

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application No.	Development Application No. 10.2020.651.1
Applicant	Planners North
Property	2 Bangalow Road BYRON BAY LOT: 2 DP: 1206972
Development	Staged Affordable Housing Development comprising Nine (9) Boarding Houses, Community Building, Managers Residence and Strata Subdivision to create Three (3) Lots and a Common Lot
Determination	Deferred commencement Consent Authority - Council
Date of determination	27 April 2023
Date on which the consent lapses	2 May 2027

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of deferred commencement consent using the power in section 4.16(3) of the EP&A Act, subject to the conditions set out in this notice.

Relevant matters

This consent does not operate and may not be acted on until the consent authority is satisfied of the following matter(s):

CONDITIONS OF CONSENT

SCHEDULE 1 DEFERRED COMMENCEMENT CONDITION PURSUANT TO SECTION 4.16(3)

The following condition concerns matters as to which the Council must be satisfied before the consent can be issued:

1. Deferred Commencement Consent

This consent does not operate until Council is satisfied as to the following matters:

a. Access and Manoeuvring Plan

An updated Access Plan is to be provided, demonstrating that the ultimate access arrangements can cater for vehicle entry to and exit from the site in forward direction, for all vehicles, including the maximum size refuse collection vehicle anticipated for the site, in accordance with Appendix B8.5 & B8.6 of Chapter B8 of DCP2014. The plan is to provide for left in and left out manoeuvring movement at the southern access and left out manoeuvring movement at the northern access.

To satisfy Council of the above, an Access Plan is to be submitted for approval, which addresses the following matters:

- The submission of detailed engineering plans for the internal and external access arrangement for the development.

- b) Plans to comply with the requirements of AS 2890.1-2004: Parking facilities, Part 1: Off-street carparking and AS 2890.2 – 2010 - Parking facilities, including but not limited to:
- Access in accordance with Council’s standard drawing or AS2890
 - Redundant driveways to be removed and reinstated to match the existing verge and kerb & gutter
 - Left-in and left-out arrangement for the southern access
 - Left out only for the northern access
 - Manoeuvring diagram to cater for the entry and exit in forward direction of the maximum size refuse collection vehicle in accordance with Appendix B8.5 & B8.6
 - Manoeuvring diagram for commercial vehicles and car to include manoeuvring clearances of 0.5m and 0.3m respectively. Manoeuvring clearances must not encroach into building structures and other structures.
 - Internal access width to cater for the maximum sized vehicle and road capacity in accordance with AS2890
 - Dimensions, finished levels and grades demonstrating compliance with AS 2890
 - Pavement design
 - Site conditions affecting the access
 - Existing and design levels
 - Drainage
 - Cross sections and
 - Longitudinal section from the road centreline

b. Parking and Loading Bay

This consent does not operate until Council is satisfied that adequate parking and loading bay arrangements can be implemented to cater for the development in accordance with Chapter B4 of DCP2014.

To satisfy Council of the above, a Parking and Loading Bay Plan is to be submitted for approval, which addresses the following matters:

- a) The submission of detailed parking and loading bay plans in accordance with AS2890
- b) Minimum of 42 parking spaces
- c) Minimum 25 bicycle parking
- d) Minimum 16 motorcycle parking
- e) Bicycle and motorcycle parking design in accordance with AS2890
- f) Accessible parking supply in accordance with BCA requirements
- g) Dimensions, finished levels and grades demonstrating compliance with AS 2890
- h) Parking User Class 1A for angle car parking
- i) Parking User Class 4 for angle accessible parking
- j) Parallel parking
- k) Accessible parallel parking
- l) Blind aisle extension and

m) Circulation roadway

NOTE: The plans must be in compliance with Council's DCP 2014 and Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

In satisfying Council as to the above conditions Council must be furnished with fully detailed engineering design plans and specifications, to be designed by a qualified practicing 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.

Evidence of the above relevant matter(s) must be produced to the consent authority, within two years of the date of the determination, otherwise the consent will lapse.

Under section 88(3) of the EP&A Regulation, the consent authority will notify you in writing if the matters above have been satisfied and the date from which this consent operates.

