



BSC File No: 68430D x 10.2024.35.1/#A2024/38387Contact: Benjamin Barnet

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application No.	10.2024.35.1 PAN-412448
Applicant	Town Planning Studio Pty Ltd
Property	13 Palm Avenue MULLUMBIMBY LOT: 6 DP: 701105
Development	Torrens Title Subdivision One (1) Lot into Two (2) Lots
Determination	Approved Consent Authority - Council
Date of determination	29 July 2024
Date from which the consent operates	30 July 2024
Date on which the consent lapses	30 July 2029

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

Reason for conditions

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

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

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

Rights to appeal

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

Signed on behalf of the Consent Authority

Benjamin Barnet
Planner

CONDITIONS OF CONSENT

SCHEDULE 1. CONDITIONS OF CONSENT

Parameters of consent

1. Approved plans and supporting documentation

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

Plan No.	Revision No.	Title	Drawn by	Dated
01	D	Proposed Torrens Title Subdivision to Create Two Lots	Town Planning Studio Pty Ltd	13/02/2024
02	D	Proposed Torrens Title Subdivision – Concept Vehicle Access	Town Planning Studio Pty Ltd	13/02/2024

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

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

2. Support for neighbouring buildings

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

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

3. 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.

4. 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 Rural Fire Service dated 5th April 2024 contained in a **Schedule 3** to this Notice of Determination.

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

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) Services/Service Conduits

Services/service conduits (water, sewer, telephone, power) to each of the proposed new allotments laid in strict accordance with the service authorities' requirements. Details must be provided to demonstrate the services for the existing dwelling are located wholly within proposed Lot 1 or indicate any necessary relocation or easements.

b) Driveway

A minimum three (3) metre wide reinforced concrete driveway (or equivalent) within the access handle of proposed Lot 2 and extending for at least the full extent of rights of carriageway within proposed Lot 1.

c) Parking and Access – Lot 1

Two (2) hardstand parking spaces for the dwelling on Lot 1 together with turning area to ensure vehicles are able to enter and exit the site in a forward direction. The driveway within the access handle access must extend to provide access to the two parking spaces.

The application for a subdivision works certificate must include plans demonstrating the parking spaces and turning area comply with the minimum requirements of AS 2890.1:2004, including turning paths with 0.3m swept path clearance in accordance with Appendix B of AS 2890.1.

d) Stormwater – Lot 1

Details must be provided of the stormwater management for the existing dwelling, including any necessary relocation and/or construction of a suitable outlet located wholly within proposed Lot 1.

6. 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 Council's current Design & Construction Manuals and are to provide for the following works:

a) Driveway

A driveway in accordance with Council's Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings. The driveway must be located at least 0.5m from the existing power pole.

7. 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.

8. 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. 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.

9. 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
- 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.

10. Soil Testing and Remedial Action Plan (RAP)

Soil testing must be undertaken and where results deem it necessary a Remedial Action Plan (RAP) must be prepared. Investigations and reporting must be undertaken by an appropriately qualified consultant in accordance with the NSW EPA *Consultants Reporting on Contaminated Land – Contaminated Land Guidelines (2020)*. All documentation must be submitted to the Council for approval prior to the issue of a construction certificate for subdivision works.

11. Site Waste Minimisation and Management Plan

Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

A template is provided on Council's website to assist in providing this information www.byron.nsw.gov.au/files/publication/swmmp-pro-forma.doc

12. Engineering Construction Plans

Three (3) copies of engineering construction plans and specifications must accompany the Subdivision Works Certificate application. Such plans are to provide for the following works in accordance with Council's current Design and Construction Manuals and Specifications. The submission of the design plans must be accompanied by Northern Rivers Local Government Design and Construction Manual Design Checklist.

13. Sewerage and Water Mains

An approval is to be obtained under Section 68 of the Local Government Act 1993 to carry out water supply and sewerage works.

Sewerage and water mains are to be extended to service all residential allotments in the subdivision. All Council gravity sewerage mains are to be a minimum 150 mm diameter and water mains are a minimum 100mm diameter.

