

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:
Architectural			
DA.01 F	Site Analysis	Those Architects	09/06/20
DA.02 F	Site Plan 1:5000	Those Architects	09/06/20
DA.03 F	Site Plan 1:500	Those Architects	09/06/20
DA.08 F	Two Bed Cabin – Plans	Those Architects	09/06/20
DA.09 F	Two Bed Cabin – Elevations 01	Those Architects	09/06/2020
DA.10 F	Two Bed Cabin – Elevations 02	Those Architects	09/06/2020
DA.11 F	Two Bed Cabin – Section AA, BB	Those Architects	09/06/2020
DA.12 F	Two Bed Adaptable Cabin – Plans	Those Architects	09/06/2020
SC101	Finishes Schedule	Those Architects	June 2020
19039-05	Land Use Map	NRLS	22/06/2020
C1	Engineering Layout Plan	SDS Civil	Oct 2019
C4	Internal Driveway 1 Long Section	SDS Civil	Oct 2019
C5	Driveway 1 Cross Section (1 of 2)	SDS Civil	Oct 2019
C6	Driveway 1 Cross Section (2 of 2)	SDS Civil	Oct 2019
C7	Driveway 2 Long & Cross Section	SDS Civil	Oct 2019
120702 A	Powerline Diversion Plan	CLE Power Services	-
120702 A ISSC20	ISSC20 Report and Plan	CLE Power Services	-
	Vegetation Management Plan	Booyong Rainforest Creation	June 2020
1.1	Figure 2: Restoration Area	Booyong Rainforest Creation	22/06/2020
1.2	Figure 2: Vegetation Community	Booyong Rainforest Creation	22/06/2020
1.3	Figure 3: RA1 Planting Plan	Booyong Rainforest Creation	22/06/2020
1.4	Figure 4: RA2 Planting Plan	Booyong Rainforest Creation	22/06/2020
1.5	Figure 5: RA3 Planting Plan	Booyong Rainforest Creation	22/06/2020
1.6	Figure 6: RA4 Planting Plan	Booyong Rainforest Creation	22/06/2020
1.7	Landscape Plan	Booyong Rainforest Creation	26/07/2020
1.8	Landscape Sections	Booyong Rainforest Creation	26/07/2020
	Site Waste Minimisation and Management Plan	Kate Singleton	
DA.21 A	Bin Storage and Collection Plan	Those Architects	09/06/2020

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 Bushfire 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 26 May 2020, contained in **Schedule 4** of this Notice of Determination.

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

4. Powerline diversion

Prior to the issue of a construction certificate, the powerlines traversing the site must be relocated in accordance with the Powerline Diversion Plans No. 120702 A & 120702 ISSC20, as referred to in condition 1 of this consent.

Any necessary easements for the powerlines and associated infrastructure shall be registered with NSW Land Registry Services or its successor.

Evidence demonstrating completion of powerline diversion works and registration of necessary easements shall be provided to the Principal Certifying Authority as part of the documentation supplied for the construction certificate approval.

5. Landscaping Plan

The Landscaping Plan by Booyong Rainforest Creations, No. 1.7, 1.8, and dated 26/07/2020, shall be amended as follows:

- Additional plantings/landscaping shall be incorporated into the landscaping plan to further screen development in easterly views to the site from Bangalow Road. Such screen plantings shall be located along the road frontage west of the existing dwelling and should comprise local native species similar to those used in the existing landscape design.
- The bin storage enclosure, along with any batters or minor retaining walls associated with the internal road network shall be suitably landscaping with native grasses, shrubs and trees to screen and soften the appearance of these structures/works.

6. Vegetation Management Plan

The Vegetation Management Plan (VMP) titled *Vegetation Management Plan for the conservation areas at 533 Bangalow Rd, Talofa* prepared by Booyong Rainforest

Creation and dated June 2020 is to be amended, resubmitted and approved by Council's ecologist. The amended VMP is to include (but may not be limited to) the following minor changes:

- Remove all references to specific dates in Section 7 - Implementation Schedule (pp.12-14) and replace with non-specific years (e.g., Year 1, Year 2, etc.) to avoid confusion in the event that commencement of the VMP is delayed.

Amend the last bullet point in the Objectives subsection of Section 8 – Performance Criteria (p. 14) so that it reads “A 90% survival rate of all plantings at the end of Year 2”.

7. Bin Storage

Details of the bin storage enclosure are to be provided for approval with the construction certificate. Materials shall match the cabins and the area around the structure to be landscaped to ensure it is adequately screened from public view.

8. 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.

