



BSC File No: 186030D x 10.2023.243.3/#A2024/40196  
Contact: Gregory Smith

## NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

<b>Application No.</b>	10.2023.243.3 PAN-453786
<b>Applicant</b>	Balanced Systems Planning Consultants
<b>Property</b>	20 Bilin Road MYOCUM LOT: 13 DP: 830652
<b>Development</b>	Modification to Conditions 7 and 28 of the Consent relating to Fibre-ready Facilities and Telecommunications Infrastructure for the Approved Subdivision Two (2) Lots
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	5 August 2024

*Under of the EP&A Act, notice is given that the above application to modify original has been approved, subject to the conditions specified in this notice and as described in the Modification Summary*

### Reason for approval

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 28 days from the date that you received this notice provided that an appeal under section 8.9 of the EP&A Act has not been disposed of by the Court.

### Rights to appeal

You have a right under section 8.9 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

Gregory Smith  
Team Leader Planning Services, Residential and Subdivision

## Schedule 1 – Modification Summary

### MODIFIED CONDITIONS OF CONSENT:

#### A. Modify conditions 7 and 28 of the Notice of Determination to read as follows:

##### 7. **Fibre-ready Facilities and Telecommunications Infrastructure**

Unless exempted from Part 20A of the Telecommunications Act 1997, evidence satisfactory to the Certifying Authority must be submitted prior to the issue of the Subdivision Works Certificate in connection with a development, that the developer (whether or not a constitutional corporation) has made arrangements for:

- (i) 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
- (ii) 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.

Notes:

- a) real estate development project has the meanings given in section 372Q of the Telecommunications Act; and
- b) exemptions only apply if published on the Register of developments exempted from Part 20A of the Telecommunications Act 1997 issued by the NSW Government Department of Infrastructure, Transport, Regional Development, Communications and the Arts, or similar.

##### 28. **Fibre-ready Facilities and Telecommunications Infrastructure**

Unless exempted from Part 20A of the Telecommunications Act 1997, evidence satisfactory to the Certifying Authority must be submitted prior to the issue of the Subdivision Certificate in connection with a development, that the developer (whether or not a constitutional corporation) has made arrangements for:

- i) 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
- ii) 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.

If an exemption has been granted, then the plan of subdivision must include a public positive covenant with terms similar to the following:

*“No fixed line telephone service is available to the lot burdened. The lot burdened is outside the NBN fixed line footprint area and is eligible to receive NBN fixed wireless or satellite technology. The owner of the lot burdened is responsible to make arrangements for telecommunications and is responsible for any costs associated with the connection.”*

Notes:

- a) real estate development project has the meanings given in section 372Q of the Telecommunications Act; and

- b) exemptions only apply if published on the Register of developments exempted from Part 20A of the Telecommunications Act 1997 issued by the NSW Government Department of Infrastructure, Transport, Regional Development, Communications and the Arts, or similar.

### **STATEMENT OF REASONS**

*Council is 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.*

<b>Statement of Reasons</b>
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The modifications are minor and the development as modified is substantially the same as the originally approved development, with no significantly detrimental environmental impacts.
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<b>How community views were addressed</b>
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The application did not require public exhibition in accordance with the Community Participation Plan.
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**Schedule 2 - Conditions of Consent**

BSC File No: 186030D x 10.2023.243.1/#A2023/54634 Contact: Benjamin Grant

**NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

<b>Application No.</b>	10.2023.243.1 PAN-344602
<b>Applicant</b>	Balanced Systems Planning Consultants
<b>Property</b>	20 Bilin Road MYOCUM LOT: 13 DP: 830652
<b>Development</b>	Subdivision Two (2) Lots
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	9 November 2023
<b>Date from which the consent operates</b>	9 November 2023
<b>Date on which the consent lapses</b>	9 November 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**

Gregory Smith  
Team Leader Planning Services, Residential and Subdivision

## CONDITIONS OF CONSENT

### SCHEDULE 1. CONDITIONS OF CONSENT

#### Parameters of consent

**1. Development is to be in accordance with approved plans**

The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
Illustration 5	Subdivision Layout	Balanced Systems	Apr 2023
GC23002-DW02 Issue A	Site Plan	Garth Cook & Associates	23/07/23
GC22001-DW03 Issue B	Driveway Plan 1	Garth Cook & Associates	18/08/23
GC22001-DW04 Issue A	Driveway Plan 2	Garth Cook & Associates	18/08/23
GC23002-DW08 Issue A	Driveway Long Section Plan 4 & Typical Sections	Garth Cook & Associates	18/08/23
	Tree Removal and Retention Plan	Balanced Systems	October 2023
	TfNSW Typical Rural Property Access - Northern Region – Version 2	TfNSW	19/05/23

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

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

**2. Integrated Approvals from other 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 dated 28 August 2023 contained in **Schedule 4** of this Notice of Determination.

