

## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

<b>Application No.</b>	Development Application No. 10.2022.509.1
<b>Applicant</b>	Balanced Systems Planning Consultants
<b>Property</b>	18 Alidenes Road WILSONS CREEK LOT: 14 DP: 755722
<b>Development</b>	Rural Tourist Accommodation Comprising Four (4) Cabins Plus Driveway and Associated Works
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	26 June 2023
<b>Date from which the consent operates</b>	29 June 2023
<b>Date on which the consent lapses</b>	29 June 2028

*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 consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.*

### 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



Benjamin Grant  
Planner

## CONDITIONS OF CONSENT

### SCHEDULE 1. CONDITIONS OF CONSENT

#### Parameters of consent

#### 1. Approved plans and supporting documentation

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

Plan No.	Plan Title	Drawn by	Dated
01 Rev. P4	Site Plan	EPS	2/11/2022
02 Rev.P3	Site Plan – Southern Inset	EPS	14/06/2022
02 Rev. P4	Site Plan – Northern Inset	EPS	2/11/2022
D-02 Rev. 2	One-bed Cabin Floor Plan	EPS	3/11/2022
D-03 Rev. 2	One-bed Cabin Elevations: North, East	EPS	3/11/2022
D-04 Rev. 2	One-bed Cabin Elevations: South, West	EPS	3/11/2022
D-05 Rev. 2	One-bed Cabin Section 1	EPS	3/11/2022
D-02 Rev. 2	Disabled Cabins Floor Plan	EPS	3/11/2022
D-03 Rev. 2	Disabled Cabin Elevations: East, West	EPS	3/11/2022
D-04 Rev. 2	Disabled Cabin Elevations: South, North	EPS	3/11/2022
D-05 Rev. 2	Disabled Cabin Section 1	EPS	3/11/2022
D-02 Rev. 2	Two-bed Cabin Floor Plan	EPS	3/11/2022
D-03 Rev. 2	Two-bed Cabin Elevations: East, West	EPS	3/11/2022
D-04 Rev. 2	Two-bed Cabin Elevations: North, South	EPS	3/11/2022
D-05 Rev. 2	Two-bed Cabin Section 1	EPS	3/11/2022
Civ – 100A	Dwelling and Cabin Driveway Plan	SDS Civil	Nov 2022
Civ – 101A	Cabin Driveway Access and Template	SDS Civil	Nov 2022
Civ – 102A	Dwelling Access Driveway Long Section	SDS Civil	Nov 2022
Civ – 103A	Cabin Access Long Section and Signage	SDS Civil	Nov 2022
-	Landscaping Concept, Bushfire Management and Vegetation Management Plan	Balanced Systems	Nov 2022
-	Vegetation Management Plan	Balanced Systems	Nov 2022

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. Staged Development

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

**Stage 1: Completion of Driveway Access**

**Stage 2: Construction of Four (4) Rural Tourist Cabins and Associated Works**

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. Payment of security deposits

Before the commencement of any works on the site or the issue of a construction certificate, the applicant must make all of the following payments to Council and provide written evidence of these payments to the certifier:

Security deposit	\$10,000
Inspection fee	\$200

The payments will be used for the cost of:

- making good any damage caused to any council property (including street trees) as a consequence of carrying out the works to which the consent relates,
- completing any public work such as roadwork, kerbing and guttering, footway construction, stormwater drainage and environmental controls, required in connection with this consent, and
- any inspection carried out by Council in connection with the completion of public work or the making good any damage to council property.

**Note:** The inspection fee includes Council's fees and charges and includes the Public Road and Footpath Infrastructure Inspection Fee (under the *Roads Act 1993*). The amount payable must be in accordance with council's fees and charges at the payment date.

### 4. Support for neighbouring buildings

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

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

### 5. 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.

### 6. Integrated Approvals from other State Government Approval Bodies

This development consent includes an Integrated development approval under Sections 4.46 and 4.47 of the Environmental Planning and Assessment Act 1979, being a Bush Fire Safety Authority issued under Section 100B of the Rural Fires Act 1997 in respect of development for a special fire protection purpose and is subject to the General Terms of Approval from the NSW Rural Fire Service dated 17 February 2023 contained in **Schedule 4** of this Notice of Determination.

