

REVISED CONDITIONS OF CONSENT – DA 10.2019.343.1

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:
01A– Issue F	Site Plan	Logan Architecture	06-05-21
02A–Issue B	Location Plan, Floor Plans & Landscape	Logan Architecture	28-01-20
01	Typical Cabin–Plans, Section, Elevations	Logan Architecture	10-2019
02	Disabled Cabin–Plans, Section, Elevations	Logan Architecture	10-2019
01A	Landscape Plan	Logan Architecture	10-12-19
Plan 1	Land Use Plan	Planners North	-
Plan 1	Site Access Layout Plan	SDS Civil	April 2019
Dway 1	Driveway 1 – Long Section	SDS Civil	April 2019
Dway 2	Driveway 1 – Cross Section 1/2	SDS Civil	April 2019
Dway 3	Driveway 1 – Cross Section 2/2	SDS Civil	April 2019
Dway 4	Driveway 2 – Long and Cross Sections	SDS Civil	April 2019
Dway 5	Cabin Access Driveway Plan Details	SDS Civil	Jan 2020
Dway 6	Cabin Access Driveway Sections Gradients	SDS Civil	Jan 2020

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. Conditions prescribed by the Regulation

This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are under provided in an additional Schedule further in this consent.

3. Integrated Approvals from other State Government Approval Bodies

This development consent includes an Integrated development approval under Sections 4.46 and 4.47 of the *Environmental Planning and Assessment Act 1979*, being a Bush Fire Safety Authority issued under Section 100B of the *Rural Fires Act 1997* in respect of development being a special fire protection purpose, and is subject to the General Terms of Approval from the NSW Rural Fire Service, dated 9 July 2021, 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

4. Rectification of certain buildings, structures and uses

The following actions must be undertaken to Council's satisfaction prior to the issue of a construction certificate:

a. Art studio

The art studio in the north-west corner of the site shall be restored to its approved condition and use in accordance with development consent 10.2016.818.3. All kitchen facilities, including the island bench and bench along the southern wall of the building, must be demolished and removed from the building.

b. Farm shed

The farm shed located south of the primary dwelling house shall be restored to its approved condition and use in accordance with building permit 94/2388. All unauthorised internal and external works, including the roof extension, internal partitions, and kitchen facilities shall be demolished and removed from the building.

c. Boat shed

The boat shed located approximately 50m west of Simpsons Creek shall be demolished and removed from the land.

d. Composting toilet and decks

The composting toilet and two elevated wooden platforms located near the bank of Simpson Creek shall be demolished and removed from the land. Refer to the notes at the end of this consent for guidance on proper decommissioning of the toilet system.

The Principal Certifying Authority must not issue any construction certificate unless written correspondence has been issued by Council confirming that the above condition has been satisfied.

5. Amendment to the plans

The plans submitted for approval with the construction certificate application shall be amended as follows:

- a. Cabins 1 - 4 shall be between 5m and 10m further west to ensure there is a minimum 20m separation distance between the cabins and native vegetation.
- b. The approved plans referred to in condition 1 are to be amended and updated to match "Site Plan Issue F", by Logan Architecture, dated 06-05-21. Cabin 1 is to be grouped with Cabins 2–4 near the mains dwelling house. Refer to the Marked-up plans.
- c. The landscaping plan shall be amended to include additional landscaping/screening vegetation along the western boundary of the property, particularly either side of the new driveway.

d. The following requirements from BASIX certificate no. 1072592M shall be shown on the plans:

- 3kL rainwater tanks for each cabin, and
- 1.5kV solar photovoltaic system for cabin 1.

6. 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 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.

7. 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. 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.

8. 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

Where:

- %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	Maximum percentage of the levy
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development	
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 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.

9. **Certificate of Compliance from Rous County Council**

Prior to the issue of a construction certificate, the applicant shall obtain a Certificate of Compliance from Rous County Council confirming that all applicable Developer Charges have been paid to Rous County Council.

