



BSC File No: 270021D x 10.2022.271.4/#A2024/31963  
Contact: Stephen Jones

## NOTICE OF DETERMINATION FOR MODIFICATION OF DEVELOPMENT CONSENT

<b>Application No.</b>	10.2022.271.4 PAN-441977
<b>Applicant</b>	Mr M P Douglas
<b>Property</b>	180 Flowers Road BINNA BURRA LOT: 3 DP: 1259194
<b>Development</b>	S4.55 to modify consent for Subdivision Two (2) Lots, including removing conditions requiring fibre-ready facilities and telecommunications infrastructure facilities to all individual lots
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	25 June 2024

*Under of the EP&A Act, notice is given that the above application to modify previous 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

Stephen Jones  
Planner

**MODIFIED CONDITIONS OF CONSENT:**

**A. Modify condition 8 and 29 of the Notice of Determination to read as follows**

**8. 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. 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.

### 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.*

Statement of Reasons	
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S.4.55	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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How community views were addressed	
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1	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: 270021D x 10.2022.271.1/#A2023/5559  
Contact: Oli McIntosh

### NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

<b>Application No.</b>	Development Application No. 10.2022.271.1
<b>Applicant</b>	Mr M P Douglas
<b>Property</b>	180 Flowers Road BINNA BURRA LOT: 3 DP: 1259194
<b>Development</b>	Subdivision Two (2) Lots
<b>Determination</b>	Approved Consent Authority - Council
<b>Date of determination</b>	7 February 2023
<b>Date from which the consent operates</b>	8 February 2023
<b>Date on which the consent lapses</b>	8 February 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



Stephen Jones  
Planner

## 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:
19270	Proposed Subdivision (Existing Structures)	Greg Alderson & Associates	1/2/22
19270_LUCRA	Land Use Conflict Risk Assessment	Greg Alderson & Associates	November 2022

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

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

**2. Conditions prescribed by the Regulation**

This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in **Schedule 2** of this consent.

**3. Integrated Approvals from other State Government Approval Bodies**

This development consent includes an Integrated development approval under Sections 4.46 and 4.47 of the Environmental Planning and Assessment Act 1979, being *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 the Rural Fire Service dated 16 February 2021 contained in **Schedule 3** of this Notice of Determination.

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

**4. 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) Full Width Road Construction**

Flowers Road to be extended to the full frontage of the proposed lot 1 & 2 of the development. Full width road and drainage construction for the following but not limited to:

- 4.0m wide gravel carriageway
- Passing bays at 200m spacing in accordance with NSW Planning for Bushfire Requirement 2019
- 300mm pavement minimum
- Sealing provided for carriageway with grades 12% or greater
- Table drains and
- Turn area treatment at the end of the road

**b) Driveways**

All existing driveways accessing the new road must be upgraded in accordance with the current council standard

**c) Service Conduits**

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

**5. 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.

**6. Traffic Control Plan**

The plans and specifications to accompany the Subdivision Works Certificate application are to include a traffic control plan to indicate the measures to be employed to control traffic during construction of the subdivision. The traffic control plan is to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual (1998), *Traffic Control at Work Sites*, and Australian Standard 1742.3 - 1985, *Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'*.

The traffic control plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

**7. Long Service Levy to be paid**

In accordance with Section 6.14 of the Environmental Planning and Assessment Act 1979 (as amended), a Subdivision Works Certificate 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.

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 Subdivision Works Certificate application.

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

**8. 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.

**9. Water Management Act 2000**

If a controlled activity approval under the *Water Management Act 2000* is required to be obtained for the proposed works within and adjacent to existing watercourses it must be obtained and a copy of the approval submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.

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

**10. 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.**

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

**11. 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 Sundays or public holidays.

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

**12. Construction Noise**

Construction noise is to be limited as follows:

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

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

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

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

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

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

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

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

**17. 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.**

**18. 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.

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

All wastes, including asbestos and lead-contaminated wastes, associated with these works are to be handled and disposed of in accordance with the requirements of the Work Cover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Wastes must be disposed of at a Licenced Waste Facility. All wastes removed from the site must be managed and disposed of in accordance with the [NSW DECC Waste Classification Guidelines \(2008\)](#).

**20. 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.

**21. 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 issue of a Subdivision Certificate**

**22. Subdivision Certificate application required**

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

**23. 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.

**24. 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.

**25. Completion of All Works**

All subdivision works required by this development 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.

**26. Certificates for engineering works**

The submission of all test certificates, owners manuals, warranties and operating instructions for civil works, mechanical and/or electrical plant, 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".