### 3. Limited tree removal

This development consent does not permit the removal of any vegetation except for trees identified for removal on the approved tree removal and retention plan, by Balanced Systems, dated 23 October 2023.

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

### 4. Consent required for Works within 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 TfNSW standard drawing, Council's current Design & Construction Manuals and are to provide for the following works:

#### Driveway upgrade

The existing driveway in Bilin Rd must be upgraded in accordance with a Type 1 driveway in TfNSW typical rural property access standard drawing version 2 dated 19/05/2020 including any necessary relocation of services across the frontage of the subdivision.

### 5. Engineering Construction Plans

Engineering construction plans and specifications must accompany the Subdivision Works Certificate application demonstrating compliance with Council's standards for the required engineering works.

Each set of drawings must be accompanied by a Certification Report which must be signed by a suitably qualified Civil Engineer or Registered Surveyor. The Certification Report will comprise the certificate and check lists set out in Annexure DQS-A of the [Northern Rivers Local Government Development & Design Manuals](#).

The information shown on the drawings must be logically collected on discrete sheets generally in accordance with Annexure DQS-B and the Sample Drawings of the Northern Rivers Local Government Development & Designs. The drawings are to provide for the following works :

#### a) Internal Driveway in accordance with the approved drawing

Plans are to include, but not be limited to, the following items:

- The existing sealed section of the right of carriageway (DP 830652) shown in the detailed survey by Ken Chelworth dated 30 Nov 2022 must be reconstructed and resealed to provide a minimum width of 4.0m;
- provision of a sealed transition (fork arrangement similar to Driveway 1A & Driveway 2) between lot 12 and the ROW for Lot A & B
- minimum 150mm compacted pavement, sealed for grades greater than 12%;
- 4.0m width minimum;
- site conditions affecting the access;
- existing and design levels;
- longitudinal and cross sections;
- drainage details; and
- access requirements of any bushfire safety authority.

**b) Service Conduits**

Service conduits to each of the proposed new allotments laid in strict accordance with the service authorities' requirements.

**6. Erosion and Sedimentation Control Plan**

The plans and specifications to accompany the Subdivision Works Certificate application are to include a sediment and erosion control plan to indicate the measures to be employed to control erosion and loss of sediment from the site. The sediment and erosion control plan is to be designed in accordance with the requirements of the *NSW Department of Housing Manual (1989), Managing Urban Stormwater, Soils and Construction*.

A suitably experienced person must prepare the sediment and erosion control plan. Suitably experienced people include those certified by:

- The Institution of Engineers, Australia, for engineering and hydrology matters.
- The International Erosion Control Association for soil conservation matters.
- The Australian Society of Soil Science for collection or analysis of soil data.

The plan must incorporate (without being limited to) information on general site management, material handling practices, soil stabilisation, water control, sediment control, wind erosion control and access measures.

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

Unless exempted from Part 20A of the Telecommunications Act 1997, evidence satisfactory to the Certifying Authority must be submitted prior to the issue of the Subdivision Works Certificate in connection with a development, that the developer (whether or not a constitutional corporation) has made arrangements for:

- (i) 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
- (ii) 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.

Notes:

- a) real estate development project has the meanings given in section 372Q of the Telecommunications Act; and
- b) exemptions only apply if published on the Register of developments exempted from Part 20A of the Telecommunications Act 1997 issued by the NSW Government Department of Infrastructure, Transport, Regional Development, Communications and the Arts, or similar.

**8. Tree Removal**

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

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

**9. Subdivision Work**

Subdivision work in accordance with the development consent must not be commenced until a Subdivision Works Certificate has been issued, a principal certifying authority has been appointed and at least 2 days' written notice for the intention to commence works has been made, in accordance with the requirements of the Environmental Planning and Assessment Act and Regulations. The written notice for the intention to commence works must also include names and contact details of the certifying engineer and principal contractor.

**Note. Subdivision work means any physical activity authorised to be carried out under the conditions of this development consent for the subdivision of land, including earthwork, road work, stormwater drainage work, landscaping work, tree/vegetation removal, erosion and sediment control, traffic control, etc.**

**10. Erosion and sediment measures**

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

No soil or fill material is to be placed within the dripline of a tree so as to cause changes in surface level by more than 50mm from the existing level and such soil is not to be compacted. Such soil fill must not be finer than that being covered in situ, e.g. clay must not be placed over loam soil.