Note. Rous County Council is the Water Supply provider for the location of the subject development. The applicant must organise the provision of a water service to the development with Rous County Council and provide a Certificate of Compliance from Rous County Council to Byron Shire Council.

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

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

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

Driveway servicing Cabin 1, 2, 3 & 4

The driveway must be designed and constructed in accordance with the following:-

- Decommission the driveway servicing the dwelling by consolidating the driveway servicing the dwelling & the driveway servicing the shed;
- The remaining eastern and southern driveways in Tandys Lane must be upgraded in accordance with Type 1 of RMS drawing 19.07.2016;
- Driveway no. 2 in SDS drawing Plan 1 must be upgraded in accordance with SDS drawing Dway 4; and
- Driveway surfaces must be sealed with an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment in accordance with section B4.2.3 of Council's DCP 2014.

11. On-site sewage management facility Section 68 approval required

An approval under Section 68 of the *Local Government Act 1993* for on-site effluent disposal must be obtained from Council prior to issue of a construction certificate. Such approval must be issued after the date of this consent. The application for Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters, which addresses the site-specific design of sewage management in accordance with the requirements of the NSW Local Government Act, and Approvals Regulation and Guidelines approved by the Director General.

12. Water supply work - Section 68 approval required

An approval under Section 68 of the *Local Government Act 1993* to carry out water supply work must be obtained prior to the issue of a construction certificate.

13. Geotechnical Report required – Building Works

A certificate from a professional engineer experienced in geotechnical science is to be provided to the Principal Certifying Authority, certifying that the site is stable and will not be affected by landslide or subsidence at, above or below the site when the building is erected. The certificate must be prepared in accordance with AS 1726.

14. Geotechnical Report required – Engineering Works

A certificate from a professional engineer experienced in soil mechanics is to be provided to the Principal Certifying Authority, certifying that:

- a) the design of the civil engineering works, including any retaining walls and/or cut & fill batters, has been assessed as structurally adequate,
- b) the civil engineering works will not be affected by landslide or subsidence either above or below the works; and
- c) adequate drainage has been provided

15. Stormwater Drainage – Infiltration Trench

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.

16. Internal access and vehicle circulation 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) Generally in accordance with SDS drawing Plan 1, Dway 1, Dway 2 and Dway 3; and
- b) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment.

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".

17. 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 – Part D2.2.3 - Character and Visual Impact. Please note that colours must be non-reflective earth tone colours and that the use of highly reflective, white and near white colours is not permissible

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

18. Access and facilities for disabled

The application for a Construction Certificate is to include plans and specifications that indicate access and facilities for persons with access disabilities to at least one of the proposed cabins. For this cabin:

- a. Access should be provided to and within the facilities in accordance with the provisions of the BCA and AS1428.1 – Design for Access and Mobility –General Requirements for Access – New Buildings; and
- b. Parking should be provided in accordance with Australian Standard AS/NZS 2890.6:2009 Parking Facilities – Part 6: Off-street parking for people with disabilities.

19. External pedestrian access design plans required

The application for a Construction Certificate is to include plans and specification that indicate the external pedestrian access details in accordance with the plans approved by

this consent.

The external pedestrian access plans are to include, but not be limited to, the following items:

- a) Pedestrian pathways between the cabins and car parking;
- b) Use of an all-weather surface for pathways;
- c) Pathways integrated with the overall landscape plan; and
- d) Pathways covered, where feasible.

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

20. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. **1072592M**, dated **Wednesday, 29 January 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.

21. Vegetation Management Plan

A Vegetation Management Plan (VMP) must be prepared by a qualified ecologist or bush regenerator with experience in ecological restoration in the northern rivers. The VMP must detail ecological restoration and maintenance works to restore and maintain the biodiversity values of the site in perpetuity. The VMP must be in accordance with the *Guidelines for preparing Vegetation Management Plans (VMP) or Biodiversity Conservation Management Plans (BCMP)* available on Council's website.