The conditions of development consent below apply from the date that this consent operates.

Where the applicant produces evidence of the relevant matters in accordance with section 76(4) of the EP&A Regulation, the consent authority must notify the applicant whether or not it is satisfied as to the relevant matter(s). If the consent authority has not notified the applicant within 28 days after receiving the applicant's evidence, the consent authority is taken to have notified the applicant that is not satisfied about the relevant matter(s) on the date on which that period expires, for the purposes of section 8.7 of the EP&A Act (see sections 76(4), (5) and (6) of the EP&A Regulation).

Reason for conditions

The conditions imposed have been included in response to development considerations and to ensure a high standard of development having regard to the effect upon the environment and the amenity of the neighborhood.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

Signed on behalf of the Consent Authority



Robert Van Iersel
Town Planner - Contractor

SCHEDULE 2 CONDITIONS OF CONSENT

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

Parameters of consent

1. Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans prepared by Running Dog Design (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Title	Dated	Plan No.	Title	Date
0441-03-00/01 Issue G	Site Plan Layout	21/09/22	0441-03-00/02 Issue A	Site Plan Layout Detail #1	21/09/22
0441-03-00/03 Issue A	Site Plan # 2 Detail Siting	21/09/22	0441-03-00/10 Issue J	Site Plan Parking	21/09/22
0441-03-00/13 Issue E	Street Scapes + Section	10/09/22	0441-03-00/14 Issue B	Site Plan Staging	21/09/22
0441-03-01/02 Issue E	House 1 Lower Ground Floor	21/09/22	0441-03-01/03 Issue D	House 1 Ground Floor Plan	01/09/22
0441-03-01/04 Issue D	House 1 Elevations	01/09/22	0441-03-02/02 Issue E	House 2 Ground Floor Plan	07/09/22
0441-03-02/03 Issue E	House 2 First Floor Plan	09/09/22	0441-03-02/04 Issue D	House 2 Elevations	09/09/22
0441-03-03/02 Issue E	House 3 Lower Floor Plan	27/08/22	0441-03-03/03 Issue D	House 3 Upper Floor Plan	27/08/22
0441-03-03/04 Issue E	House 3 Elevations	01/09/22	0441-03-04/02 Issue E	House 4 Lower Floor Plan	08/09/22
0441-03-04/03 Issue D	House 4 Upper Floor Plan	08/09/22	0441-03-04/04 Issue E	House 4 Elevations	08/09/22
0441-03-05/02 Issue F	House 5 Ground Floor Plan	08/09/22	0441-03-05/03 Issue E	House 5 First Floor Plan	08/09/22
0441-03-05/04 Issue E	House 5 Elevations	08/09/22	0441-03-06/01 Issue E	House 6 Ground Floor Plan	04/09/22
0441-03-06/02 Issue D	House 6 First Floor Plan	04/09/22	0441-03-06/03 Issue E	House 6 Elevations	04/09/22
0441-03-07/01 Issue F	House 7 Ground Floor Plan	21/09/22	0441-03-07/02 Issue F	House 7 First Floor Plan	05/09/22
0441-03-07/03 Issue E	House 7 Elevations	21/09/22	0441-03-08/01 Issue F	House 8 Ground Floor Plan	21/09/22

0441-03-08/02 Issue E	House 8 First Floor Plan	05/09/22	0441-03-08/03 Issue E	House 8 Elevations	05/09/22
0441-03-09/01 Issue G	House 9 Ground Floor Plan	06/09/22	0441-03-09/02 Issue H	House 9 First Floor Plan	06/09/22
0441-03-09/03 Issue F	House 9 Elevations	06/09/22	0441-03-10/01 Issue F	Community- Manager Ground Floor Plan	21/09/22
0441-03-10/02 Issue E	Community- Manager First Floor Plan	21/09/22	0441-03-10/03 Issue E	Community- Manager Elevations	21/09/22

Privacy screens are to be provided on any external decks located within 1.5m of an external property boundary. Details of such screens shall be shown on relevant Construction Certificate drawings.