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

**The following conditions are to be complied with during construction of subdivision works**

**11. Construction noise**

Construction noise is to be limited as follows:

- a) For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b) For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

**12. Construction times**

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:

- a) Monday to Friday, from 7 am to 6 pm.
- b) Saturday, from 8 am to 1 pm.

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

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

**13. Public safety requirements**

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. Council is not held responsible for any negligence caused by the undertaking of the works.

**14. Council Specification**

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

**15. 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.

**16. Aboriginal Relics**

If any Aboriginal archaeological relics or items are exposed during construction works, the Applicant shall:

- a. immediately cease works;
- b. notify the NSW National Parks and Wildlife Service (NPWS);
- c. obtain any necessary permits and/or approvals to continue the work under the National Parks and Wildlife Act 1974.

The Applicant shall comply with any further request made by the NPWS to cease work for the purposes of archaeological assessment and recording.

**17. Protection of Native Trees**

All trees nominated to be retained by notation or condition as a requirement of the development consent shall be maintained and protected during demolition, excavation and construction on the site in accordance with AS 4970-2009 – Protection of Trees on Development Sites.

**18. Protection of native fauna from disturbance**

Tree removal must not commence until the trees identified for removal have been inspected for the presence of native fauna including koalas and approval given in writing by a suitably qualified professional.

The suitable qualified person, or a nominated representative, must remain on site during any approved clearing of vegetation. Approval to proceed with the clearing of vegetation in accordance with this section is only valid for the day on which the inspection has been undertaken.

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

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

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

**20. Developer Contributions to be paid**

Contributions set out in the schedule at the end of this consent are to be paid to Council prior to the issue of a subdivision certificate. Contributions are levied in accordance with the Byron Shire Developer Contributions Plan 2012 (as amended).

The [Developer Contribution Plan](#) can be viewed online or using the Customer Kiosk 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).

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.

Contact Council for payment options.

**21. Plan of Subdivision**

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

**22. Street addressing**

In accordance with clause 60(c) of the Surveying and Spatial Information Regulation 2017 the Plan of Subdivision (Deposited Plan) shall show the approved street address for each lot in the final plan of subdivision. The street addressing for this property must be approved by Council. A written request seeking approval of street addresses is to be submitted to Council's Land Information Officer ([planning.certificates@byron.nsw.gov.au](mailto:planning.certificates@byron.nsw.gov.au)) with a copy of the final plan of subdivision showing driveway access to each lot from the public road servicing the lots.

Prior to issue of the subdivision certificate, the approved street number must be displayed in a prominent location near the approved driveway access for each lot with an existing dwelling/building approved for separate occupation.

**23. Section 88B Instrument**

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

**a) Rights of Carriageway**

The creation of suitable rights of carriageway over the access handle(s) of existing and proposed Lot(s).

**b) Easement for Services**

The creation of suitable easements for services to the existing (if required) and proposed lots of the development.

**c) Easement for Electricity**

The creation of any necessary easements for electricity purposes as required by the electricity supply authority for the existing (if required) and proposed lots of the development.

**24. Completion of All Works**

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

**25. Certificates for engineering works**

The submission of all test certificates, owners manuals, warranties and operating instructions for civil works, together with a certificate from a suitably qualified engineer certifying that all works have been constructed in accordance with the approved plans and Council's current "Northern Rivers Local Government Design and Construction Manuals and Specifications".

**26. Certificate for services within easements**

The submission of a certificate from a registered surveyor certifying that all pipelines, structures, access driveways and/or services are located wholly within the relevant easements.

**27. Electricity Supply Certificate**

Prior to the issue of the Subdivision Certificate, a Notice of Arrangement (NOA) requested from the Distribution Network Service Provider, currently Essential Energy, must be submitted to the Principal Certifying Authority. The NOA must confirm that satisfactory electricity supply has been provided to each of the proposed lots and all necessary street lighting has been energised for the development.

**Note:** Requests for a NOA are to be made to the Contestable Works section at Essential Energy.

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

Unless exempted from Part 20A of the Telecommunications Act 1997, evidence satisfactory to the Certifying Authority must be submitted prior to the issue of the Subdivision Certificate in connection with a development, that the developer (whether or not a constitutional corporation) has made arrangements for:

- i) 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
- ii) 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.