**The following conditions are to be complied with prior to the commencement of the driveway access works in Stage 1**

**7. 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/Access**

A driveway(s) in accordance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings" Council's standard drawing R15 & R16.

Manoeuvring plan to demonstrate the access configuration such as width and grade at the access point is suitable for MRV fire truck.

The following must be considered/adopted in the design:

- the capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes), bridges and causeways are to clearly, indicate load rating
- minimum 4m carriageway width
- passing bays every 200m that are 20m long by 2m wide, making a minimum trafficable width of 6m
- cross fall is not more than 10 degrees

**Yankee Creek Rd upgrade**

Pavement design and construction in accordance with "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".

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".

**8. Geotechnical Report required – Engineering Works**

A certificate from a professional Engineer experienced in soil mechanics is to be provided to the Registered Certifier, 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.

## 9. Internal Access

Prior to the issue of the Section 138 of the Roads Act 1993 consent from Council, detailed design plans must be prepared for the construction of the driveway access in Stage 1. Plans are to include, but not be limited to, the following items:

- a) certification from a suitably qualified engineer certifying that the detailed design plans comply with the requirements of NSW RFS letter dated 17 February 2023 with reference DA20221129011988-Original-1 and Northern Rivers Local Government Design and Construction Guidelines.
- b) minimum 150mm compacted pavement, sealed for grades greater than 12%.
- c) minimum 4m unobstructed carriageway width or 3.5m unobstructed carriageway width over distances less than 30m when an obstruction e.g., tree cannot be removed.
- d) manoeuvring plan for the full access length to cater for an MRV fire truck.
- e) passing bays number and locations in accordance with the approved plans.
- f) passing bays at 6m wide and 20m long.
- g) road and waterway crossing (minimum load capacity of 23 tonnes).
- h) turning head in accordance with Appendix 3 of Planning for Bush Fire Protection 2019.
- i) site conditions affecting the access.
- j) existing and design levels.
- k) longitudinal section from the road centreline.
- l) cross sections every 15 metres; and
- m) drainage details.

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".

## The following conditions are to be complied with prior to issue of a Construction Certificate for building works in Stage 2

### 10. Completion of Stage 1

Prior to issue of the Construction Certificate for Stage 2 building works, driveway/access works, Yankee Creek roadworks and internal access works for the future dwelling site must be completed.

Certification that all road and driveway/access works been constructed in accordance with the engineering plans and Work-As-Executed (WAE), prepared by a suitably qualified engineer, together with a final completion letter from Council for the Roads Act works, must be submitted to the Principal Certifying Authority.

### 11. Long Service Levy to be paid

In accordance with Section 6.8 of the Environmental Planning and Assessment Act 1979 (as amended), a Construction Certificate for subdivision works or building works shall not be issued until any Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid (as applicable).

These payments can be made online at [www.longservice.nsw.gov.au](http://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.

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

The levy will be calculated as follows:

**Levy payable = %C x \$C**

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

The rate of **%C** is:

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

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

**13. On-site sewage management facility Section 68 approval required**

An approval under Section 68 of the Local Government Act 1993 for on-site effluent disposal must be obtained from Council prior to issue of a Construction Certificate for Stage 2 building works. Such approval must be issued after the date of this consent.

The application for Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters, which addresses the site-specific design of sewage management in accordance with the requirements of the NSW Local Government Act, and Approvals Regulation and Guidelines approved by the Director General.

**14. Geotechnical Report required – Building Works**

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

**15. Stormwater Drainage – Infiltration Trench**

The application for a Construction Certificate is to include plans and specifications for stormwater drainage in accordance with the relevant Australian Standard. All stormwater drainage for the development must be conveyed by a gravity system to an infiltration trench or trenches complying with the requirements of Council's Comprehensive Guidelines for Stormwater Management.

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

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

**16. Access & parking for the four (4) rural tourist cabins**

The application for a Construction Certificate is to include plans and specification that indicate access and stormwater details in accordance with the plans approved by this consent.