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

2. Staging

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

Stage 1: Construction of Houses 6 & 9, plus 8 car spaces

Stage 2: Construction of House 8 & Community / Manager's residence, plus 11 car spaces

Stage 3: Alterations and additions to House 2 & construction of House 7, plus 15 car spaces

Stage 4: Alterations and additions to Houses 3, 4 & 5, plus 7 car spaces

Stage 5: Alterations and additions to House 1

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

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

3. Existing buildings to be brought into compliance with fire safety provisions

Existing houses 1-5 are to be brought into compliance with fire protection and structural capacity requirements as per the Building Code of Australia, appropriate to the proposed use of the buildings.

4. Use of Boarding Houses

The boarding houses are not to be holiday let or used as tourist and visitor accommodation or as short-term rental accommodation.

5. Support for neighbouring buildings

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

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

6. Conditions prescribed by the Regulation

This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in **Schedule 3** of this consent.

7. Integrated Approvals from other State Government Approval Bodies

This development consent includes an Integrated development approval under Sections 4.46 and 4.47 of the Environmental Planning and Assessment Act 1979, being an authorisation under section 100B of the *Rural Fires Act 1997* in respect of bush fire safety of subdivision of land that could lawfully be used for residential purposes and is subject to the General Terms of Approval from NSW Rural Fire Service (Ref. DA20210121000221-Original-1) dated 24 February 2021 contained in a **Schedule** of this Notice of Determination.

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

8. Construction site management plan

Before the issue of a construction certificate, the applicant must ensure a construction site management plan is prepared before it is provided to and approved by the certifier. The plan must include the following matters:

- location and materials for protective fencing and hoardings to the perimeter on the site
- provisions for public safety
- pedestrian and vehicular site access points and construction activity zones
- details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site
- protective measures for on-site tree preservation (including in accordance with AS 4970-2009 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable)
- details of any bulk earthworks to be carried out
- location of site storage areas and sheds
- equipment used to carry out all works
- a garbage container with a tight-fitting lid
- dust, noise and vibration control measures
- location of temporary toilets.

The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

9. Unexpected Findings Protocol - Contamination & Remediation

An Unexpected Findings Protocol (UFP) shall be prepared and submitted to Council for approval prior to the issue of Construction Certificate. The UFP shall be prepared by a suitable qualified person experienced in matters relating to Contamination of Land and Remediation.

10. Detailed Acid Sulfate Soils Management Plan

An application for a Construction Certificate must include a Detailed Acid Sulfate Soils Management Plan (the Plan). The plan must have reference to the report titled 'Potential Acid Sulfate Soils Investigation' prepared by Soil Pacific dated 21 June 2004 as it relates to each approved stage of the development. Investigations and reporting must be undertaken by a suitably qualified person in accordance with ASSMAC, 1998.

The plan must be approved by Council prior to the issue of the first construction certificate (Stage 1). A copy of the approved plan must be submitted to the PCA prior to issue of any subsequent construction certificate.(Stages 2-5).

11. 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

12. Garbage storage area to be provided

The application for a Construction Certificate is to include plans and specifications that indicate the proposed waste material store area. The proposed garbage store area is to be designed and constructed to provide sufficient capacity for the range of waste storage containers required for all the waste management activities conducted in association with the development.

Adequate ventilation, lighting, fire response and access to be provided to ensure safe and healthy conditions can be maintained for the protection of workplace health and safety.

Provision to be made for waste collection vehicle movement and lifting height requirements for all types of waste storage bins.

Such plans and specifications must be approved prior to the issue of the Construction Certificate

13. Water and Sewerage - Section 68 Part B approval

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

Water metering to be in accordance with Byron Shire Council's water metering requirements

See: <https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications>

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

14. Fibre-ready Facilities and Telecommunications Infrastructure

Prior to the issue of the Construction Certificate 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).

15. Long Service Levy to be paid

In accordance with Section 6.8 of the Environmental Planning and Assessment Act 1979 (as amended), a Subdivision Works Certificate for SUBDIVISION 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 Subdivision Works Certificate application.

For further information regarding the Long Service Payment please refer to the website above.

16. Tree Removal

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

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

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

The use of displacement and screw pile construction methods will require approval by Council.