Water supply and sewerage works are to comply with Council's latest Standards and Policies including but not limited to:

- Development Design and Construction Manuals, Northern Rivers Local Government
- Development Servicing Plans for Water Supply and Sewerage, Byron Shire Council
- Fire Flow Design Guidelines, Water Directorate
- Water and Sewer Equivalent Tenements Policy, Byron Shire Council
- Pressure Sewerage Policy, Byron Shire Council
- Private Sewer Pump Station Policy, Byron Shire Council

14. Landscape Plans – Compliance required with Building in the Vicinity of Underground Infrastructure Policy

The plans and specifications to accompany the Subdivision Works Certificate application are to include a detailed landscape plan indicating the locations, names, mature heights of shrub and tree species to be planted, and the location of grassed and paved areas, refer to Appendix C of the Policy.

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

15. 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.

16. 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.

17. Remediation of Contaminated Land (where required)

Prior to the commencement of any works associated with this development consent, the following is required:

- a) A suitably qualified contaminated land specialist with experience in the remediation of contaminated land must be engaged by the proponent to oversee and be responsible for all works associated with the implementation of the Remedial Action Plan and subsequent site and soil validation.
- b) A notice of commencement of the remediation work and a copy of the Remedial Action Plan must be provided to Council's Health and Environment Section at least 30 days prior to commencement of the work.
- c) The notice of commencement must include contact details of the responsible person, including an emergency 24-hour phone number.
- d) All reporting must conform to the requirements of Consultants Reporting on Contaminated Land Contaminated Land Guidelines 2020 and must also include information confirming that EPA and all other regulatory requirements have been met. In particular, documentary evidence is required to confirm that any disposal of soil off-site is done in accordance with the RAP and regulatory requirements.

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

18. 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).

19. 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.

20. 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.

21. Council Specification

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

22. 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.

23. 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.

24. Imported Fill Material

All fill material imported to the site for the purpose of the development must be from a clean source. Documentation must accompany the material certifying it as clean or virgin material. A copy of the certification must be provided to Council prior to any building work or construction commencing.

25. 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.

26. 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.

27. 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.

28. All excavated soils to be disposed of off-site

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

29. Removal of demolition and other wastes

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

30. Excavated natural materials and demolition waste disposal

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

31. Aboriginal Relics

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

In this condition:

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

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

32. Plan of Subdivision

The final plan of subdivision must be in accordance with the approved plans.

33. 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 (ROC) over the driveway access to the proposed lots.

The application for a subdivision certificate is to include the turning path plans, approved by the subdivision works certificate, to demonstrate the adequacy of the ROC to ensure vehicles from Lot 1 enter and exit the site in a forward direction.

b) Services Easements

The creation of suitable easements for services over the access handle of proposed Lot 2.

c) Easement for Electricity

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

d) Positive Covenant – vehicle access

Creation of a positive covenant burdening Lot 2 and benefitting Byron Shire Council to ensure any future dwelling on the burdened lot is designed and constructed with access and parking arrangements that ensure vehicles are able to enter and exit the site in a forward direction.

34. 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.

35. Certificates for engineering works

The submission of 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".

36. 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.

37. 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.

38. 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.

39. 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.

Notes:

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

40. 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 Lot 2 has a building site of adequate size and shape that is not subject to slip or subsidence.

41. 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.

42. Plan of Subdivision

An Administration Sheet (Original plus one (1) copy) and four (4) copies of the plan of subdivision, in accordance with the approved, are to be submitted with the application for a subdivision certificate. The location of all buildings and/or other permanent improvements including fences and internal access driveways/roads must be indicated on 1 of the copies.

43. 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) Sewer Easements

The creation of easements for drainage of sewage over all sewage pipelines and structures located within the proposed allotments in accordance with the Policy: Building in the Vicinity of Underground Infrastructure 2020.

44. 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".

45. 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 shall 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:-

- a) One (1) paper copy of each drawing with original signatures and in accordance with Council's requirements.
- b) 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.
- c) 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.

46. CCTV Inspection and Report

A Closed Circuit T.V. ('CCTV') Inspection and Report, certified by a qualified engineer, is to be submitted with the application for a Subdivision Certificate for the following works:

- a) Sewerage Reticulation.

47. 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.

48. Water service and meter to be connected to each lot

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

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

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

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

49. 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 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.

50. Certificate of Compliance – s307 Water Management Act 2000

Water and sewer services are to be provided to the land in accordance with an approval granted under Section 68 of the Local Government Act 1993.

Payment of developer charges to Byron Shire Council for water supply and sewerage.