The access, stormwater and bridge works is to comply with the requirements of NSW RFS letter dated 17 February 2023 with reference DA20221129011988-Original-1 and Northern Rivers Local Government Design and Construction Guidelines Plans are to include, but not be limited to, the following items:

- a) minimum of 5 parking spaces.
- b) pavement design, comprising an all-weather surface, such as asphalt, bitumen seal, concrete, pavers or other similar treatment.
- c) site conditions affecting the access.
- d) existing and design levels.
- e) longitudinal and cross sections.
- f) drainage details; and
- g) Compliance with RFS requirements.

**17. 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.

**18. Compliance with BASIX Certificate requirements**

The development is to comply with Basix Certificate No. 1347937M, dated Tuesday 15 November 2022.

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.

**19. Landscaping plan required**

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

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

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

**Note:** Landscaping to the site is to comply with the principles of Appendix 5 of Planning for Bushfire Protection 2019.

**20. Building materials and colours to be specified**

The application for a Construction Certificate is to include plans and specifications that indicate the proposed building materials and colours consistent with the provisions of Development Control Plan 2014 – Chapter D2.2.3 - Character and Visual Impact. Please note that colours must be non-reflective earth tone colours and that the use of white, near white or highly reflective roof and external wall colours are not permissible.

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

**21. Waste Management Plan**

Before the issue of a construction certificate, the applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

- a. Council's Waste Management Development Control Plan

**OR**

- b. details the following:

- the contact details of the person(s) removing the waste.
- an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill.
- the address of the disposal location(s) where the waste is to be taken.

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

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

**22. Erosion and Sediment measures**

Erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. A copy may be downloaded from Council's web site at [Guidelines for Erosion and Sediment Control on Building Sites](#). Particular attention is to be given to the provision of the following sediment and erosion control measures:

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

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

**Note:** Council may impose on-the-spot fines for non-compliance with this condition. Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e., by permanent vegetation cover or hard surface).

**23. 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 or be a building and construction site portable chemical toilet.

Only one (1) such portable chemical toilet may be used during construction, should additional toilets be required during the construction they must be either:

- a. Connected to an accredited sewage management system approved by the Council. or
- b. Not installed or used until such time that approval under Section 68 of the Local Government Act 1993 is obtained for the installation of a human waste storage facility.

**Note:** The chemical toilet must be installed and serviced by a licensed contractor (including pump-outs)

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

**24. Inspection for on-site sewage management**

All plumbing and drainage works is to be installed by a suitably qualified person. The plumber must adhere to the requirements of the NSW Code of Practice and AS/NZ 3500. The plumber is to arrange for the following inspections to be undertaken:

- a. Internal drainage prior to covering of the works.
- b. External drainage prior to the covering of works.
- c. Irrigation installation prior to the covering of works.
- d. Final.

**25. Hours of work**

The principal certifier must ensure that building 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 building 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.

**26. Construction Noise**

While building work is being carried out and where no noise and vibration management plan is approved under this consent, 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.

**27. Implementation of BASIX commitments**

While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.

**28. Signs to be erected on building and demolition sites**

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

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

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

**29. Builders rubbish to be contained on site**

All builder's rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

**30. Fill to be retained on the subject land**

Fill material must not encroach onto any adjoining land.

**31. Prevention of water pollution**

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

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

**32. Maintenance of sediment and erosion control measures**

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

**33. 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 roof colours are not permissible.

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

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

**35. Excavated natural materials and demolition waste disposal**

Any and all excavated natural materials and demolition and builders waste transported from the site must be accompanied (a copy kept with the transporter) by a [NSW Protection of The Environment Operations Act s143 Notice](#).

**36. Removal of demolition and other wastes**

All wastes, including asbestos and lead-contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licenced Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with the [NSW EPA Waste Classification Guidelines \(2014\)](#).

