provision of a minimum 5m³ rainwater tank

- d) All stormwater flows coming from the upstream lots namely Lot 1 DP 780935 & Lot 9 DP 841611 must be maintained by way of an inter-allotment drainage system (IAD) into the development lot. The IAD be created burdening the development lot and benefiting upstream lots.
- e) Any overflows from the OSD system in existing lot 10 and Infiltration system in existing lot 11 must be dispersed within the site to mimic a sheet flowing effect of water similar to the pre-development conditions

13. Car parking layout, vehicle circulation and access plans required.

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 and AS 2890.2 – 2010 - Parking facilities, Part 2: Off-street commercial vehicle facilities. Plans are to include, but not be limited to, the following items:

- a) 6 x User Class 2 parking
- b) 1 x User Class 4 parking
- c) Pavement, slope and headroom for User Class 4 parking must satisfy all the requirements specified in clause 2.3 and clause 2.4 of AS2890.6:2009
- d) Gradients within the parking module must satisfy all the requirements in clause 3.3 of AS2890.1:2004
- e) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment;
- f) site conditions affecting the access;
- g) existing and design levels;
- h) longitudinal section from the road centreline to the car space(s);
- i) cross sections every 15 metres;
- j) drainage details;
- k) turning paths; and
- l) line marking and signage.

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

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".

14. Disability Inclusion and Access

The application for a Construction Certificate is to include plans and specification that indicate the development is designed to facilitate access and mobility by all members of the community. 1 unit must be fully accessible. Access must be provided in accordance with AS1428.2 (Including access to any laundry, kitchen, sanitary and common facilities including parking).

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

15. Land to be consolidated

All separate parcels of land are to be consolidated into one allotment and registered with the NSW Department of Lands prior to the issue of the construction certificate.

16. Easement required over pipelines

In all new subdivisions and/or developments, an easement in gross benefitting Byron Shire Council shall be provided for all pipelines in accordance with the Council Policy: Building in the Vicinity of Underground Infrastructure 2020.

Easement documentation shall be prepared in accordance with NSW Land Registry Services requirements over the pipeline/s within the allotment/s. Easement documentation must be submitted to Council for execution, together with a survey showing location, size and depth of the pipeline/s and payment of fees in accordance with Council's adopted fees and charges.

Prior to issue of the construction certificate, proof of lodgement to NSW Land Registry Services must be provided to the Principal Certifying Authority.

The minimum width of the required easement shall be 4.15 metres centred over the pipeline.

17. **S.88E Public Positive Covenant to be placed on title – Coastal erosion**

Documentary evidence is to be provided to the Principal Certifying Authority that a public positive covenant, pursuant to the provisions of S.88E of the Conveyancing Act, 1919, has been placed on the title to the land, the subject of this consent, stating:-

The development granted via development consent number 10.2020.47.1 must cease if at any time the coastal erosion escarpment comes within 50 metres of the building subject of the consent. The development the subject of this consent must be demolished and removed immediately. Further the landowner must suitably revegetate the land.

In this covenant coastal erosion escarpment means the landward limit of erosion in the dune system caused by storm waves.

Please note: Documents requiring the endorsement of Council associated with the creation or cancellation of easements, restrictions, covenants are subject to fees listed within Council's Fees & Charges

18. **Structural Engineers Certification – Coastal Erosion**

The buildings within the development must be designed and constructed so that it can be easily removed from the site by road vehicle. The application for a Construction Certificate is to include plans and specifications consistent with the approved Removability Plan. Prior to issue of the Construction Certificate, a certificate from a practising structural engineer must be submitted to the Principal Certifying Authority certifying that the building and associated works can be easily dismantled and readily removed from the site by road vehicle. The structural engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

19. **Compliance required with Building in the Vicinity of Underground Infrastructure Policy**

All developments must comply with Policy: Building in the Vicinity of Underground Infrastructure 2020.

A minimum horizontal clearance of 1.5m from the centre of sewer maintenance access is required around existing access structures as well as minimum vertical clearance of 3m from finished ground level is required.

Any fence crossing a pipeline must be supported over the pipeline in accordance with Section 8.2 to ensure loads from the fence are not transferred to the pipeline.

Any planting of trees require to be in accordance with Section 8.3 to prevent root intrusion of pipelines.