Any retaining wall / brick / masonry fence crossing a pipeline requires Council approval. The fence must be supported such that it does not cause loading on the pipes zone-of-influence.

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

18. 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	A driveway(s) in accordance with the approved plans (as approved in the deferred commencement requirement) , Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".
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19. Traffic Guidance Scheme (TGS)

Prior to issue of the construction certificate, consent from Council must be obtained for a Traffic Guidance Scheme (TGS) pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction. The TGS is to be designed in accordance with the requirements of the current version of the Transport for NSW *Traffic Control at Work Sites Technical Manual*.

The plan shall incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The TGS must be prepared by a suitably qualified Transport for NSW accredited person.

20. Car parking layout, vehicle circulation and access plans

The application for a Construction Certificate is to include plans and specifications for parking and access, consistent with the **approved plans (as approved in the deferred commencement condition)**.

21. 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".

22. **On-site stormwater detention and stormwater quality improvement devices required**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. All stormwater drainage for the development must be conveyed via an on-site stormwater detention system by gravity to existing pit on the opposite side of the road of the community building

Fully detailed design of the rerouting of the internal underground drainage system, stormwater quality improvement devices (SQIDs) to cater for the objectives in Table B3.2 of Chapter B3 of DCP 2014 and revised OSD system.

The SQIDs and OSD devices to be supported with detailed calculation, model and maintenance plan submitted to Council for approval.

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

All stormwater drainage systems within the lot and the connection to a public or an inter-allotment drainage system must:

- a. comply with any requirements for the disposal of stormwater drainage and on-site stormwater detention contained in Council's Development Control Plan, Stormwater Guideline and Local Approvals Policy; and
- b. unless exempt from obtaining an approval under section 68 of the [Local Government Act 1993](#) by a Local Approvals Policy, an approval must be obtained under that Act prior to issue of a Construction Certificate

23. **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/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.

24. **Developer Contributions deferred for Affordable Dwellings**

Contributions set out in the schedule below are to be paid to Council. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended). The Plan may be viewed on line at <http://www.byron.nsw.gov.au/> or during office hours at the Council Offices located at Station Street, Mullumbimby. These contributions are to fund public amenities and services as listed in the schedule. Additional details on the specific amenities are to be found in the Byron Shire Developer Contributions Plan 2012 (as amended).

These Contributions are not payable if whilst ever the development is permanently used for the provision of affordable housing as defined in the Environmental Planning and Assessment Act 1979.

Should the development cease to be used for affordable housing then all contributions owing under this condition shall become payable and shall be indexed to the date of payment.

The contributions in the schedule are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The schedule contains a date for which the schedule remains valid, after this date you will have to contact Council for an updated schedule.

25. **Certificate of Compliance – s307 Water Management Act 2000**

Prior to issue of any Construction Certificate, a Certificate of Compliance under Section 307 of the Water Management Act 2000 must be obtained upon payment of developer charges for water and sewer as calculated in accordance with Byron Shire Council and Rous County Council Development Servicing Plans. Where staging of the Construction Certificate occurs, a separate s307 Compliance Certificate must be obtained for each stage.

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

Note: For issue of the Certificate of Compliance, an application form and associated fee must be lodged via Council's website. Copies of Byron Shire Council's Development Servicing Plans are available via Council's website.

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Utilities on 02 6626 7000. Applicable charges can also be found on Council's website:

<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.

Payment by Personal or Company Cheque will not be Accepted

26. **Compliance with BASIX Certificate requirements**

The development is to comply with the following certificates:

- Basix Certificate No. A366050_02, (H1) dated 30 July 2020.
- Basix Certificate No. A365981_02, (H2) dated 30 July 2020.
- Basix Certificate No. A365982_02, (H3) dated 30 July 2020.
- Basix Certificate No. A366023_02, (H4) dated 30 July 2020.
- Basix Certificate No. A366027_02, (H5) dated 30 July 2020.
- Basix Certificate No. 851273M_04, (Multi Dwelling) dated 4 August 2020.

The commitments indicated in the Certificates 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 Certificates.

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.