A copy of the Certificate of Compliance under Section 307 of the Water Management Act 2000 is to be obtained from Byron Shire Council prior to the issue of a Subdivision Certificate. Where staging of the Subdivision occurs, a separate s307 Compliance Certificate must be obtained for each stage.

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

Developer charges will be calculated in accordance with the Development Servicing Plan applicable at the date of payment. A check must be made with Council to ascertain the current rates by contacting Council's Principal Engineer Systems Planning, Utilities on 02 6626 7000. Applicable charges can also be found on Council's website: <https://www.byron.nsw.gov.au/Services/Water-sewer/Plumbers-and-developers/Calculate-the-cost-of-an-Equivalent-Tenement#section-3>

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

Payment by Personal or Company Cheque will not be Accepted

51. 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.

52. Validation Report and Notice of Completion

A validation report and notice of completion submitted to Council before any other works commence. The notice of completion must certify the site is suitable for the proposed use.

53. Stormwater disposal

Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:

- a. Clear of buildings and infrastructure,
- b. Clear of effluent disposal areas,
- c. Not concentrated so as to cause soil erosion,
- d. Not directly to a watercourse, and
- e. Not onto adjoining land.

54. 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.

55. New Street number (if required)

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 with an appropriate plan showing dwellings/units approved for separate occupation and pedestrian access to each dwelling/unit from the public road servicing the development. The approved street number must be displayed in a prominent location near the approved main point of access prior to issue of any occupation certificate.

The following conditions are to be complied with at all times

56. Site Waste Minimisation and Management

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

SCHEDULE 2. PRESCRIBED CONDITIONS

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

[69](#) Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

[70](#) Erection of signs

[71](#) Notification of Home Building Act 1989 requirements

[72](#) Entertainment venues

[73](#) Maximum capacity signage

[74](#) Condition relating to shoring and adequacy of adjoining property

[75](#) Fulfilment of BASIX commitments

Refer to the [Environmental Planning and Assessment Regulation 2021](#), Division 2, Subdivision 1 of for full text of the above clauses. This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 3. INTEGRATED DEVELOPMENT GENERAL TERMS OF APPROVAL



Byron Shire Council
PO Box 219
MULLUMBIMBY NSW 2482

Your reference: (CNR-66425) 10.2024.35.1
Our reference: DA20240306000922-Original-1

ATTENTION: Ben Barnett

Date: Friday 5 April 2024

Dear Sir/Madam,

Integrated Development Application
s100B – Subdivision – Torrens Title Subdivision
13 PALM AVENUE MULLUMBIMBY 2482, 6//DP701105

I refer to your correspondence dated 12/03/2024 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 measures 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 entire site must be maintained as an Inner Protection Area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019.

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

- a. tree canopy cover should be less than 15% at maturity,
- b. trees at maturity should not touch or overhang the building,
- c. lower limbs should be removed up to a height of 2m above the ground,
- d. tree canopies should be separated by 2 to 5m,
- e. preference should be given to smooth-barked and evergreen trees,
- f. 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,
- j. grass should be kept mowed (as a guide, grass should be kept to no more than 100mm in height), and

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NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

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NSW Rural Fire Service
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k. leaves and vegetation debris should be removed.

2. At the issue of a subdivision certificate, a suitable mechanism such as an instrument pursuant to section 88 of the 'Conveyancing Act 1919' shall be placed over lot 2 to prohibit the construction of any habitable structures within 9m of the eastern boundary. The name of the authority empowered to release, vary or modify any instrument shall be Byron Shire Council.

Construction Standards

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

3. Prior to the issue of a subdivision certificate, 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.

Water and Utility Services

The intent of measures 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. Any new, or modification to existing water, 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. reticulated water is to be provided to the development where available;
- b. fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419.1:2021;
- c. hydrants are not located within any road carriageway;
- d. reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads;
- e. fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2021;
- f. all above-ground water service pipes are metal, including and up to any taps;
- g. where practicable, electrical transmission lines are underground;
- h. 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.
- i. 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;
- j. all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- k. connections to and from gas cylinders are metal; polymer-sheathed flexible gas supply lines are not used; and
- l. above-ground gas service pipes are metal, including and up to any outlets.

Landscaping Assessment

The intent of measures 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.





RFS



5. Landscaping is to be designed and managed to minimise flame contact and radiant heat to buildings, and the potential for wind-driven embers to cause ignitions by complying with the following.