The VMP shall include, but not be limited to, the following information:

- a. A review of the landscape context of the site to inform the proposed ecological restoration methodology. This should include an assessment of the distribution of native vegetation communities, threatened species and ecological communities known or likely to occur, and habitat connectivity across the broader landscape.
- b. An assessment of the existing ecological condition and values of the site (including potential threatened species and ecological communities) to inform the proposed ecological restoration methodology.
- c. A detailed ecological restoration methodology that aims to enhance and supplement the existing biodiversity values of the site and broader landscape, including by increasing habitat area and connectivity for threatened species and

ecological communities known or likely to occur in the locality. The methodology must include specific actions to be carried out over a minimum period of five years.

- d. The provision of 3600 native trees plantings or equivalent ecological restoration effort as part of the ecological restoration concept (i.e., 900 per holiday cabin).
- e. Identification of vegetation management zones (VMZs) on the site to facilitate planning and implementation of works.
- f. Detailed actions within VMZs, including representative plant community types (PCTs) to be restored and managed, restoration methodologies, and implementation schedules.
- g. Details of any proposed timber plantations or forestry approvals with an explanation of how the VMP interacts with those activities.
- h. Recommended list of species to be planted (if planting is to be undertaken) during restoration works.
- i. A list of weed species presently occurring on the site, as well as those with the potential to invade the site, and specific control strategies.
- j. A list of performance indicators for each year of the program to provide a means of measuring the progress of restoration and management works.
- k. Details of reporting and monitoring to be carried out, including the frequency of monitoring reports and the location of photo points.
- l. A four (4) strand post and wire fence with a height of 1.2m to be erected along the western edge of the mapped coastal wetlands under State Environmental Planning Policy (Coastal Management) 2018.

22. Site Waste Minimisation and Management Plan

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.

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

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

23. Erosion and Sediment measures

Erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. A copy may be downloaded from

Council's web site. Particular attention is to be given to the provision of the following sediment and erosion control measures:

- a) Temporary driveway from the edge of road to the building site;
- b) Temporary downpipes immediately installed after the roof has been erected;
- c) Silt fence or sediment barrier.

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

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

24. 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.

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

25. Stormwater drainage work

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

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

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

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

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. Muted bushland tones external finishes

To ensure the development is compatible with the surrounding environment, colours and finishes are to be muted bushland tones. In this regard white, light or bright colours are not permissible.

36. 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

37. Year 1 ecological restoration work

Ecological restoration work required up to the end of Year 1 as defined within the approved Vegetation Management Plan must be completed prior to the issue of an occupation certificate.

To demonstrate that all works required up to the end of Year 1 have been completed and that Key Performance Indicators have been met, a report from a qualified and experienced ecologist and/or bush regenerator must be submitted and approved by Council.

38. Landscaping to be completed

A certificate from a suitably qualified landscape architect / architect /ecologist must be provided prior to issue of the occupation certificate for the first cabin of the development. Such certificate must certify that the site has been landscaped in accordance with the approved landscape plan and conditions of consent.

39. Access areas to be completed

The access areas are to be constructed in accordance with the approved plans and Roads Act consent.

40. Internal driveway in accordance approved plans

Internal driveway is to be constructed in accordance with the approved plans.

41. Stormwater drainage work

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

42. 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. Clear of effluent disposal areas,
- c. Not concentrated so as to cause soil erosion,
- d. Not directly to a watercourse, and
- e. Not onto adjoining land.

43. On-site sewage management system must be completed

The on-site sewage management system is to be constructed in accordance with approved plans and in accordance with current specifications and standards. The system is not to be used and/or operated until a Council Officer has inspected the system and authorised its use.

44. 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."