**27. Works-As-Executed Plans**

Following completion of works and prior to issue of the subdivision certificate, Work-as-Executed Drawings, together with a Work-As-Executed Certification Report, in accordance with Council's requirements are to be submitted to Council. Two categories of Work-as-Executed Drawings are to be submitted to Council, being

**Amended Design Work-as-Executed Drawings** and **Summary Work-as-Executed Drawings**.

**Amended Design Work-as-Executed Drawings**, being certified copies of all approved design plans with as constructed departures, deletions and additions clearly noted and detailed on the plans, are to be submitted to Council in the following formats:-

- a) One (1) paper copy at the same scale and format as the approved design plans, but, marked appropriately for as constructed information and with original signatures; and

- b) An electronic copy of above in PDF format and provided to Council on CD, DVD or via email.

**Summary Work-as-Executed Drawings** are to be prepared on a background plan of lot layout and kerb lines with a set of separate plans for stormwater drainage, sewerage, water supply and site works. The site works drawing/s must include the 1 in 100 year flood and flood planning level extents and levels, where relevant. Such drawings are to be submitted to Council in the following formats:-

- c) One (1) paper copy of each drawing with original signatures and in accordance with Council's requirements.
- d) Electronic copy of the above in AutoCAD DWG or DXF format and provided to Council on CD, DVD or via email. The AutoCAD (DWG or DXF) files are to be spatially referenced to MGA Zone 56.
- e) Electronic copy of above in PDF format and provided to Council on CD, DVD or via email.

Note: Council's requirements are detailed in Council's adopted engineering specifications, currently the [Northern Rivers Local Government Development Design and Construction Manuals](#), and on Council's website.

## **28. 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.

## **29. 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.

**30. 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.

**31. Maintenance Bond**

A maintenance bond of 5% (**minimum bond amount of \$1,000.00**) of the value of the works constructed is to be lodged with Council. A copy of the contract construction cost of the subdivision works is to be submitted with the bond. The maintenance period is 6 months in accordance with Council's current Design & Construction Manuals and will commence from the date of issue of the **Subdivision Certificate**. The security may be provided, at the applicant's choice, by way of cash bond or a satisfactory bank guarantee. An application in writing for the release of the bond must be made at the satisfactory completion of the maintenance period.

**32. Record of Infrastructure**

A record of infrastructure coming into Council ownership, upon registration of the final plan of subdivision, is to be submitted to Council. The information is to be submitted in the form of Council's Standard Form titled "Asset Creation Record". This form is available from Council's Local Approvals Section.

**33. 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.

**34. Developer Contributions to be paid**

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

The contributions as set out in the schedule may either be paid in full or they may be paid in stages on a proportional basis dependent on the number of lots to be released in the subdivision certificate. The first credit for a site will be retained on the residual lot. Any additional credits over one (1) will be allocated at the first stage(s).

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.

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

**35. No native vegetation removal**

This development consent does not authorize any native tree to be ringbarked, cut down, lopped, removed or damaged, or caused to be ringbarked, cut down, lopped, removed or damaged in contravention of Byron Development Control Plan 2014 and Development Control Plan 2010 as applicable to the land.

**36. Boundary fence**

A low impact fence is permitted to be constructed along the approved boundaries. Such fence must:

- Not require the removal of any native vegetation;
- Not impede the movement of native fauna through the property;
- Have a minimum 50cm gap between the ground level and the first rail or strand; and
- Not include gaps of less than 50cm between rails or strands.

**37. Vegetation Buffer Management Plan**

The existing mixed rainforest plantings adjacent to the southern boundary of proposed Lot 2 is to be maintained in perpetuity as a vegetative buffer that meets the requirements of the Planning Guidelines for Separating Agricultural and Residential Land Uses published by the Queensland Department of Natural Resource (DNR 1997), as set out in the approved LUCRA by Greg Alderson & Associates, dated November 2022.

**SCHEDULE 2. PRESCRIBED CONDITIONS**

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

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

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

## SCHEDULE 3. NSW RURAL FIRE SERVICE CONDITIONS



### NSW RURAL FIRE SERVICE

Byron Shire Council  
PO Box 219  
MULLUMBIMBY NSW 2482

Your reference: (CNR-41717) 10.2022.271.1  
Our reference: DA20220628008852-Original-1

**ATTENTION:** Steve Denize

Date: Thursday 17 November 2022

Dear Sir/Madam,

**Integrated Development Application**  
**s100B – Subdivision – Subdivision**  
**180 FLOWERS ROAD BINNA BURRA 2479, 3//DP1259194**

I refer to your correspondence dated 30/06/2022 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: 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 subdivision certificate and in perpetuity the property around the existing dwelling on proposed lot 1 shall be managed to a distance of 20 metres or to the boundary where insufficient, as an Inner Protection Area (IPA) as outlined within Appendix 4 of Planning for Bush Fire Protection 2019.

When establishing and maintaining an IPA, 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. large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings,
- g. shrubs should not be located under trees,
- 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,

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

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NSW Rural Fire Service  
Locked Bag 17  
GRANVILLE NSW 2142

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)



- j. grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height), and
- k. leaves and vegetation debris should be removed.

#### **Access – Public Roads**

***Intent of measures: to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.***

2. The public access to the proposed lots (Flowers Road) must have a turning area compliant with Appendix 3 of PBP, 2019 located at its terminus.