If an exemption has been granted, then the plan of subdivision must include a public positive covenant with terms similar to the following:

*“No fixed line telephone service is available to the lot burdened. The lot burdened is outside the NBN fixed line footprint area and is eligible to receive NBN fixed wireless or satellite technology. The owner of the lot burdened is responsible to make arrangements for telecommunications and is responsible for any costs associated with the connection.”*

Notes:

- a) real estate development project has the meanings given in section 372Q of the Telecommunications Act; and
- b) exemptions only apply if published on the Register of developments exempted from Part 20A of the Telecommunications Act 1997 issued by the NSW Government Department of Infrastructure, Transport, Regional Development, Communications and the Arts, or similar.

**29. Geotechnical Report (Lot Classification)**

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

**30. Compliance with bushfire conditions**

Documentary evidence from a suitably qualified professional is to be submitted demonstrating that the bush fire conditions of this Notice of Determination have been complied with.

**The following conditions must be complied with at all times**

**31. Retention of certain native trees within asset protection zone**

All native vegetation identified for retention on the approved tree removal and retention plan by Balanced Systems dated 23 October 2023, including trees within the designated asset protection zone, must be retained at all times.

**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. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

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

#### **Statement of Reasons**

The proposed development complies with the provisions of Byron Local Environmental Plan 2014.

The proposed development complies with relevant State Environmental Planning Policies

The proposed development complies with relevant provisions of Development Control Plan 2014

The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.

The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.

The proposed development is considered suitable for the proposed site.

The development application was notified/advertised in accordance with Council's Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application.

The proposed development is unlikely to prejudice or compromise the public interest.

#### **How community views were addressed**

The DA was notified/advertised in accordance with Council's Community Participation Plan. No submissions were received.

# SCHEDULE 4. NSW RURAL FIRE SERVICE CONDITIONS



## NSW RURAL FIRE SERVICE

Byron Shire Council  
PO Box 219  
MULLUMBIMBY NSW 2482

Your reference: (CNR-58767) 10.2023.243.1  
Our reference: DA20230811003546-Original-1

**ATTENTION:** Ben Grant

Date: Monday 28 August 2023

Dear Sir/Madam,

**Integrated Development Application**  
**s100B - Subdivision - Torrens Title Subdivision**  
**20 BILIN ROAD MYOCUM 2481, 13//DP830652**

I refer to your correspondence dated 21/08/2023 seeking general terms of approval for the above Integrated Development Application.

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

### Asset Protection Zones

*The intent of measure is 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.*

1. At the issue of a subdivision certificate, and in perpetuity, the site around the existing building on Lot A and proposed Lot B must be maintained as an inner protection area in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019* as follows:

- Existing dwelling - north, west and east for a distance of 12 metres each; south and south west for a distance of 31metres; and
- New dwelling- north for a distance of 20 metres, east and south 11m each and west 11m or to the boundary whichever is lesser.

When establishing and maintaining an inner protection area, 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 the shrubs layer should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;

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#### 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)

- 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 100mm in height); and
- leaves and vegetation debris should be removed regularly.

#### **Construction Standards**

***The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

**2(a).** The existing dwelling 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 2mm. Where applicable, this includes any subfloor areas, openable windows, vents, weep holes and eaves. External doors are to be fitted with draft excluders.

**2(b).** New construction must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 *Construction of buildings 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 – Property Access**

***The intent of measure is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.***

**3(a).** Property access roads must comply with the general requirements of Table 5.3b of *Planning for Bush Fire Protection 2019* and the following:

- property access roads are two-wheel drive, all-weather roads;
- access driveway shall be upgraded to a minimum 4m carriageway width;
- in forest, woodland and heath situations, rural property access roads have passing bays every 200m that are 20m long by 2m wide, making a minimum trafficable width of 6m at the passing bay;
- a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;
- provide a suitable turning area in accordance with Appendix 3;
- curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;
- the minimum distance between inner and outer curves is 6m;
- the crossfall is not more than 10 degrees;
- maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads; and
- a development comprising more than three dwellings has access by dedication of a road and not by right of way.

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. The gradients applicable to public roads also apply to community style development property access roads in addition to the above.

**3(b).** At the issue of a subdivision certificate a restriction to the land use pursuant to section 88B of the *Conveyancing Act 1919*, a reciprocal right of carriageway is to be carried out by undertaking a new 'right of carriageway' easement, which is to be created and registered benefiting both new allotments. The proposed new reciprocal 'right of carriageway' easement over currently Lot 13 land, is to provide driveway access for both Proposed Lot A and Proposed Lot B to Bilin Road. The name of authority empowered to release, vary, or modify any instrument must be Council.