Such materials and colours are to be in accordance with the Finishes Schedule No. S101, by Those Architects, dated June 2020. Walls and roofs must be non-reflective earth tone colours and that the use of bare metal finishes or white and near white colours is not permissible.

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

9. Section 7.12 Levy to be paid

Prior to the issue of a subdivision 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 94E.
- \$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 and must be set out in schedule 2. A copy of completed schedule 2 must be submitted with the payment to Council. It can be downloaded from Council's website.

10. 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.

11. Bond required to guarantee against damage to public land

A bond of \$5,000 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/repared 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.

12. 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 the 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 1993 and Regulations and the Guidelines approved by the Director General.

13. 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:

Modified Type CHR and BAL intersection

Road pavement, shoulder and associated drainage construction including any necessary relocation of services across the frontage of the development in Bangalow Road generally in accordance with SDS Civil Enterprises drawing C1 dated 10/19.

Removal of Existing Driveway

The existing driveway servicing the existing shed and located in west of the new

intersection must be removed and reinstate the verge to match the existing.

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 retaining walls and/or cut & fill batters, has been assessed as structurally adequate;
- b) the civil engineering works will not be affected by landslip 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.

The following parameters must be considered:-

- a) Installation of 3kL re-use tank per cabin;
- b) Installation of on-site stormwater infiltration trench at tank overflow;
- c) Infiltration trench to consist of 40mm – 50mm coarse gravel/ballast;
- d) Infiltration trench to be sized to 1m³ of trench per 50m² of roof.

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

16. 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) 12 parking spaces;
- b) Class 1 parking;
- c) pavement design, comprising an all weather surface, such as asphalt, bitumen seal, concrete, permeable pavers or other similar treatment;
- d) site conditions affecting the access;
- e) existing and design levels;

- f) longitudinal section from the road centreline to the car space(s);
- g) cross sections every 15 metres; and
- h) drainage details including the design of cross culverts (e.g. Q₂ immunity) in accordance with NRLG Design & Construction Guidelines.

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. 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".

18. Plans of retaining walls and drainage

The application for a Construction Certificate is to include plans and specifications that indicate retaining walls or other approved methods of preventing movement of the soil, where any excavation or filled area exceeds 600mm in height. Adequate provision must be made for drainage.

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

19. 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.

20. 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.

21. Compliance with BASIX Certificate requirements

The development is to comply with Basix Certificate No. **1085911M**, dated **Friday, 13 March 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.

22. Bond required to guarantee against damage to public land

A bond of \$3,000 minimum 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.

23. 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 pools in accordance with the Swimming Pools Act 1992 and AS1926.1.

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

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

24. Erosion and Sediment Control Management Plan to be implemented

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.

25. Plumbing Permit

In accordance with the Local Government Act and the NSW Code of Practice for Plumbing and Drainage your Plumber **must obtain a Plumbing Permit at least two (2) working days prior to commencing work.** Please forward this to your plumber to complete and to return to Council prior to commencement of work. All work is to be completed by a suitably qualified person licensed for the purpose by the NSW Department of Fair Trading. If the property is to be connected to council water mains, no internal sewer inspections shall take place until a water meter is installed. Drawing off of the council water main without a meter will result in a fine and possibly a stop works notice.

26. Toilet facilities

Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

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

27. Plumbing, Water supply and Sewerage works

The licensee is to provide 24 hours notice and attend the site for the following inspections, prior to covering of work. Inspections will be carried out at a mutually convenient time for any works that fall under the following descriptions for inspections. (If there are no applicable works, for example, a new water supply with no sewer services, then an inspection for "external drainage" will not be required)

Typical inspections that must be booked in include but are not limited to the following:

- a) **Structures (dwellings, sheds, studios etc up to the connection point of the Onsite Sewer Management System) -**
- Internal Drainage External Drainage
 - Sewer connection to the OSMS
 - Water Rough In (including any in ground water supply lines from water tanks or other buildings);
 - Stack work/elevated drainage;

-
- Final- all work completed.

b) **Onsite Sewer management Systems -**

- External Drainage (between components of the systems, for example, between Septic tanks and ETA beds)
- Pump lines between system components (for example; sewer pump lines must be inspected prior to covering)
- ETA Beds or trenches prior to back fill.
- Final - all work completed.

28. Works as Executed (WAE) diagrams and Sewer Services Diagrams (SSD)

Due to NSW Fair Trading Requirements a licensee is required to provide to Council and owner of the property a Compliance Certificate and Sewer Services Diagram (SSD) and Works as Executed (WAE) prior to booking a final inspection.

29. Stormwater drainage work

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

30. 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.

31. 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.