45. Approval to Operate required

In accordance with the Local Government Act, an Approval to Operate the onsite sewage management system must be obtained from Council. Forms may be downloaded from Council's website with '<http://www.byron.nsw.gov.au/on-site-sewage>'.

46. 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.

47. Works to be completed prior to issue of an 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, are to be completed and approved by the relevant consent authority/s prior to the issue of an 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.

The following conditions are to be complied with at all times

48. Manager of tourist and visitor accommodation cabins

The tourist and visitor accommodation must be managed and operated by the principal owner living on the property at all times.

49. Use of caravans or moveable dwellings

Any caravans or moveable dwellings installed on the property must not be used for the purposes of holiday letting, short-term rental accommodation or tourist and visitor accommodation unless separately approved for such a purpose.

50. Use of dwelling houses

The two dwelling houses and the approved art studio must not be used for the purposes of holiday letting, short-term rental accommodation or tourist and visitor accommodation unless separately approved for such a purpose.

51. Permitted Use

This approval is for use of the site for *tourist and visitor accommodation* and does not permit the use of the site for any other purpose including, but not limited to a *function centre*, without the prior written consent of Council.

No other building/s on the property are permitted to be used as *tourist and visitor accommodation*.

52. Night-time lighting

External lighting must be limited to protect the dark night sky and the rural atmosphere of the locality.

53. Laundry

There are to be no laundry facilities within the cabins. All laundering for the tourist and visitor accommodation must be undertaken off site.

54. Landscaping

The landscaping of the site must be maintained to ensure the establishment and successful growth of plants. This includes but is not limited to watering, weeding and the replacement of failed plant material.

55. Ecological restoration works

Replanting and restoration works must be undertaken and continued until the performance criteria have been achieved in accordance with the approved Vegetation Management Plan for a minimum period of five years, during which annual monitoring reports must be submitted to Council for approval.

56. 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.

57. Maximum number of guests / patrons

No more than a total of 2 guests/patrons in each cabin, equating to a total number of 8 guests / patrons at any time for the development.

58. Maximum length of stay

No cabin is to be occupied continuously for a period longer than three months as they are not approved as residential accommodation of any type.

59. No interference with amenity

The use of the premises shall 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 trade waste pre-treatment devices and other waste storage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- e) Goods deliveries and waste collection shall be restricted to daytime operating hours.

60. Use of Simpsons Creek foreshore

The Coastal Wetlands area near Simpsons Creek must not be accessed or used by guests of the tourist accommodation for recreational activities including canoeing, kayaking, boating, water-skiing, wakeboarding or the like, unless development consent has been obtained for any such use.

SCHEDULE 2. PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the Environmental Planning and Assessment Regulation apply as are of relevance to this application:

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

Clause 98A Erection of signs

Clause 98B Notification of Home Building Act 1989 requirements

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

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

SCHEDULE 3. INTEGRATED DEVELOPMENT GENERAL TERMS OF APPROVAL



NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (CNR-22417) 10.2019.343.1
Our reference: DA-2019-02420-CL55-(none)

ATTENTION: Ben Grant

Date: Friday 9 July 2021

Dear Sir/Madam,

Integrated Development Application
s100B - SFPP - Other Tourist Accommodation
150 Tandys Lane BRUNSWICK HEADS NSW 2483, 5//DP863320

I refer to your correspondence dated 19/05/2021 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, 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 minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

1. At the commencement of building works, and in perpetuity to ensure ongoing protection from the impact of bush fires, the property around the respective cabins as detailed below must be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service's document 'Standards for asset protection zones':

- Cabin 1
 - north and west for 10 metres; and
 - south and east for 15 metres
- Cabins 2, 3 and 4
 - north-east, east and south-east for 19 metres;
 - south for 15 metres; and
 - north and west for 10 metres.