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

**The intent of measure is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.**

4. The provision of water, electricity and gas must comply with the following in accordance with Table 5.3c of *Planning for Bush Fire Protection 2019*:

- a 20,000 litre static water supply, tank, pool, dam or the like, must be provided on-site for existing and new dwelling each if already not existing,
- an outlet for firefighting purposes is located within the IPA or non-hazard side and away from the structure
- 65mm Storz connection with a ball valve is fitted to the outlet,
- 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,
- underground tanks have an access hole of 200mm to allow tankers to refill, direct from the tank,
- a hardened ground surface for truck access is supplied within 4m of the water outlet or access hole,
- new above-ground tanks are manufactured from concrete or metal,
- 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,
- unobstructed access can be provided at all times,
- underground tanks are clearly marked,
- tanks on the hazard side of a building are provided with adequate shielding for the protection of firefighters,
- all exposed water pipes external to the building are metal, including any fittings,
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack,
- any hose and reel for firefighting connected to the pump must be 19mm internal diameter,
- fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005,
- A Static Water Supply (SWS) sign must 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:
  - Markers must be fixed in a suitable location to be highly visible, and
  - Markers should be positioned adjacent to the most appropriate access for the water supply.
- all exposed water pipes external to the building are metal, including any fittings;
- where pumps are provided, they are a minimum 5hp or 3kW petrol or diesel-powered pump, and are shielded against bush fire attack; any hose and reel for firefighting connected to the pump must be 19mm internal diameter;
- fire hose reels are constructed in accordance with AS/NZS 1221:1997, and installed in accordance with the relevant clauses of AS 2441:2005;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
  - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
  - 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*.
- 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;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
  - connections to and from gas cylinders are metal;
- polymer-sheathed flexible gas supply lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

## Landscaping Assessment

***The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

5. Landscaping within the required asset protection zone must comply with Appendix 4 of *Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- Planting is limited in the immediate vicinity of the building;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

**General Advice – Consent Authority to Note**

The recommendations are based on the Survey Plan prepared by Ken Chelworth Surveyors Pty Ltd and Bushfire report by Balanced Systems Planning Consultants Pty Ltd, dated May 2023.

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

For any queries regarding this correspondence, please contact Khatera Tokhi on 1300 NSW RFS.

Yours sincerely,

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



NSW RURAL FIRE SERVICE

# BUSH FIRE SAFETY AUTHORITY

Subdivision - Torrens Title Subdivision  
20 BILIN ROAD MYOCUM 2481, 13//DP830652  
RFS Reference: DA20230811003546-Original-1  
Your Reference: (CNR-58767) 10.2023.243.1

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

Monday 28 August 2023

**SCHEDULE 5. NOTES**

**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.**

<b>Section 7.11 contributions Schedule</b>						
<b>Rural North</b>						
<b>Catchment</b>						
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
Allotments =		2	@	1	=	2
Less Site Credits =		1	@	-1	=	-1
<b>Total SDU</b>					=	<b>1</b>
		No further indexation. Contributions are at the Ministerial cap.				
Local Open Space & Recreation	(OS-RN)	1.00	SDU @	\$ -	=	\$ -
LGA Wide Open Space & Recreation	(OS-SW)	1.00	SDU @	\$ 828.74	=	\$ 828.74
LGA wide Community Facilities	(CF-SW)	1.00	SDU @	\$ 1,213.78	=	\$ 1,213.78
Local Community Facilities	(CF-RN)	1.00	SDU @	\$ -	=	\$ -
Bikeways & Footpaths	#NA	1.00	SDU @	\$ -	=	\$ -
Shire Wide Bikeways & Footpaths	(CW-SW)	1.00	SDU @	\$ 89.03	=	\$ 89.03
Urban Roads	#NA	1.00	SDU @	\$ -	=	\$ -
LGA Wide Roads	(R-SW)	1.00	SDU @	\$ 250.77	=	\$ 250.77
Rural Roads	(R-RN)	1.00	SDU @	\$ 16,364.15	=	\$ 16,364.15
Administration Levy	(OF-SW)	1.00	SDU @	\$ 1,253.54	=	\$ 1,253.54
<b>Total</b>						<b>\$ 20,000.00</b>

**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.

## **General Advisory Notes**

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the Conditions of development consent: advisory notes. The consent should be read together with the Conditions of development consent: advisory notes to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the conditions of this consent.