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

27. Approved Environmental Plans must be implemented

All controls and measures must be maintained in accordance with approved plans and reports. The applicant is required to ensure that the construction management and all construction staff are made aware of their responsibility to abide by the plans.

28. Acid Sulfate Soils Management

Acid sulfate soils must be managed and disposed of in accordance with the approved Acid Sulfate Soil Management Plan. A copy of this report must be kept on the property at all times during construction and made available to any person.

29. Public safety requirements

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. The public liability insurance cover, for a minimum of \$20 million, is to be maintained for the duration of the construction of the development. Council is not held responsible for any negligence caused by the undertaking of the works.

30. Dilapidation Reports required

Prior to the commencement of any excavation works requiring rock drilling, blasting or breaking, a pre-construction Dilapidation Report is to be submitted to Council detailing the current condition of all adjoining buildings, infrastructure and roads.

A second Dilapidation Report must be submitted to Council, prior to occupation of the building (whole or partial), to ascertain if any structural damage has occurred to any adjoining building, infrastructure or roads.

31. Erosion and Sediment Control Management Plan required

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

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

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

The following conditions are to be complied with during construction

32. Hours of work

The principal certifier must ensure that subdivision work, demolition or vegetation removal is only carried out between:

- 7am to 6pm on Monday to Friday.
- 8am to 1pm on Saturday.

The principal certifier must ensure subdivision work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

Note: Any variation to the hours of work requires Council's approval.

33. Construction Noise

While construction work is being carried out, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.

34. Signs to be erected on subdivision 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.

35. 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, materials and all other items.

36. Removal of asbestos

All asbestos wastes associated with removal of the existing dwelling to be disposed of in accordance with the requirements of the WorkCover Authority. The applicant/owner is to produce documentary evidence that this condition has been met.

37. Demolition, construction and building 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 Licensed Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with *NSW DECC Waste Classification Guidelines (2014)* www.environment.nsw.gov.au/resources/waste/08202classifyingwaste.pdf

38. Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

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

39. 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.

40. 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.

41. Aboriginal Relics

While demolition or subdivision work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Subdivision work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
 - a. relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
 - b. is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

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

42. Works to be completed prior to issue of a Final Occupation Certificate

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Councils road/footpath reserve

43. Access and parking areas to be completed.

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

44. Stormwater Quality Improvement Devices & On-site Stormwater Detention – Certification of works

All stormwater drainage works, including stormwater quality improvement devices on-site stormwater detention works, for the development must be constructed in accordance with the approved plans and specification prior to issue of an occupation certificate. Certificate/s of Compliance and Work-As-Executed (WAE) plans for the stormwater works must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.

The certificate/s and WAE plans are to be prepared by a suitably qualified engineer and must be in accordance with Council's [Comprehensive Guidelines for Stormwater Management](#)

45. Compliance with bushfire conditions under Section 100B of Rural Fires Act 1997

Prior to issue of the Occupation Certificate, documentary evidence from a current level 2 Bushfire Planning and Design (BPAD) accredited consultant, under the Fire protection Association of Australia, is to be submitted to the Principal Certifying Authority certifying that the bushfire conditions as issued under Section 100B of the Rural fire Act 1997 have been complied with.

The following conditions are to be complied with at all times

46. Vehicles to enter/leave in a forward direction

Vehicles using any off-street loading/unloading and/or parking area must enter and leave in a forward direction. All driveways and turning areas must be kept clear of obstructions that prevent compliance with this condition.

47. Garbage Bin Collection

If, at any time in the future, the regular collection of garbage bins from the frontage of the premises in Bangalow Road or Browning Street creates local traffic disruption, the proponent is to enter into a contract with an appropriate waste collection company to collect the bins from within the site.

48. Must not interfere with the amenity of the neighbourhood

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

- a. Any complaints to Council about 'offensive' noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.
- b. Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
- c. All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.

All waste storage and sewage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.

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

49. Strata Certificate application required

An application for a Strata Certificate must be made on the approved form if lodged with Council. The Strata 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.

50. Strata Plan

The strata plan must be in accordance with the approved plan/s. A strata plan administration sheet (original plus one (1) copy), two (2) copies of the strata plan and any necessary section 88B instrument (original plus one (1) copy) are to be submitted with the application for a Strata Certificate if lodged with Council.