32. Signs to be erected on building and demolition sites

A sign must be erected in a prominent position on the work site:

- a. stating that unauthorised entry to the work site is prohibited, and
- b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

33. 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.

34. Fill to be retained on the subject land

Fill material must not encroach onto any adjoining land.

35. 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.

36. 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.

37. 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 \(2008\)](#).

38. 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.

39. 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

- 40. 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.
- 41. Completion of Vegetation Management Plan works**
All works required by the approved Vegetation Management Plan (VMP) for the site must be completed prior to the issue of an occupation certificate. A report by a qualified and experienced ecologist and/or bush regenerator, that includes evidence to demonstrate that and that all performance criteria in the VMP have been met, must be submitted and approved by Council prior to the issue of an occupation certificate.
- 42. Roadworks to be completed**
The roadworks to be constructed in accordance with the approved plans and Roads Act consent.
- 43. Internal driveway, parking and manoeuvring area in accordance approved plans**
Internal driveway, parking and manoeuvring area are to be constructed in accordance with the approved plans.
- 44. Stormwater drainage work**
Stormwater drainage for the development must be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate.
- 45. 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.
- 46. Quality Assurance Program**
A Quality Assurance program in accordance with NSW Private water supplies guidelines must be submitted to NSW Department of Health.
- A program template and above mentioned guidelines can be found at NSW Health website at-
<https://www.health.nsw.gov.au/environment/water/Pages/private-supplies.aspx>
- 47. 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.

48. 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>'.

49. Works to be completed prior to issue of 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 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 Council's road/footpath reserve.

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. Swimming pool fencing

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

52. 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

53. 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*.

54. Night time lighting

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

55. Laundry

There are to be no laundry facilities within the cabins. All laundering for the tourist and

visitor accommodation must be undertaken off site.

56. Potable Water Supply Testing

The potable water supply for the development must be maintained including annual water quality testing by a NATA accredited laboratory. Results must be retained on site for review by Council at any time.

57. 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.

58. 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.

59. 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.

60. Native vegetation is not permitted to be cleared under Schedule 5A and/or Division 5 of the Local Land Services Act 2013

Clearing of native vegetation that would be authorised under Schedule 5A and Division 5 of the *Local Land Services Act 2013* (LLS Act) is not permitted to be carried out without development consent under part 4 of the *Environmental Planning and Assessment Act 1979*.

In accordance with the Objects of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Section 1.3(e) of that Act the purpose of this condition is “to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats”.

Section 60Q(2) of the LLS Act provides that “Schedule 5A does not permit clearing or any other activity—

- a. without an approval or other authority required by or under another Act or another Part of this Act (or in anticipation of the grant of any such approval or other authority), or
- b. in contravention of any provision of or made under (or in contravention of any agreement made under) another Act or another Part of this Act.”

Similarly, Section 60S(4) of the LLS Act provides that “A land management (native vegetation) code does not permit clearing or any other activity—

- a. Without an approval or other authority required by or under another Act or another Part of this Act, or
- b. In contravention of any provision of or made under another Act or another Part

of this Act”

As this condition is imposed under section 4.17 of the EP&A Act, sections 60Q and 60S of the LLS Act apply and the clearing of native vegetation under Schedule 5A and Division 5 of the LLS Act is not permitted.

61. Quality Assurance program

The Quality Assurance Program must be adhered, records maintained and revised versions of the program must be documented and submitted to NSW Health for review.

62. 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.

63. Pool backwash in rural areas

Pool water disposal and backwash is to be directed to a soakage trench located in such a location as to not cause any nuisance to adjoining properties or damage to any structures.

64. Swimming pool pump location

Any pool pumps used in conjunction with the development must be located such that noise from their operation 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.

65. 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 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-5595) 10.2020.100.1
Our reference: DA20200326001116-Original-1

ATTENTION: Patricia Docherty

Date: Tuesday 26 May 2020

Dear Sir/Madam,

Integrated Development Application
s100B - SFPP - Other Tourist Accommodation
533 Bangalow Rd Talofa NSW 2481 AUS, 10//DP1197480

I refer to your correspondence dated 25/03/2020 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. At the commencement of building works, the property around Cabin 1 must be maintained as an inner protection area (IPA) as follows:

- North to the boundary;
- East for a distance of 40 metres;
- South for a distance of 55 metres; and,
- West for a distance of 50 metres.

The IPA must comprise:

- Minimal fine fuel at ground level;
- Grass mowed or grazed;
- Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- Trees and shrubs located far enough from buildings so that they will not ignite the building;
- Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- Minimal plant species that keep dead material or drop large quantities of ground fuel;

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



- Tree canopy cover not more than 15%;
- Tree canopies not located within 2 metres of the building;
- Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and,
- Lower limbs of trees removed up to a height of 2 metres above the ground.