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

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

3. The existing dwelling on proposed lot 1 is to have a water tank with the following:
- a. a connection for firefighting purposes located within the IPA or non-hazard side and away from the structure;
  - b. a connection of a 65mm Storz fitting with a ball valve fitted to the outlet of the tank;
  - c. the ball valve and pipes have the same bore size as the Storz fitting to ensure flow volume and are metal; and
  - d. unobstructed access is to be provided at all times.

Note: An existing tank may be retrofitted to meet these requirements.

4. Any new, or modification to existing electricity and gas supplies required in order to service the proposed subdivision must comply with the following in accordance with Table 5.3c of Planning for Bush Fire Protection 2019:
- a. where practicable, electrical transmission lines are underground;
  - b. where overhead, electrical transmission lines are proposed as follows:
    - 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.
  - c. reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 - The storage and handling of LP Gas, the requirements of relevant authorities, and metal piping is used;
  - d. all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
  - e. connections to and from gas cylinders are metal; polymer-sheathed flexible gas supply lines are not used; and
  - f. above-ground gas service pipes are metal, including and up to any outlets.

#### **General Advice – Consent Authority to Note**

1. This Bush Fire Safety Authority is based on the plan titled 'Proposed Lot Layout' Drawing Number: 19270 - Subdivision 2022.dwg Revision 2 prepared by Greg Alderson & Associates dated 13/4/22.
2. Both the Bushfire Assessment and Statement of Environmental Effects provided with this application state that revegetation works are occurring on the site. Council and the applicant should ensure that these works do not impede the ability for the existing dwelling on proposed lot 1 to maintain the IPA outlined in this Bush Fire Safety Authority or for proposed lot 2 to maintain a suitable location for a future dwelling to be constructed to BAL 29 or below.
3. Council should be satisfied that the existing public access to the proposed lots is of a suitable standard to facilitate access / egress in the event of a bush fire.

For any queries regarding this correspondence, please contact Katrina Lindsay on 1300 NSW RFS.

Yours sincerely,

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





NSW RURAL FIRE SERVICE

# BUSH FIRE SAFETY AUTHORITY

Subdivision – Subdivision

180 FLOWERS ROAD BINNA BURRA 2479, 3//DP1259194

RFS Reference: DA20220628008852-Original-1

Your Reference: (CNR-41717) 10.2022.271.1

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

Thursday 17 November 2022

## 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.

### How community views were addressed

The DA was advertised in accordance with Council's Community Participation Plan. The submissions received were considered on merit and addressed during assessment of the application.

To view the considerations, please contact Council to view a copy of the assessment report relating to this DA.

## SCHEDULE 5. NOTES

### 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.

### Relics Provisions- Advice

Attention is directed to the NSW Heritage Act 1977 and the provisions of the Act in relation to the exposure of relics. The Act requires that if:

- a) a relic is suspected, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation; and/or
- b) any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation;

Those responsible for the discovery must notify nominated management personnel who will in turn notify the Heritage Council of New South Wales or its delegate, the Office of Environment and Heritage, NSW Heritage Branch, and suspend work that might have the effect of disturbing, damaging or destroying such relic until the requirements of the NSW Heritage Council have been satisfied (ss139, 146).

### S7.11 Schedule of Development Contributions

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

Section 7.11 contributions Schedule						
Rural South Catchment						
This schedule was calculated in spreadsheet #E2021/99005						
1 bedroom units =	0	@	0.55 SDU	=		0
2 bedroom units =	0	@	0.75 SDU	=		0
3 bedroom units/dwellings =	0	@	1 SDU	=		0
Allotments =	2	@	1	=		2
Less Site Credits =	1	@	-1	=		-1
Total SDU				=		1
Schedule valid until		25 Jan 2023		After this date contact Council for CPI update.		
Local Open Space & Recreation	(OS-RS)	1.00	SDU @ \$ -	=		\$ -
LGA Wide Open Space & Recreation	(OS-SW)	1.00	SDU @ \$ 828.73	=		\$ 828.73
LGA wide Community Facilities	(CF-SW)	1.00	SDU @ \$ 1,213.78	=		\$ 1,213.78
Local Community Facilities	(CF-RS)	1.00	SDU @ \$ -	=		\$ -
Bikeways & Footpaths	#N/A	1.00	SDU @ \$ -	=		\$ -
Shire Wide Bikeways & Footpaths	(CW-SW)	1.00	SDU @ \$ 89.03	=		\$ 89.03
Urban Roads	#N/A	1.00	SDU @ \$ -	=		\$ -
LGA Wide Roads	(R-SW)	1.00	SDU @ \$ 250.77	=		\$ 250.77
Rural Roads	(R-RS)	1.00	SDU @ \$ 16,364.14	=		\$ 16,364.14
Administration Levy	(OF-SW)	1.00	SDU @ \$ 1,253.54	=		\$ 1,253.54
<b>Total</b>						<b>\$ 20,000.00</b>

## 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.