

**10.2017.360.1**  
**CONDITIONS OF CONSENT:**

**Parameters of this Consent**

---

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

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

<b>Plan No.</b>	<b>Description</b>	<b>Prepared by</b>	<b>Dated:</b>
Illustration 1	Proposed Layout	Balanced Systems Planning Consultants	01 July 2017
Job No. 1713, Drawing No's 01, 02 and 03, Issue B	Site Plan, Partial Site Plan and Elevations & Floor Plan of Cabin 1 - Disabled	Logan Architecture	June 2017
Job No. 1713, Drawing No 02, Issue B	Elevations & Floor Plan of Cabins 2, 3 & 4	Balanced Systems Planning Consultants	01 July 2017
Illustration 3	VMP	Balanced Systems Planning Consultants	10 September 2017

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) No tree removal**

This development consent does not authorise 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 the Vegetation SEPP and Chapter B2 Preservation of Trees and other Vegetation of the Byron Shire Development Control Plan (BSDCP) 2014.

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

---

**3) Retained Trees**

All native trees to be retained in accordance with this development consent and occurring in proximity to any part of the proposed works must be illustrated on any and all relevant Construction Plans, along with their Tree Protection Zones formulated in accordance with AS 4970-2009 – *Protection of Trees on Development Sites*.

**4) Environmental Enhancement & Management Plan**

An Environmental Enhancement and Management Plan (EEMP), written by a qualified and experienced ecologist/bush regenerator, must be prepared, submitted and approved by Council. The plan should be based upon the

submitted plan entitled *Lot 39 DP 625255 Rifle Range Road Bangalow – Rural Tourist Facility - Illustration 3: VMP* by Balanced Systems Planning Consultants dated 20/8/17. The EEMP must include as a minimum:

- a) A summary of plantings to be undertaken in plan and word form;
- b) Detail of any native trees requiring removal to enable the development as approved;
- c) Hiring of a qualified and experienced bush regenerator for plan implementation and any restoration work;
- d) Detail ongoing works required to protect and enhance native vegetation communities, riparian zones and drainage lines;
- e) Planting design and location;
- f) Implementation schedule with timing for ongoing weed control work;
- g) Performance criteria by which success may be measured;
- h) Monitoring and evaluation methodology;
- i) Adaptive management approach; and
- j) Reporting requirements - annually to Council for five (5) years.

**Note:** Planting works must be substantially commenced in accordance with the EEMP prior to commencement of works on the site, and an Environmental Enhancement and Management Plan alone may not be sufficient to ensure long-term protection and management of the Koala habitat and riparian zone vegetation and prevent progressive degradation if potential threats are not appropriately managed. It is recommended that an easement be created burdening use of the land identified for restoration and planting within the EEMP and any vegetation growing within that area.

**5) Roads to be designed and signposted 40km/hr or less**

Access to the site along the gravel section of Rifle Range Road and along the driveway access to the proposed cabins must be designed and signposted so as to achieve a driving speed no greater than 40km per hour outside the property and 20km/hr within the property so as to protect native fauna.

**6) Terms of approval for on-site sewage management required**

Refer to Local Government Act Section 68 application No. **70.2017.1097.1**

**7) Section 94A Levy to be paid**

Prior to the issue of a construction certificate the section 94A levy required by the Byron Developer Contributions Plan 2012 shall be paid to Council.

The levy will be calculated as follows:

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

Where: %C is the levy rate applicable as set out in the latest Ministerial Direction issued under section 94E.

\$C is the proposed cost of carrying out the development.

The rate of %C is:

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

The cost of development shall be calculated in accordance with clause 25J of the regulation and shall be set out in schedule 1. A copy of schedule 1 shall be submitted with the payment to Council.

**8) Stormwater On-Site Disposal Approval Required**

The application for a Construction Certificate is to include plans and specifications that indicate disposal of stormwater via an on-site storm water infiltration trench consisting of a minimum of one cubic metre of coarse gravel (40-50mm) per 50m<sup>2</sup> of roof and collected hardstand areas. The pit is to be designed to be contiguous with the site contours. Stormwater overflow must not be directed in a concentrated flow onto any adjoining property.

Alternative approved designs will be also considered.