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

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. Construction of Cabins 1, 2, 3 and 4 must comply with Sections 3 and 7 (BAL 29) of Australian Standard AS3959-2018 'Construction of buildings in bush fire-prone areas' or the relevant BAL 29 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 29 in Section 7.5 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:

3. Access roads to / from Tandys Lane must comply with Section 4.1.3(2) of Planning for Bush Fire Protection 2006.

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:

4. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of Planning for Bush Fire Protection 2006.

Landscaping Assessment

The intent of measures is for landscaping to minimise the risk of bush fire attack. To achieve this, the following conditions shall apply:

5. Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bush Fire Protection 2006.

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:

6. Arrangements for emergency and evacuation are to comply with section 4.2.7 of Planning for Bush Fire Protection 2006, including the preparation of an emergency / evacuation plan consistent with the NSW RFS document titled 'A guide to developing a bush fire emergency management and evacuation plan'. A copy of the plan shall be provided to the consent authority and the local Bush Fire Management Committee prior to occupation / commencement of the development and be available in the individual Cabins for the information of guests.

General Advice - Consent Authority to Note

- The above conditions are based on the drawing titled 'Site Plan' prepared by Logan Architecture (Ref: Job No. 1623, Dwg No. 01A, Issue F) dated 6 May 2021.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 22/04/2021.

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



Yours sincerely,

Timothy Carroll
Manager Planning & Environment Services
Built & Natural Environment



BUSH FIRE SAFETY AUTHORITY

SFPP – Other Tourist Accommodation
150 Tandys Lane BRUNSWICK HEADS NSW 2483, 5//DP863320
RFS Reference: DA-2019-02420-CL55-(none)
Your Reference: (CNR-22417) 10.2019.343.1

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 supersedes the previous Bush Fire Safety Authority DA-2019-02420-CL55-1 issued on 22/04/2021 and confirms that, subject to the attached reissued 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*.

Timothy Carroll
Manager Planning & Environment Services
Built & Natural Environment

Friday 9 July 2021

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 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 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.

SCHEDULE 5. NOTES

Decommissioning of toilet near Simpsons Creek

Condition 4 of this development consent requires a toilet system near Simpsons Creek to be demolished and removed from the land.

Such works should be carried out in accordance with following recommendations:

1. The contents of the toilet should be removed using appropriate Personal Protective Equipment (i.e. gloves masks, long sleeves etc. and self sanitisation during and after), and buried at a depth greater than 60cm below natural ground level at a location approved by Byron Shire Council.
2. An appropriate disposal location may be at the western end of property, well away from the waterway so any leachates do not migrate to the waterway or interact with the water table.
3. To help with removal of wet contents it is recommended to add additional wood shavings, sawdust or other biodegradable absorbent material to the compost chamber before starting.
4. The pit must be excavated to accept all the contents including excrement and toilet paper (but not the structure) and the contents liberally scattered with hydrated lime.
5. The pit should be covered in and seeded to re-establish vegetive cover.
6. The works can be validated by Council inspection (fees apply) or certified plumber with location and images identifying the process.

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7. The remaining structures should be sanitised before demolition (diluted liquid bleach sprayed not splashed).
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Electricity infrastructure

The development site contains electricity infrastructure. Essential Energy have provided the following general comments in relation to the development approved under this consent:

1. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
3. This development is satisfactory, based on the powerline being re-located. Once re-located, the drawings provided indicate a clearance of 7.5 metres, noting that the ASP has made the assessment this would be considered a short span. This meets Essential Energy's requirements.
4. In addition, Essential Energy's records indicate there is electricity infrastructure located within the property and within close proximity of the property. Any activities within these locations must be undertaken in accordance with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
5. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of *Part 5E (Protection of Underground Electricity Power Lines)* of the *Electricity Supply Act 1995* (NSW).
6. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice – Work near Overhead Power Lines* and *Code of Practice – Work near Underground Assets*.

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:-

- a. appointed a Principal Certifying Authority (if the Council is not the PCA); and
- b. 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'.
- c. 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).