51. Car, Bicycle and Motorcycle Parking Arrangements

All car, bicycle and motorcycle parking spaces/area are to remain as common property.

52. Completion of All Building Works

A final occupation certificate must be obtained for **all building works** approved by development consent 10.2020.651.1 prior to issue of the strata certificate. Copies of **all final occupation certificate** must be submitted with the application for the strata certificate.

53. Water service and meter to be connected to strata subdivisions

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

Water metering to be in accordance with Byron Shire Council's water metering requirements

See: <https://www.byron.nsw.gov.au/Services/Building-development/Other-approvals-and-permits/Plumbing-and-Drainage-Applications>

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

54. 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. Inter-allotment Drainage Easements

The creation of easements for drainage of water, with a minimum width of 1.5 metres, over all inter-allotment drainage pipelines and structures located within the proposed allotments, where not created as common property.

b. On-Site Detention System and Stormwater Quality Improvement Devices Easements

The creation of easements for on-site detention system and stormwater quality improvement devices located within the proposed allotments, where not created as common property.

c. Easement for Services

The creation of suitable easements for services over all services and/or service conduits located within the proposed allotments, where not created as common property.

d. Easement for Electricity

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

e. Positive Covenant – On-site Stormwater Detention and Stormwater Quality Improvement Devices

Creation of a positive covenant over proposed Lot/s containing the on-site detention system and stormwater quality improvement devices to ensure the maintenance of the future on-site stormwater detention system and stormwater quality improvement devices.

SCHEDULE 3 PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Part 6 Division 8A of the Environmental Planning and Assessment Regulation as at the date of this development consent as are of relevance to this development must be complied with:

- Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- Clause 98A Erection of signs
- Clause 98B Notification of Home Building Act 1989 requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Condition relating to maximum capacity signage
- Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Part 6 Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 4 INTEGRATED DEVELOPMENT GENERAL MTERMS OF APPROVAL



NSW RURAL FIRE SERVICE

Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (CNR-16350) 10.2020.651.1
Our reference: DA20210121000221-Original-1

ATTENTION: Jordan Vickers

Date: Wednesday 24 February 2021

Dear Sir/Madam,

Integrated Development Application
s100B – Subdivision – Strata Title Subdivision
4 Bangalow Road BYRON BAY NSW 2481, 2//DP1206972

I refer to your correspondence dated 20/01/2021 seeking general terms of approval for the above Integrated Development Application.

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

General Conditions

1. The development proposal is to comply with the drawing titled 'Site Plan' prepared by Running Dog Design, numbered 0441-03-00/01, issue E and dated 29th October, 2020, except where modified by this Bush Fire Safety Authority.

Asset Protection Zones

Intent of measures: to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.

2. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire site must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. When establishing and maintaining an IPA the following requirements apply:

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

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

- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
- grass should be kept mown (as a guide grass should be kept to no more than 100 mm in height); and
- leaves and vegetation debris should be removed.

Construction Standards

Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

3. New construction of Dwellings 1, 8 and 9 must comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2018 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) National Standard Steel Framed Construction in Bushfire Areas – 2014 as appropriate and Section 7.5 of Planning for Bush Fire Protection 2019.

4. Existing Dwelling 1 must be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2 mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

Water and Utility Services

Intent of measures: to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

5. The provision of water, electricity and gas must comply with Table 5.3c of Planning for Bush Fire Protection 2019.

Landscaping Assessment

6. Landscaping is to comply with the principles of Appendix 4 of Planning for Bush Fire Protection 2019.

For any queries regarding this correspondence, please contact Danette Cook 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

Subdivision – Strata Title Subdivision
4 Bangalow Road BYRON BAY NSW 2481, 2//DP1206972
RFS Reference: DA20210121000221-Original-1
Your Reference: (CNR-16350) 10.2020.651.1

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

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

Alan Bawden

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

Wednesday 24 February 2021

SCHEDULE 5 REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

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

Statement of Reasons

The proposed development complies with the provisions of Byron Local Environmental Plan 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 proposed development is unlikely to prejudice or compromise the public interest.