20. **Water and Sewerage - Section 68 Part B approval**

If 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>

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

21. **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 Water 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 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: 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

22. **Detailed Contaminated Land Assessment required**

The application for a construction certificate must include a Detailed Contaminated Land Assessment and Unexpected Findings Protocol (UFP). Soil testing must be undertaken and where results deem it necessary a Remedial Action Plan (RAP) must be prepared.

Investigations and reporting must be undertaken by a duly qualified consultant in accordance with NSW EPA *Consultants Reporting on Contaminated Land – Contaminated Land Guidelines (2020)*.

All reports must be approved by Councils Environmental Health Officers as part of the Construction Certificate application.

Advisory note:

Contaminants of concern associated with past land use on adjacent land including asbestos and hydrocarbons and these were not accounted for in preliminary soil sampling and analysis. Further detailed sampling and analysis is necessary to ensure that health of the end user is protected.

23. **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".

24. **Section 7.12 Levy to be paid**

Prior to the issue of a construction certificate the section 7.12 levy required by the Byron Developer Contributions Plan 2012 must be paid to Council.

The levy will be calculated as follows:

Levy payable = %C x \$C

- %C is the levy rate applicable as set out in the latest Ministerial Direction issued under section 7.17.
- \$C is the proposed cost of carrying out the development.

The rate of %C is:

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001–\$200,000	0.5 percent
More than \$200,000	1.0 percent

The cost of development must be calculated in accordance with clause 25J of the Regulation. The Cost Summary Report (copy attached) as set out in schedule 2 of the Section 7.12 contributions plan must be submitted to Council with the payment. The cost summary report must be prepared by a quantity surveyor. Copies of Cost Summary Report are available at Council's main office or may be downloaded from Council's website.

25. **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.

26. **Bond required to guarantee against damage to public land**

A bond of \$3,000 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.

27. **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 AS1926.1.

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

28. **Site Waste Minimisation and Management Plan to be submitted to Council**

The applicant must submit a detailed Waste minimisation and management plan as specified in DCP Chapter B8- waste minimisation and management.

Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable

Development. Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

The plans is to be endorsed by Council Resource Recovery prior to issue of a Construction Certificate. Details in the minimisation and management plan are to include but not limited to the following:

- Location of designated waste and recycling storage rooms
- Location of temporary waste storage
- Identified collection point
- Path of travel for moving bins
- Required bins for the proposed development as per Appendix B8.2 waste/recycling generation rates.

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

A template is provided on Council's website to assist in providing this information
[www.byron.nsw.gov.au/files/publication/swmmp - pro-forma.doc](http://www.byron.nsw.gov.au/files/publication/swmmp-pro-forma.doc)

29. **Tree Removal**

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

30. **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 development used for habitable purposes.

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

31. **Remediation of Contaminated Land (where required)**

Prior to the commencement of any works associated with this development consent, the following is required:

- a) A suitably qualified contaminated land specialist with experience in the remediation of contaminated land must be engaged by the proponent to oversee and be responsible for all works associated with the implementation of the Remedial Action Plan and subsequent site and soil validation.
- b) A notice of commencement of the remediation work and a copy of the Remedial Action Plan must be provided to Council's Health and Environment Section at least 14 days prior to commencement of the work. The notice of commencement must include contact details of the responsible person, including an emergency 24-hour phone number.
- c) The notice of completion must be accompanied by a Validation Report prepared by a suitably qualified person with experience in the remediation of contaminated land. The Validation Report must specify the standard of remediation achieved and certify that the site is suitable for the proposed use and conform to the NSW EPA

Consultants Reporting on Contaminated Land – Contaminated Land Guidelines (2020), and all other statutory requirements.

- d) Documentary evidence is required to confirm that any disposal of soil off-site is done in accordance with the RAP and regulatory requirements including NSW EPA Waste Classification Guidelines (2014) <https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines>

32. **Erosion and Sediment Control Management Plan required**

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.

33. **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 during any building or construction works

34. **Construction times**

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

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

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

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

35. **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.

36. **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.

37. **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.

38. **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.

39. **All excavated soils to be disposed of off-site**

All excavated soils to be disposed of off-site and in accordance with NSW EPA *Waste Classification Guidelines* (2014) and approved environmental management plans.

40. **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 EPA Waste Classification Guidelines (2014)

<https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines>

41. **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 <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/wasteregulation/160095-notices143-form.docx>

42. **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.