**37. Aboriginal Relics**

While demolition or building 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. Building 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 the building

- 38. Potable Water Supply Management Plan**  
A private water supply Quality assurance plan (or drinking water management system) must be submitted to NSW Health. A copy of their response and the plan must be provided to council. For further information refer to the following website [Private water supplies - Water quality \(nsw.gov.au\)](http://nsw.gov.au). The QAP must be prepared by a suitable qualified professional.
- 39. 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.
- 40. 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>'.
- 41. Roadworks, access, and parking to be completed**  
The roadworks, access and parking areas are to be constructed in accordance with the engineering plans required by this consent and the Roads Act consent. Certification that the all road, access and parking has been constructed in accordance with the engineering plans and Work-As-Executed (WAE), prepared by a suitably qualified engineer, together with a final completion letter from Council for the Roads Act works, must be submitted to the Principal Certifying Authority prior to the issue of an occupation certificate.
- 42. 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.
- 43. Compliance with bushfire conditions under Section 100B of Rural Fires Act 1997**  
Documentary evidence from a suitably qualified professional is to be submitted to the Principal Certifying Authority demonstrating that the bushfire conditions as issued under Section 100B of the Rural fire Act 1997 have been complied with.
- 44. Internal path**  
All-weather pathways must be constructed between the car parking areas and cabins to provide suitable pedestrian access for guests.
- 45. 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, certifying that the site has been landscaped in accordance with the approved landscape plan and conditions of consent.
- 46. Completion of primary vegetation management plan works**  
Prior to the issue of an occupation certificate, a monitoring report from a qualified and experienced ecologist and/or bush regenerator must be submitted to and approved by Council demonstrating that the Primary Ecological Works for Year 1 as described in Part 3.5 of the approved Vegetation Management Plan have been completed.

**47. Works to be completed prior to issue of an Occupation Certificate**

All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development 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 Councils road/footpath reserve.

**The following conditions are to be complied with at all times**

**48. Maximum number of guests and length of stay**

No more than a total of 2 adult guests/patrons in each bedroom, equating to a total number of 10 guests / patrons at any time for the development. The maximum length of stay for guests must not exceed 3 months. Cabins are not to be used for permanent residential accommodation.

**49. Manager of the tourist and visitor accommodation cabins**

The tourist and visitor accommodation cabins must be managed by the principal owner or a delegated representative living on the property at all times.

**50. Night-time lighting**

External lighting arrangements should be in accordance with *AS4282-1997: Control of the obtrusive effects of outdoor lighting* and NSW Work Cover OH&S requirements. External lighting must be directed downwards and limited to ensure minimal dispersion of luminosity to the surrounding area and to protect neighbouring properties, the dark night sky and the rural atmosphere of the locality.

**51. 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. Landscaping of the carparking areas, earth batters, and areas of cut around the internal access roads must be maintained at all times.

**52. Ecological restoration works**

Weeding, replanting and restoration works must be undertaken and continued until the implementation plans detailed in the approved Vegetation Management Plan have been completed, during which annual monitoring reports must be submitted to Council for approval.

**53. Potable Water Supply Testing and Reporting**

The potable water supply must be maintained in accordance with the requirements of NSW Health's Private Water Supply Guidelines (2016) including annual water quality testing by a NATA accredited laboratory. Results must be kept on site and provided to Council on request.

**54. Use for functions and events not approved**

Use of the site and/or buildings and/or erection of temporary structures for functions or events is not approved under this consent.

**55. Water Supply**

The property is identified as rural, and the development is not permitted to connect to Council's water supply system.

**56. Site Waste Minimisation and Management**

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

**57. 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, light, vibration, odour, fumes, smoke, dust, wastewater or otherwise. In particular:

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

**58. Site Waste Minimisation and Management**

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

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

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

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

## SCHEDULE 2. PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 2, Subdivision 1 of the Environmental Planning and Assessment Regulation 2021 as at the date of this development consent as are of relevance to this development must be complied with:

- [69](#) Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- [70](#) Erection of signs
- [71](#) Notification of Home Building Act 1989 requirements
- [72](#) Entertainment venues
- [73](#) Maximum capacity signage
- [74](#) Condition relating to shoring and adequacy of adjoining property
- [75](#) Fulfilment of BASIX commitments

Refer to the [Environmental Planning and Assessment Regulation 2021](#), Division 2, Subdivision 1 of for full text of the above clauses. 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-48924) 10.2022.509.1  
Our reference: DA20221129011988-Original-1