2. At the commencement of building works, the property around Cabins 2-4 must be maintained as an inner protection area (IPA) as follows:

- North for a distance of 36 metres;
- East for a distance of 40 metres;
- South for a distance of 55 metres; and,
- West for a distance of 50 metres.

The IPA must comprise:

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

3. At the commencement of building works, the property around Cabins 5-8 must be maintained as an inner protection area (IPA) as follows:

- North for a distance of 36 metres;
- East for a distance of 40 metres;
- South for a distance of 50 metres; and,
- West for a distance of 50 metres.

The IPA must comprise:

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

Construction Standards

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

4. New construction must comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) 'National Standard Steel

Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of Planning for Bush Fire Protection 2006.

5. Fences and gates must comply with Section 7.6 of Planning for Bush Fire Protection 2019. In this regard, all fences in bush fire prone areas should be made of either hardwood or non-combustible material. However, in circumstances where the fence is within 6m of a building, they should be made of non-combustible material only.

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:

6. Access roads for special fire protection purpose (SFPP) developments must comply with general requirements of Table 6.8b of Planning for Bush Fire Protection 2019. Except, through roads are not required. However, are to be signposted as a 'no through road'.

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:

7. Water, electricity and gas must comply with the following:
- Either a 10,000 litre static water supply must be provided for fire fighting purposes for each cabin or may be amalgamated to be within 60 metres of the furthest part of a cabin, if adequate coverage is achieved to all cabins.
 - The tank must be located / designed so that a connection for fire fighting purposes is located within the inner protection area (IPA) or on the non-hazard side away from the building.
 - Underground tanks must be clearly marked, have an access hole of 200mm to allow firefighting appliances to refill direct from the tank, and have a hardened ground surface for truck access within 4 metres of the access hole.
 - Aboveground tanks must be manufactured of concrete or metal. Raised tanks must have their stands protected.
 - Tanks on the hazard side of a building must be provided with radiant heat shielding to protect the tank from bush fire impacts and maintain safe access to the water supply for firefighters.
 - A standard 65mm metal Storz outlet with a gate or ball valve must be provided to the tank. The gate or ball valve, pipes and tank penetration of any tank must be adequate for full 50mm inner diameter water flow through the Storz fitting and made of metal.
 - All associated fittings to the tank must be metal.
 - An SWS marker must be obtained from the local NSW RFS and positioned for ease of identification by fire fighting personnel and other users of the SWS. Markers must be fixed in a suitable location so as to be highly visible and be positioned adjacent to the most appropriate access for the static water supply.
 - All aboveground water pipes external to the building must be metal including and up to any taps/outlets/fittings.
 - Electrical transmission lines should be located underground where possible. Overhead electricity lines must have short pole spacing (i.e. 30 metres) except where crossing gullies, gorges or riparian areas. No tree may be closer to an electricity line than the distance set out in in ISSC3 Guideline for Managing Vegetation Near Power Lines.
 - Gas must be installed and maintained as set out in the relevant Australian Standard and all pipes external to the building must be metal including and up to any taps/outlets/fittings. Polymer-sheathed flexible gas supply lines must not be used.
 - Fixed gas cylinders must be kept at least 10 metres clear of flammable materials and be shielded on the hazard side. Connections must be metal. Cylinders near to a building must be have safety valves directed away from the building and be at least 2 metres from combustible materials.

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 shall be prepared consistent with 'Development Planning- A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014' and Australian AS3745 2010 'Planning for Emergencies. A copy of the Bush Fire Emergency Management and Evacuation Plan shall be provided to the Local Emergency Management Committee (LEMC) for its information prior to occupation of the development.

General Advice - Consent Authority to Note

The recommendations are based on the documents/plans supplied via Councils referral to the NSW RFS.

- The plan titled 'Site Plan' prepared by Those Architects, reference 19003, revision D dated 19 December 2019.
- The bush fire assessment prepared Bushfire Certifiers, reference 19/399 dated 13 December 2019.

Council is advised that where a minor amendment to the above-noted documents is proposed, Council may use its discretion to determine whether the minor amendment warrants further assessment by the NSW RFS to reissue a bush fire safety authority.

For any queries regarding this correspondence, please contact Wayne Sketchley 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
533 Bangalow Rd Talofa NSW 2481 AUS, 10//DP1197480
RFS Reference: DA20200326001116-Original-1
Your Reference: (CNR-5595) 10.2020.100.1

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**

Tuesday 26 May 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 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

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).