43. **Stormwater drainage work**

Stormwater drainage for the development must be constructed in accordance with the approved plans and specification by a suitably qualified person.

44. **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.

45. **Aboriginal Relics**

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

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

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

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

46. 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.

47. Compliance with rail corridor conditions

Documentary evidence from a suitably qualified professional is to be submitted to the PCA demonstrating that the rail corridor conditions contained in this consent have been complied with.

48. Kitchen Construction

The applicant must demonstrate that the kitchen fit-out has been constructed to include surfaces that are smooth, impervious and easily cleaned. The PCA must ensure compliance with this condition prior to issue of a Final Occupation Certificate.

49. Easement required over pipelines

The easement over Council pipelines required by conditions of this consent must be registered on title and a copy of the title search and registered easement documentation, including plan of easement, must be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate (including Interim Occupation Certificates).

50. 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.

51. Landscaping to be planted

Approved landscaping is to be planted.

Advanced landscaping (shrubs) is to be planted around the perimeter adjoining the side boundary adjacent to the elevated pavilion where the building is in a visually prominent position with relation to adjoining properties.

The landscape screen is to be provided as soon as practicable but certainly prior to occupation of the elevated building.

52. Parking areas to be completed

Parking areas are to be constructed in accordance with the approved plans.

53. Structural Engineers Certification – Coastal Erosion

The development is to be constructed in accordance with the approved removability report and associated plans and specifications. Certification from a practicing Structural Engineer must be submitted to the Principal Certifying Authority prior to issue of an occupation certificate certifying that the dwelling and associated works have been constructed so that they can be easily dismantled and readily removed from the site by road vehicle. The structural engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

54. On-site Stormwater System – Certification of works

All stormwater drainage works, including on-site stormwater system 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](#)

55. **Section 88B Instrument**
The creation of easements for drainage of water, with a minimum width of 1.5 metres, over all inter-allotment drainage pipelines and structures located within the development.
56. **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.
57. **Swimming pool fencing**
Swimming pool fencing is to comply with the requirements of the Swimming Pools Act 1992 and Regulations.
58. **Swimming pool backwash**
Pool backwash to be connected to a sewer overflow relief gully.
59. **Compliance with bushfire conditions**
Documentary evidence from a suitably qualified professional is to be submitted demonstrating that the bush fire conditions of this Notice of Determination have been complied with.

The following conditions are to be complied with at all times

60. **Approved Use**
The development is approved as a tourist facility.

tourist facilities means an establishment providing holiday accommodation.

The premises is not permitted to be used as a function or wedding venue.
61. **Restrictions on approved use**
The tourist facility is limited to the following:
 - a) A maximum of 8 tourist bedrooms.
 - b) A maximum of 2 adult* tourists/people per bedroom (*excludes children below the age of 16 years).
 - c) A maximum of 16 adult* tourists/people accommodated on the site at any time (*excludes children below the age of 16 years).
 - d) A maximum of 20 people (all ages) accommodated on the site at any time.
62. **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.
63. **Car parking**
On site parking for seven cars is to be available and patrons must use on-site parking at all times. 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 and AS 2890.2 – 2010 - Parking facilities, Part 2: Off-street commercial vehicle facilities. Plans are to include, but not be limited to, the following items:

- a) 6 x User Class 2 parking
- b) 1 x User Class 4 parking

64. **Must not interfere with the amenity of the neighbourhood**

The use of the development must not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) Any complaints to Council about 'offensive' noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.
- b) Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
- c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- d) All waste storage and sewage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- e) Goods deliveries shall be restricted to daytime operating hours.

65. **Pool Safety Sign**

The occupier of the premises must ensure that there is at all times 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.

66. **Swimming pool backwash and overflow**

Pool overflow and backwash to discharge to the overflow relief gully.

67. **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.