**ATTENTION:** Ben Grant

Date: Friday 17 February 2023

Dear Sir/Madam,

**Integrated Development Application**  
**s100B - SFPP - Other Tourist Accommodation**  
**18 ALIDENES ROAD WILSONS CREEK 2482, 14//DP755722, 3//DP115913**

I refer to your correspondence dated 30/11/2022 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

*Intent of measures is to provide suitable dwelling design, construction and sufficient space to ensure that radiant heat levels do not exceed critical limits for firefighters and other emergency services personnel undertaking operations, including supporting or evacuating occupants.*

1. From the commencement of building works and in perpetuity, the site around each tourist accommodation cabin must be maintained as an inner protection area (IPA) as follows:

- north for a distance of 45 metres;
- east for a distance of 45 metres;
- south for a distance of 45 metres; and,
- west for a distance of 47 metres.

When establishing and maintaining an inner protection area, the following requirements apply:

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

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](http://www.rfs.nsw.gov.au)



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

#### **Construction Standards**

***The intent of measures is to provide suitable dwelling design, construction and sufficient space to ensure that radiant heat levels do not exceed critical limits for firefighters and other emergency services personnel undertaking operations, including supporting or evacuating occupants.***

2. Construction of the tourist accommodation cabins must comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 'Construction of dwellings in bushfire-prone areas' or the relevant requirements of the NASH Standard - Steel Framed Construction in Bushfire Areas (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of 'Planning for Bush Fire Protection 2019'.

#### **Access - Internal Roads**

***The intent of measures is to provide safe operational access for emergency services personnel in suppressing a bush fire while residents are accessing or egressing an area.***

3. Property access roads must comply with the following requirements of Table 5.3b of 'Planning for Bush Fire Protection 2019':
- a. property access roads are two-wheel drive, all-weather roads;
  - b. the capacity of road surfaces and any bridges/causeways is sufficient to carry fully loaded firefighting vehicles (up to 23 tonnes), bridges and causeways are to clearly, indicate load rating;
  - c. there is suitable access for a Category 1 fire appliance to within 4m of the static water supply where no reticulated supply is available;
  - d. minimum 4m carriageway width;
  - e. rural property roads have passing bays every 200m that are 20m long by 2m wide, making a minimum trafficable width of 6m, at the passing bay;
  - f. a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;
  - g. property access must provide a suitable turning area in accordance with Appendix 3;
  - h. curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;
  - i. the minimum distance between inner and outer curves is 6m;
  - j. the cross fall is not more than 10 degrees; and
  - k. maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

Note: Some short constrictions in the access may be accepted where they are not less than 3.5m wide, extend for no more than 30m and where the obstruction cannot be reasonably avoided or removed.

#### **Water and Utility Services**

***The intent of measures is to provide adequate services of water for the protection of dwellings 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 dwelling.***

4. The provision of new water services must comply with the following in accordance with Table 6.8c of Planning for Bush Fire Protection 2019:
- a. a 10,000 litres minimum static water supply for firefighting purposes is provided for each occupied tourist accommodation cabin, this may be provided by one or multiple tanks;
  - b. an outlet for firefighting purposes is located within the IPA or non-hazard side and away from the structure;
  - c. 65mm Storz connection with a ball valve is fitted to the outlet;