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

**Note: The plans must be in compliance with Council's DCP 2014 and Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".**

**9) Internal Driveway details required**

The application for a Construction Certificate is to include plans and specification that indicate vehicular access from the site boundary to the proposed car space(s). Vehicular access must be in accordance with AS 2890.1-2004: Parking facilities, Part 1: Off-street car parking. Plans are to include the following items:

- a) Pavement description;
- b) Site conditions affecting the access;
- c) Existing and design levels;
- d) Longitudinal section from the road centreline to the car space(s);
- e) Cross sections every 20 metres; and
- f) Drainage (open drains, pipes, etc.), including calculations and catchment details.
- g) Any requirements of the S100B Approval – Rural Fires Act 1997.

**Note: The plans must be in compliance with Council's current "Northern Rivers Local Government Development Design & Construction Manuals and Standard Drawings".**

**10) Construction of buildings in bushfire-prone areas - further details required**

The application for a Construction Certificate is to include details indicating the construction of the building to Level BAL 12.5 construction as defined in AS 3959-2009 - Construction of buildings in bushfire-prone areas, and water supply for fire fighting purposes as required under the S100B Approval – Rural Fires Act 1997. .

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

**11) Long Service Levy to be paid**

A Long Service Levy must be paid to the Long Service Payments Corporation. This is a State Government Levy and is subject to change.

These payments may be made online at [www.longservice.nsw.gov.au](http://www.longservice.nsw.gov.au) or at Council's Administration Office, Station Street, Mullumbimby. Where paying to Council, cheques are to be made payable to 'Byron Shire Council'.

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

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

---

**12) Erosion and sediment measures**

Erosion and sedimentation controls are to be in place in accordance with the *Guidelines for Erosion & Sediment Control on Building Sites*. A copy may be downloaded from Council's web site at [http://www.byron.nsw.gov.au/pdfs/stormwater/sediment\\_erosion.pdf](http://www.byron.nsw.gov.au/pdfs/stormwater/sediment_erosion.pdf). Particular attention is to be given to the provision of the following sediment and erosion control measures:

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

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

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

**The following conditions are to be complied with during construction**

---

**13) Protection of Native Trees**

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

**14) Protection of koalas and native fauna from disturbance**

- a) Clearing of exotic vegetation and/or earthworks as part of any development consent from Council must be temporarily suspended within a range of 25m from any tree which is concurrently occupied by a koala and must not resume until the koala has moved from the tree of its own volition;
- b) Any clearing of land must not commence until the area proposed for clearing has been inspected for the presence of koalas and other local native fauna and approval given in writing by a suitably qualified individual;
- c) Approval to proceed with the clearing of vegetation in accordance with this section is only valid for the day on which the inspection has been undertaken; and

- d) The individual referred to in (b) above, or a nominated representative, must remain on site during any approved clearing of vegetation.

**15) Inspection for on-site sewage management**

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

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

**16) 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.

**17) 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; and
- 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.**

**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); and
- 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.**

**19) 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.

**20) 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.

**21) 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 1997*.

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

**The following conditions are to be complied with prior to issue of a Final Occupation Certificate**

---

**22) Habitat Compensation works to be substantially completed**  
Plantings and/or restoration works required in accordance with the Rural Settlement Strategy are to be substantially implemented in accordance with the approved Environmental Enhancement and Management Plan prior to issue of the occupation certificate for the first cabin of the development.

**23) Restriction on the keeping of cats and dogs**  
The creation of a restriction as to use that prohibits the keeping of dogs on the land other than "assistance animals" as defined by the *Companion Animals Act 1998* or farm working dogs directly involved in management of the property. Evidence is to be provided that a restriction via a Section 88E instrument is in place prior to issue of the occupation certificate.

**24) S.88E Restriction to be placed on title – Conservation of Vegetation**  
Documentary evidence is to be provided to the Principal Certifying Authority that a restriction on the use of land, pursuant to the provisions of S.88E of the *Conveyancing Act 1919*, has been placed on the title to the land, the subject of this consent, stating:-

*"No works or activities shall be carried out on the burdened land that has a negative impact on the Koala habitat on, or adjoining, the burdened land, other than in accordance with the Environmental Enhancement and Management Plan approved in accordance with conditions of development consent number DA 10.2017.360.1."*

**25) Works to be completed.**  
All of the works indicated on the plans and approved by this consent, including any other consents that are necessary for the completion of this development, is to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Councils road/footpath reserve.

**26) 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.

**27) On-site sewage management system must be completed**

The on-site sewage management system is to be constructed in accordance with approved plans and in accordance with current specifications and standards. The system is not to be used and/or operated until a Council Officer has inspected the system and authorised its use.