68. **Swimming Pool Fencing**

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

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-4395) 10.2020.47.1
Our reference: DA20200324001049-Original-1

ATTENTION: Patricia Docherty
ATTENTION:

Date: Wednesday 4 November 2020

Dear Sir/Madam,

Integrated Development Application
s100B – SFPP – Other Tourist Accommodation
1 Cavanbah St Byron Bay NSW 2481 AUS, 11//DP1138310, 10//DP1153734, 10//DP1153734

I refer to your correspondence dated 10/03/2020 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:

Asset Protection Zones

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

1. From the start of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire property must be managed 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 IPA the following requirements apply:

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

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

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

Construction Standards

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:

2. New construction must comply with Sections 3 and 5 (BAL 12.5) of Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or the relevant BAL 12.5 requirements of the 'NASH Standard - Steel Framed Construction in Bushfire Areas' (incorporating Amendment A - 2015). New construction must also comply with the construction requirements for BAL 12.5 in Section 7.5 of 'Planning for Bush Fire Protection 2019'.
3. A minimum 1.8 metre high radiant heat shield made of non-combustible materials must be constructed along the northern property boundary. All posts and rails shall be constructed of steel. The bottom of the fence is to be in direct contact with the finished ground level or plinth. An access gate swinging into the property is to be provided within the fence to provide fire-fighting access to the hazard.
4. Fences and gates must comply with Section 7.6 of Planning for Bush Fire Protection 2019.

Access - Internal Roads

The intent of measures is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

5. Unobstructed pedestrian access must be provided through the property to each of the Pavilions and to the rear of the property (including the access gate) to aid in fire fighting activities.

Water and Utility Services

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

6. The provision of water for fire fighting must comply with Table 6.8c of Planning for Bush Fire Protection 2019, or the requirements of Fire and Rescue NSW.
7. The provision of electricity and gas services must comply with Table 6.8c of Planning for Bush Fire Protection 2019.

Emergency and Evacuation Planning Assessment

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

8. A Bush Fire Emergency Management and Evacuation Plan must be prepared and be consistent with the NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan. The Bush Fire Emergency Management and Evacuation Plan should include planning for the early relocation of occupants. Note: A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information prior to occupation of the development.

General Advice - Consent Authority to Note

- The above conditions are based on the plan titled 'Site Development Plan' prepared by PPDC (Ref: B1229 - DA1, Amendment E), dated 23 September 2020.

For any queries regarding this correspondence, please contact Paul Creenaune on 1300 NSW RFS.

Yours sincerely,

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



NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

SFPP – Other Tourist Accommodation

1 Cavvanbah St Byron Bay NSW 2481 AUS, 11//DP1138310, 10//DP1153734, 10//DP1153734

RFS Reference: DA20200324001049-Original-1

Your Reference: (CNR-4395) 10.2020.47.1

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority confirms that, subject to the General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

Alan Bawden

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

Wednesday 4 November 2020

SCHEDULE 4. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

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

Statement of Reasons
The proposed development complies with the provisions of Byron Local Environmental Plan 1988.
The proposed development complies with relevant State Environmental Planning Policies
The proposed development complies with relevant provisions of Development Control Plan 2010
The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.
The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.
The proposed development is considered suitable for the proposed site.
The 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 advertised in accordance with Council's Community Participation Plan. The submissions received were considered on merit and addressed during assessment of the application.
To view the considerations, please contact Council to view a copy of the assessment report relating to this DA.

SCHEDULE 5. NOTES

Construction Certificate required:

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

Principal Certifying Authority:

Work must not commence until the applicant has:-

- appointed a Principal Certifying Authority (if the Council is not the PCA); and
- given Council at least two days notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Occupation Certificate required:

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

Protection of the Environment Operations Act 1997:

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

Penalties apply for failure to comply with development consents

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

Plumbing Standards and requirements.

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

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 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).

Enclosed public places (smoke-free environment)

Environment Act 2000 and the Smoke-Free Environment Regulation 2000 and the guidelines in the Regulation for determining what an enclosed public place is. Enquiries may be directed to the NSW Department of Health. The legislation may be viewed on:

<http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>

Section 7.12 Levy to be paid

The levy will be calculated as follows:

Levy payable = %C x \$C

- %C is the levy rate applicable as set out in the latest Ministerial Direction issued under section 7.17.
- \$C is the proposed cost of carrying out the development.

The rate of %C is:

Proposed cost of the development	Maximum percentage of the levy
Up to \$100,000	Nil
\$100,001–\$200,000	0.5 percent
More than \$200,000	1.0 percent

The cost of development must be calculated in accordance with clause 25J of the Regulation. The Cost Summary Report (copy attached) as set out in schedule 2 of the Section 7.12 contributions plan must be submitted to Council with the payment. The cost summary report must be prepared by a quantity surveyor. Copies of Cost Summary Report are available at Council's main office or may be downloaded from Council's website.

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	1.50 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.