How community views were addressed

The DA was notified/advertised in accordance with Council's Community Participation Plan. Three submissions were received and have been considered in the assessment of this application.

SCHEDULE 6 NOTES

Construction Certificate required:

This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing.

Application for a Construction Certificate must be made online using the [NSW Planning Portal](#).

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).

S7.11 Schedule of Development Contributions

The following contributions are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the **amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment.** The current contribution rates are available from Council offices during office hours. **Payments will only be accepted by cash or bank cheque.**

Section 7.11 contributions Schedule						
Byron Bay Suffolk Park						
Catchment						
This schedule was calculated in spreadsheet #E2021/99005						
1 bedroom units =		0	@	0.55 SDU	=	0
2 bedroom units =		0	@	0.75 SDU	=	0
3 bedroom units/dwellings =		0	@	1 SDU	=	0
Demand per person converted to 1 SDU		42.65	@	1	=	42.65
Less Site Credits =		5	@	-1	=	-5
Total SDU					=	37.65
Schedule valid until		26-April-2023	After this date contact Council for CPI update.			
Local Open Space & Recreation	(OS-BB)	37.65	SDU @	\$ 4,744.42	=	\$ 178,627.41
LGA Wide Open Space & Recreation	(OS-SW)	37.65	SDU @	\$ 853.95	=	\$ 32,151.22
LGA wide Community Facilities	(CF-SW)	37.65	SDU @	\$ 1,250.70	=	\$ 47,088.86
Local Community Facilities	(CF-BB)	37.65	SDU @	\$ 1,409.33	=	\$ 53,061.27
Bikeways & Footpaths	(CW-BB)	37.65	SDU @	\$ 1,562.40	=	\$ 58,824.36
Shire Wide Bikeways & Footpaths	(CW-SW)	37.65	SDU @	\$ 91.74	=	\$ 3,454.01
Urban Roads	(R-BB)	37.65	SDU @	\$ 3,417.07	=	\$ 128,652.69
LGA Wide Roads	(R-SW)	37.65	SDU @	\$ 258.40	=	\$ 9,728.76
Rural Roads	#N/A	37.65	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	37.65	SDU @	\$ 1,291.67	=	\$ 48,631.38
Total						\$ 560,219.96

Water payments under the Water Management Act 2000

Charges will be calculated based on the additional water and sewerage load that the proposed development generates, shown in Equivalent Tenements (ET) by the following table:

ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT **(ET Policy 2018)**

Water	33.00 ET
Bulk Water	33.00 ET
Sewer	51.25 ET

NB: Information regarding Development Servicing charges can be found on the Byron Shire Council website (<https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>).

These charges will enable you to calculate the total contribution charges payable when you are ready to pay them. Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment.

General Advisory Notes

Dial Before You Dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at

www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

Telecommunications Act 1997 (Commonwealth) Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact Telstra's Network Integrity Team on Phone Number 1800 810 443.

The Environmental Planning and Assessment Act 1979 requires you to:

1. For building works, obtain a **Construction Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate.

For subdivision works, obtain a **Subdivision Works Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Subdivision Works Certificate.

An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the above Certificates.

All applications must be lodged via the [NSW Planning Portal](#).

2. Nominate a **Principal Certifier** which may be either Council or a registered certifier and notify Council of that appointment. You **cannot lawfully commence works** without complying with this requirement. Appointment must be made through the [NSW Planning Portal](#)
3. Give Council at least two days' notice of your intention to commence the erection of a building before commencing construction works. You cannot lawfully commence works without complying with this requirement.
4. Obtain an **Occupation Certificate** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

All applications must be lodged via the [NSW Planning Portal](#).

You may also need to:

5. Lodge an Application for Subdivision to obtain a Subdivision Certificate if a land (including stratum) subdivision is proposed and an Application for Subdivision to obtain Strata Title Subdivision under the relevant Strata Titles Act if strata title of the development is proposed.
6. Carry out critical stage inspections in accordance with Section 6.5 of the EP&A Act 1979 and clauses 61, 63 and 65 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.