**28) Approval to Operate required**

In accordance with the *Local Government Act 1993*, an Approval to Operate the onsite sewage management system must be obtained from Council. Forms may be downloaded from Council's website with '<http://www.byron.nsw.gov.au/on-site-sewage>'.

**29) Compliance with bushfire conditions under Section 100B of Rural Fires Act 1997**

Documentary evidence from a suitably qualified professional is to be submitted to the PCA demonstrating that the bushfire conditions as issued under Section 100B of the Rural fire Act 1997 have been complied with.

**The following conditions will need to be complied with at all times**

---

**30) Use of Tourist and Visitor Accommodation**

The tourist and visitor accommodation is restricted to:

- a) No more than fourteen (14) persons at any one time; and
- b) Patrons are restricted to stays no longer than fourteen (14) days.

**31) Manager of Premises**

The tourist and visitor accommodation must have a caretaker on site at all times whilst guests are residing at the premises living in the existing dwelling house on the property.

**32) Use of Premises**

The site must not be utilised for the purposes of a convention centre or other functions such as weddings and the like without the prior written consent of Council.

**33) Potable Water Supply Testing and Reporting**

The potable water supply must be maintained in accordance with the requirements of NSW Health's Private Water Supply Guidelines (2016).

**34) No Interference with Amenity of Neighbourhood**

The (Rural Tourist Facility) shall not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) The noise level emanating from the use of the premises must comply with the New South Wales Industrial Noise Policy;
- b) Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters;
- c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid;
- d) All waste pre-treatment devices and other waste storage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied; and
- e) Goods deliveries and waste collection shall be restricted to daytime operating hours.

### 35) Laundry

There are no laundry facilities within the proposed cabins. All laundering for the cabins must be undertaken off site.

## **Integrated Development - Section 100B Rural Fires Act 1997**

### 1) Bush fire safety measures

This land is identified as being designated bush fire prone land and under section 79BA of the Act, Council must be satisfied prior to making a determination for development on bush fire prone land that the development complies with "Planning for Bush Fire Protection 2006".

The development is approved subject to the following requirements applying:

#### a) Asset Protection Zones

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

- i) At the commencement of building works and in perpetuity, a 50 metre minimum APZ shall be maintained around each cabin extending to 60 metres on the eastern elevation. The APZ shall be managed as an inner protection area (IPA) as outlined within Appendices 2 & 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'; and
- ii) A minimum 10 metre APZ shall be maintained around the existing dwelling and managed as an inner protection area (IPA) as outlined within Appendices 2 & 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

#### b) Water and Utilities

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. To achieve this, the following conditions shall apply:

- i) Water, electricity and gas supplies shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'; and
- ii) A 10,000 litre water supply shall be provided for fire fighting purposes for each cabin. If an above ground tank is to be used it shall be non-combustible and fitted with a 65mm metal Storz outlet with a gate or ball valve via a 50mm diameter metal pipe. A fire fighting vehicle must be able to gain access to within 4 metres of the water supply.

#### c) Access

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:



- i) The property access road shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006' except that an alternative access is not required in this case.

Suitable turning provisions for a medium rigid vehicle shall be provided at each of the cabins.

**d) Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

- i) A Bush Fire Emergency Management and Evacuation Plan shall be prepared for the facility and shall be consistent with 'Development Planning - A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014'.

**e) Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- i) The cabins shall be constructed to comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

**f) Landscaping**

Landscaping within the APZs shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

## 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 forms are available from the customer services counter or Council's website [www.byron.nsw.gov.au](http://www.byron.nsw.gov.au).

**Occupation Certificate required:**

The building must not be occupied until the Principal Certifying Authority has issued an Occupation Certificate.

**Principal Certifying Authority:**

Work must not commence until the applicant has:-

- Appointed a Principal Certifying Authority (if the Council is not the PCA);
- Given the Council at least two (2) days notice of their intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'; and

- Notified the Principal Certifying Authority of the Compliance with Part 6 of the *Home Building Act 1989*.

***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 (generally \$600) being issued pursuant to section 127A of the *Environmental Planning and Assessment Act 1979* or prosecution pursuant to section 125 of the *Environmental Planning and Assessment Act 1979*.

**Endorsement of Documents by Council**

Please note that documents requiring the endorsement of Council associated with the creation or cancellation of easements, restrictions, covenants are subject to fees listed within Council’s Fees & Charges.