

10.2019.275.1
RECOMMENDED CONDITIONS OF CONSENT:

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:
BA-02	Proposed Boundary Adjustment	Balanced Systems	20 August 2019
BA-03	Building Envelope	Balanced Systems	20 August 2019

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. Integrated Approvals from other Authorities.

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, under Section 100B of the Rural Fires Act 1997, subject to the conditions listed under the “General Terms of Integrated Development Approval” in this consent.

General Terms of Integrated Development Approval – Rural Fires Act 1997

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the ‘Environmental Planning and Assessment Act 1979’, and a Bush Fire Safety Authority, under Section 100B of the ‘Rural Fires Act 1997’, are now issued subject to the following conditions:

Asset Protection Zones

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

1. restriction to the land use pursuant to section 88E of the 'Conveyancing Act 1919' shall be placed on proposed Lot B requiring a minimum 18 metre asset protection zones (APZ) around the identified building envelope, as depicted on the drawing titled Proposed Boundary Adjustment, prepared by Balance Systems Planning Consultants, numbered Plan-BA03, dated 20 August 2019. The required APZ shall be managed 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'.

Design and Construction

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. A restriction to the land use pursuant to section 88E of the 'Conveyancing Act 1919' shall be placed on proposed lot B , identifying the building envelope as depicted on the drawing titled Proposed Boundary Adjustment, prepared by Balance Systems Planning Consultants, numbered Plan-BA03, dated 20 August 2019. The restriction shall limit any dwellings on proposed lot B to that nominated building envelope.

The following conditions are to be complied with prior to commencement of subdivision works

3. **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 (rural & residential areas without kerb & gutter)

A driveway for Lot B must be upgraded in accordance with Council's standard drawing R13 and R15, Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

4. **Geotechnical Report required – Soil Classification**

A soil report is to be provided to the Principal Certifying Authority from a professional Engineer experienced in Geotechnical Science as to the classification of the soil type on the site, consistent with the requirements of AS2870.

5. **Erosion and sediment control measures**

Where erosion of soils or runoff of any substance is likely to occur, 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 website). This may include stockpiled materials such as sand.

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).

The following conditions are to be complied with during subdivision works

6. **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).

7. **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:

- c) Monday to Friday, from 7 am to 6 pm.
- d) 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.

8. **Council Specification**

All works to be constructed to at least the minimum requirements of the "[Northern Rivers Local Government Design and Construction Manual](#)".

9. **Approved Plans to remain on site**

A copy of the approved Construction Certificate including plans, details and specifications must remain at the site at all times during the construction of the subdivision.

10. **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.

11. **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.

12. **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.

The following conditions are to be complied with prior to issue of a Subdivision Certificate

13. **Subdivision Certificate application required**

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

NOTE: The application MUST be one complete concise package addressing ALL conditions of consent relevant to the subdivision with a clear explanation how each condition has been complied with, together with supplying ALL the relevant information /documents/ certificate and/or plans that is required by that condition. Failure to provide the abovementioned information in one package will likely result in the application being refused or rejected and returned to you.

14. **Plan of Subdivision**

The final plan of subdivision must be in accordance with the approved plan/s. A Deposited Plan Administration Sheet (original plus one (1) copy), two (2) copies of the plan of subdivision and any necessary section 88B instrument (original plus one (1) copy) are to be submitted with the application for a subdivision certificate.

15. **Road Widening**

The location of the existing road formation and fences in relation to the property boundaries are to be shown on a survey plan to be submitted to Council. Any encroachments onto the property are to be dedicated as "Road Widening" at no cost to Council.

16. **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.

17. **Electricity Supply Certificate for Lot B**

Written evidence from an electricity supply authority is to be submitted with the application for a subdivision certificate stating that satisfactory arrangements have been made for the provision of electricity supply throughout the subdivision.

18. **Fibre-ready Facilities and Telecommunications Infrastructure**

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

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

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

19. **Geotechnical Report (Lot Classification) for Lot B**

A certificate from a practicing Geotechnical Engineer must be provided in conjunction with a Lot Classification Report prepared in accordance with Australian Standard AS2870.1. Such certificate must certify that all vacant allotments have a building site of adequate size and shape on each lot that is not subject to slip or subsidence

20. **Section 88B Instrument**

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

a) **Easement for Electricity**

The creation of any necessary easements for electricity purposes as required by the electricity supply authority.

b) **Easement for conservation**

A restriction on user must be applied at the subdivision stage to protect native vegetation on proposed Lot B. The restriction on user will apply to all land excluding the identified building envelope and an 18 metre asset protection zones (APZ), as depicted on the drawing titled Proposed Boundary Adjustment, prepared by Balanced Systems Planning Consultants, numbered Plan-BA03, dated 20 August 2019. The

restriction on user must prohibit, except as otherwise permissible by law, all of the following within the area covered by the restriction on user:

- i) the destruction or removal of any local indigenous trees, shrubs, grasses or other vegetation, or the planting of any flora other than local indigenous flora;
- ii) any act or omission which may adversely affect any local indigenous flora or any indigenous fauna or their related habitats;
- iii) any act or omission which may result in the deterioration in the natural state or in the flow, supply, quantity or quantity of any body of water or in the natural moisture regime of the area;
- iv) the creation or maintenance of any tracks through the area;
- v) the removal, introduction or disturbance of any soil, rock or other minerals;
- vi) any structures or dwellings;
- vii) No deposition or accumulation of rubbish or refuse, including garden refuse and weed propagules, nor the use of any of the area for storage of any substance or material.

The s88B Instrument must contain a provision identifying Byron Shire Council as the only person or authority having the power to revoke, vary or modify the restriction on user.

21. **Compliance with bushfire conditions**

Documentary evidence from a suitably qualified professional is to be submitted to the PCA demonstrating that the bush fire conditions as issued under Section 100B of the Rural Fires Act 1997 have been complied with.

22. **Use of works on Proposed Lot A**

A development application must be submitted for the use of the buildings identified on the plan titled Plan of Part of Lot 1 DP 1231141 prepared by Ken Chelsworth Rg'd Surveyor 28 Oct 2019 Ref 1022 Huts included within additional information document E2019/87638.

23. **Completion of All Works**

All subdivision works required by this development consent, and associated Construction Certificate, are to be completed prior to issue of the subdivision certificate. A copy of the final completion letter/s, issued by the Principal Certifying Authority, and final plumbing certificate, issued by the water supply authority, for the relevant subdivision works must be submitted with the application for a subdivision certificate.

The following conditions are to be complied with at all times

24. **Native vegetation is not permitted to be cleared under Schedule 5A of the *Local Land Services Act 2013***

Clearing of native vegetation that would be authorised under Schedule 5A 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.”

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

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 NOTES

Construction Certificate required:

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

Principal Certifying Authority:

Work must not commence until the applicant has:-

- 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.

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).