- d. the ball valve, pipes and tank penetration are adequate for the full 50mm inner diameter water flow through the Storz fitting and are constructed of a metal material;
  - e. underground tanks have an access hole of 200mm to allow tankers to refill, direct from the tank;
  - f. a hardened ground surface for truck access is supplied within 4m of the water outlet or access hole;
  - g. above-ground tanks are manufactured from concrete or metal;
  - h. raised tanks have their stands constructed from non-combustible material or bush fire-resisting timber. The bush fire-resisting timbers are Silvertop Ash, Blackbutt, Red or River Gum, Spotted Gum, Red Ironbark, Kwila (Merbau) or Turpentine;
  - i. unobstructed access can be provided at all times;
  - j. underground tanks are clearly marked;
  - k. tanks on the hazard side of a dwelling are provided with adequate shielding for the protection of firefighters;
  - l. all exposed water pipes external to the dwelling are metal, including any fittings;
  - m. where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack;
  - n. any hose and reel for firefighting connected to the pump shall be 19mm internal diameter;
  - o. fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005;
  - p. a Static Water Supply (SWS) sign shall be obtained from the local NSW Rural Fire Service (RFS) and positioned for ease of identification by RFS personnel and other users of the SWS. In this regard:
    - i. Markers must be fixed in a suitable location to be highly visible; and
    - ii. Markers should be positioned adjacent to the most appropriate access for the water supply.
5. The provision of new electrical services must comply with the following in accordance with Table 6.8c of Planning for Bush Fire Protection 2019:
- a. where practicable, electrical transmission lines are underground;
  - b. where overhead, electrical transmission lines are proposed as follow:
    - i. lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
    - ii. no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.
6. The provision of gas services must comply with the following in accordance with Table 6.8c of Planning for Bush Fire Protection 2019:
- a. reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;
  - b. all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
  - c. connections to and from gas cylinders are metal;
  - d. if gas cylinders need to be kept close to the dwelling, safety valves are directed away from the dwelling and at least 2m away from any combustible material, so they do not act as a catalyst to combustion;
  - e. polymer-sheathed flexible gas supply lines to gas meters adjacent to dwellings are not to be used; and
  - f. above-ground gas service pipes external to the dwelling are metal, including and up to any outlets.

#### **Emergency and Evacuation Planning Assessment**

***The intent of measures is to provide suitable emergency and evacuation arrangements for occupants of Special Fire Protection Purpose developments.***

8. A Bush Fire Emergency Management and Evacuation Plan must comply with the following requirements of Table 6.8d of 'Planning for Bush Fire Protection 2019':
- a. Bush Fire Emergency Management and Evacuation Plan is prepared consistent with the applicable document(s) as follows:
    - i. The NSW RFS document: A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan;
    - ii. Australian Standard AS 3745:2010 Planning for emergencies in facilities; and

- iii. Australian Standard AS 4083:2010 Planning for emergencies – Health care facilities (where applicable).
- b. the Bush Fire Emergency Management and Evacuation Plan should include planning for the early relocation of occupants;
- c. an Emergency Planning Committee is established to consult with residents (and their families in the case of aged care accommodation and schools) and staff in developing and implementing an Emergency Procedures Manual; and
- d. detailed plans of all emergency assembly areas including on-site and off-site arrangements as stated in AS 3745:2010 are clearly displayed, and an annual emergency evacuation is conducted.

Note: A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information prior to the occupation of the development.

**General Advice – Consent Authority to Note**

The assessment has relied on the referred documents identified below.

- The plan titled 'Detailed Site Plan (Northern Inset)' prepared by Engineered Project Solutions, reference 22001, revision P4 dated 2 November 2022.
- The plan titled 'Dwelling and Cabin Driveway Plan' prepared by SDS Civil Enterprises, drawing number Civ-100, revision A dated November 2022.
- The plan titled 'Cabin Driveway Access and Templates' prepared by SDS Civil Enterprises, drawing number Civ-101, revision A dated November 2022.
- The plan titled 'Dwelling Access Driveway Longsection' prepared by SDS Civil Enterprises, drawing number Civ-102, revision A dated November 2022.
- Bush Fire Report prepared Sustainable Home Solutions dated 28 October 2022.

For any queries regarding this correspondence, please contact Wayne Sketchley on 1300 NSW RFS.

Yours sincerely,

Allyn Purkiss  
**Manager Planning & Environment Services**  
**Built & Natural Environment**





NSW RURAL FIRE SERVICE

# BUSH FIRE SAFETY AUTHORITY

SFPP – Other Tourist Accommodation  
18 ALIDENES ROAD WILSONS CREEK 2482, 14//DP755722, 3//DP115913  
RFS Reference: DA20221129011988-Original-1  
Your Reference: (CNR-48924) 10.2022.509.1

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*.

**Allyn Purkiss**

Manager Planning & Environment Services  
Built & Natural Environment

Friday 17 February 2023

## 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 2021 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

### 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.

### 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).

### **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](http://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.