



## NSW RURAL FIRE SERVICE

Byron Shire Council  
PO Box 219  
MULLUMBIMBY NSW 2482

Your reference: 10.2017.201.1  
Our reference: DA-2017-01701-S4.55-1

**ATTENTION:** See letter

Date: Friday 30 July 2021

Dear Sir/Madam,

### Integrated Development Application

s100B – Subdivision – Torrens Title Subdivision

342 Ewingsdale Road BYRON BAY NSW 2481, 227//DP755695, 1//DP542178, 1//DP1166535

I refer to your correspondence dated 17/06/2021 seeking general terms of approval for the above Integrated Development in accordance with s4.55 of the *Environmental Planning and Assessment Act 1979*.

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

### General Conditions

1. The development proposal is to comply with the following identified plans;

- The drawing; prepared by Planit Consulting, titled "Vegetation & APZ Plan, noted as Issue 1 and dated 3/6/2020,
- The drawing; prepared by Planit Consulting, titled 'Overall Master Plan', noted as Issue 4 and dated 27/5/2020, and
- The drawing; prepared by Planit Consulting, titled 'Staging Plan', noted as Revision No. 03 and dated 30/04/2021.

### 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. To achieve this, the following conditions shall apply:**

2. At the issue of subdivision certificate and in perpetuity the following areas of the property shall be managed as an inner protection area (IPA) as specified in Table 5.3a and Appendix 4 of PBP 2019;

- Those areas identified as "Managed Urban land" within the drawing; prepared by Planit Consulting, titled "Vegetation & APZ Plan, noted as Issue 1 and dated 3/6/2020, and

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- Those areas identified as "Large Lot managed land" within the drawing; prepared by Planit Consulting, titled "Vegetation & APZ Plan, noted as Issue 1 and dated 3/6/2020.

When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

3. A restriction to the land use, pursuant to section 88B of the Conveyancing Act 1919, shall be placed upon any residue lots (i.e. created at the completion of any stage), where the residual lot has boundaries common with created residential lots, for the purpose of a temporary asset protection zone (APZ) in accordance with Appendix 4 of Planning for Bush Fire Protection 2019. The restriction to land use, for the purpose of a temporary asset protection zone, may be extinguished upon commencement of future development over the affected areas.

The name of authority empowered to release, vary or modify any instrument shall be Byron Shire Council.

The APZ shall be managed as an inner protection area (IPA) for at least 50 metres, as measured from the common boundary (created with an urban/residential lot) and extending into the residual lot.

When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

4. All bio retention swales (generally located along road sides) that are within the "Managed Urban land" areas, as noted within the drawing; prepared by Planit Consulting, titled "Vegetation & APZ Plan, noted as Issue 1 and dated 3/6/2020, shall be managed as per the requirements of condition No. 2 of this approval.

5. At the issue of a subdivision certificate and in perpetuity (to ensure ongoing protection from the impact of bush fires), a suitable mechanism, such as an instrument pursuant to section 88B of the Conveyancing Act 1919, shall be in place over specified parts of the two "large hectare Lots" 148 and 149 to ensure the ongoing management as an Inner Protection Area (IPA) in accordance with Appendix 4 of Planning for Bush Fire Protection 2019.

The areas requiring management, as an IPA, are specified as follows;

- The 10 metre by 15 metre building envelopes,
- The land surrounding the building envelopes as follows;
  - Lot 148 - the land already required to be managed as an IPA (Large Lot managed land),
  - Lot 149 - the land already required to be managed as an IPA (Large Lot managed land), and
- The single property access road servicing proposed lots 148 and 149.

When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

The name of authority empowered to release, vary or modify any instrument shall be Byron Shire Council.

#### **Construction Standards**

***Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:***

6. At the issue of a subdivision certificate, a suitably worded instrument shall be created over proposed lots 148 and 149, pursuant to section 88B of the *Conveyancing Act 1919*.

The instrument shall require future dwellings, proposed to be erected upon the specified lots, to be;

- Constructed to BAL-29 (minimum), in accordance with the requirements of, either; *Australian Standard "AS3959-2018 Construction of buildings in bush fire-prone areas"*, or the NASH Standard (1.7.14 updated) "*National Standard Steel Framed Construction in Bushfire Areas – 2014*" as well as the additional requirements of Section 7.5 of *Planning for Bush Fire Protection 2019*, and
- Be located as shown on the approved subdivision plan (as referenced in Condition 1 above) that is attached to the amended Bushfire Safety Authority Application, prepared by Planit Consulting and dated June 2020, as Attachment A "Subdivision Plans".

The name of authority empowered to release, vary or modify the instrument shall be Byron Shire Council.

#### **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. To achieve this, the following conditions shall apply:***

7. Public road access shall comply with; section 5.3.2 Access of 'Planning for Bush Fire Protection 2019' and Table 5.3b of 'Planning for Bush Fire Protection 2019'.

8. At each stage of the subdivision, temporary turning heads shall be provided to temporary dead end roads in accordance with the requirements of section A3.3 of PBP 2019. The turning area can be removed upon opening of future proposed through roads.

### **Access – Property Access**

***The intent of measures is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:***

9. Property access roads, servicing proposed lots 148 and 149 shall comply with the requirements of section 5.3.2 of 'Planning for Bush Fire Protection 2019' and Table 5.3b of Planning for Bushfire Protection 2019.

A temporary property access road, that requires access over any adjacent land, shall be provided by the inclusion of a right of way (ROW), over that land, for that purpose. Details are to be provided to Byron Shire Council prior to any Construction Certificate being released for the development stage that includes the creation of proposed lot 148 and 149.

### **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. To achieve this, the following conditions shall apply:***

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

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

- Any future development application lodged within this subdivision under section 4.14 of the 'Environmental Planning & Assessment Act 1979' may be subject to requirements as set out in 'Planning for Bush Fire Protection 2019'.
- This revised bushfire safety authority (BFSA) includes improved outcomes for the future dwellings on proposed lots 148 and 149 that are to be accessed via a single property access longer than 200 metres from the public road system.
- Establishment of asset protection zones within the proposed subdivision may require the clearing of vegetation. This bush fire safety authority does not authorise the clearing of any vegetation, nor does it include an assessment of potential ecological impacts of clearing vegetation for the purpose of establishing asset protection zones. Approvals necessary for the clearing of vegetation should be obtained prior to the establishment of any asset protection zones.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 13/08/2020.

For any queries regarding this correspondence, please contact Bradford Sellings on 1300 NSW RFS.

Yours sincerely,

Alan Bawden  
**Supervisor Development Assessment & Plan  
Built & Natural Environment**



NSW RURAL FIRE SERVICE

# BUSH FIRE SAFETY AUTHORITY

Subdivision – Torrens Title Subdivision

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Your Reference: 10.2017.201.1

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 supersedes the previous Bush Fire Safety Authority DA-2017-01701-CL55-1 issued on 13/08/2020 and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

**Alan Bawden**

**Supervisor Development Assessment & Plan  
Built & Natural Environment**

Friday 30 July 2021