- a. landscaping is in accordance with Appendix 4 of Planning for Bush Fire Protection (PBP), 2019; and
- b. fencing is constructed in accordance with section 7.6 of PBP, 2019.

General Advice – Consent Authority to Note

1. This Bush Fire Safety Authority is based on the plan titled 'Proposed Torrens Title Subdivision to Create Two Lots' Sheet 01 Revision D dated 13/02/2024.

2. This approval is for the subdivision of the land only. Any further development application for class 1,2 & 3 buildings as identified by the National Construction Code must be subject to separate application under section 4.14 of the Environmental Planning and Assessment Act 1979 and address the requirements of Planning for Bush Fire Protection 2019.

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





RFS



BUSH FIRE SAFETY AUTHORITY

Subdivision – Torrens Title Subdivision
13 PALM AVENUE MULLUMBIMBY 2482, 6//DP701105
RFS Reference: DA20240306000922-Original-1
Your Reference: (CNR-66425) 10.2024.35.1

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

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

Allyn Purkiss

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

Friday 5 April 2024



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 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 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

Construction Certificate required:

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

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

Principal Certifying Authority:

Work must not commence until the applicant has:-

- appointed a Principal Certifying Authority (if the Council is not the PCA); and
- 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'.
- 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).

Fire Ants

The importation of any of the following material from Queensland invasive ant biosecurity zones must be in accordance with the [Biosecurity \(Invasive Ant Carriers\) Control Order 2023](#) (including any revised orders made under the Biosecurity Act 2015) and meet the requirements of NSW Department of Primary Industries:

- organic mulch (which includes manure, bark, wood chips, hay, straw, silage, and sugar cane bagasse);
- baled materials;
- potted plants;
- agricultural or earth-moving machinery;
- fill or soil (which includes anything with soil on it such as turf); and
- mining or quarrying materials.

Prior to the importation of each material type, the supplier must provide the receiver and the Principal Certifying Authority with the relevant Certificate as identified within the Biosecurity (Invasive Ant Carriers) Control Order 2023 or revised biosecurity control orders. All material shall meet the requirements of the relevant Certificate.

It is an offence under the Biosecurity Act 2015 if this material comes from within five kilometres of a known invasive ant infested area (e.g. identified Fire Ant Biosecurity Zones in Queensland), or any other place at which the person knows, or ought reasonably to know, that an invasive ant has been detected, unless the carrier material has been managed and treated to reduce the risk and meets the certification requirements listed in the Control Order.

Water payments under the Water Management Act 2000

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

ADDITIONAL WATER & SEWER LOAD OF DEVELOPMENT (ET Policy 2022)

Water	0.80 ET
Sewer	1.00 ET

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

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

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 based on the contribution rates that are applicable at the time of payment.

The current contribution rates are available from Council offices during office hours.

Section 7.11 contributions Schedule					
Mullumbimby					
Catchment					
This schedule was calculated in spreadsheet #E2024/55327					
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
No further indexation. Contributions are at the Ministerial cap.					
Local Open Space & Recreation	(OS-ML)	1.00	@	\$ 13,117.46	= \$ 13,117.46
LGA Wide Open Space & Recreation	(OS-SW)	1.00	@	\$ 775.38	= \$ 775.38
LGA wide Community Facilities	(CF-SW)	1.00	@	\$ 1,135.63	= \$ 1,135.63
Local Community Facilities	(CF-ML)	1.00	@	\$ 223.30	= \$ 223.30
Bikeways & Footpaths	(CW-ML)	1.00	@	\$ 2,144.41	= \$ 2,144.41
Shire Wide Bikeways & Footpaths	(CW-SW)	1.00	@	\$ 83.30	= \$ 83.30

Urban Roads	(R-ML)	1.00	SDU @	\$ 1,113.06	=	\$ 1,113.06
LGA Wide Roads	(R-SW)	1.00	SDU @	\$ 234.63	=	\$ 234.63
Rural Roads	#N/A	1.00	SDU @	\$ -	=	\$ -
Administration Levy	(OF-SW)	1.00	SDU @	\$ 1,172.83	=	\$ 1,172.83
Total						\$ 20,000.00

General Advisory Notes

Dial Before You Dig

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

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

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

The Environmental Planning and Assessment Act 1979 requires you to:

- 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](#).
- 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](#)
- 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.