

Modification of Minister's Approval

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning under delegation executed on 14 September 2011, we the Planning Assessment Commission of New South Wales (the Commission) approve the modification of the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.

Member of the Commission

Sydney

Member of the Commission

2016

SCHEDULE 1

Project Approval:

MP 09_0028 granted by the Minister for Planning on 24 April 2012.

Proponent:

Billinudgel Property Pty Ltd

For the following:

Cultural Events Site, comprising:

- erection of temporary structures;
- temporary camping ancillary to the events usage;
- construction of an administration building;
- construction of a gatehouse building;
- temporary toilet and shower facilities;
- temporary water and wastewater facilities;
- construction of an internal spine road;
- construction of a water treatment plant;
- construction of a wastewater treatment plant;
- upgrading of local public roads, creation of site access intersections and an underpass beneath Jones Road;
- construction of event laneways, walkways, car parking areas, drainage improvements and associated works;
- resource recovery centre and art installations; and,
- progressive implementation of a vegetation management plan.

Modification:

MP09_0028 MOD 3 modifies conditions to:

- alter the noise criteria and monitoring regime;
- add criteria for lower frequency sound emissions;
- allow minor community, non-music focussed events; and
- other administrative amendments, including update of definitions and agency references.

SCHEDULE 2

The above approval is modified as follows:

1. In Schedule 1, delete 'Part B – Definitions' and replace with the following:

PART B – DEFINITIONS

In this approval;

Act means the *Environmental Planning and Assessment Act 1979*.

Advisory Notes means advisory information relating to the approved development but do not form a part of this approval.

BCA means Building Code of Australia.

Bump in means a period in which temporary infrastructure is assembled prior to the commencement of an event.

Bump out means the period in which temporary infrastructure is dismantled at the conclusion of an event.

Camper arrival day for a trial event means the day immediately before the first event day, being a day on which camper patrons are permitted to arrive at the site.

Camper departure day for a trial event means the day immediately after the last event day, being a day on which camper patrons are permitted to depart from the site.

Complaints Register means the complaints register established under Condition C5.

Construction Certificate means a construction certificate for bulk earthworks or civil works unless specified otherwise.

Council means Byron Shire Council.

CPI means Consumer Price Index.

Department means the Department of Planning and Infrastructure or its successors.

EMC Emergency Management Centre is the central emergency coordination centre for emergency management for larger events.

Environmental Assessment means the Environmental Assessment prepared by SJ Connelly CPP Pty Ltd and dated August 2010, including all appendices.

Event Day means an advertised date on the face of an event entry ticket. This does not include minor community events.

Feasible and Reasonable Consideration of best practice taking into account the benefit of proposed measures and their technological and associated operational application in the NSW and Australian context. **Feasible** relates to the capability of a work practice or abatement measure being put into practice (or of being engineered) and whether that measure is practical to build given project constraints such as safety and maintenance requirements. **Reasonable** relates to the application of judgement in arriving at a decision, taking into account mitigation benefits and cost of mitigation versus benefits provided, community views and nature and extent of potential improvements. These terms are further defined in OEH's *Noise Guide for Local Government 2010*.

Large trial event is an outdoor trial event with between 25,000 and 35,000 patrons.

Medium trial event is an outdoor trial event with between 15,000 and 25,000 patrons.

Minister means the Minister for Planning and Infrastructure.

Minor community event is an outdoor trial event of up to 1,500 patrons that is non-music focussed, provides an educational purpose or cultural experience for the community and operates between the hours of 9:00am to 10:30pm.

MOD 3 Application means the Modification Application prepared by Planners North dated May 2015, including all appendices.

MOD 3 Response to Submissions means the Response to Submissions prepared by North Byron Parklands dated October 2015, including all appendices.

OEH means Office of the Environment and Heritage.

Patron means anyone who holds a ticket to attend an outdoor event;

Project means the project as described in Condition A2 of this approval.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Preferred Project Report means the Preferred Project Report prepared by SJ Connelly CPP Pty Ltd dated February 2011.

Proponent means Billinudgel Property Pty Ltd or any party acting upon this approval.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Regulatory Working Group and RWG means the Group established in accordance with Condition C2.

RFS means Rural Fire Service.

Secretary means the Secretary of the Department of Planning and Environment, or delegate.

Sensitive Receiver means a residence, education institution, health care facility and/or religious facility.

Site has the same meaning as the land identified in Schedule A of this approval.

Small trial event is an outdoor trial event with between 10,000 and 15,000 patrons.

Zone 1 as shown in Schedule 4 of this approval.

Zone 2 as shown in Schedule 4 of this approval.

2. In Schedule 2, 'Part A – Administrative Conditions', delete Condition A2(a)(2) and replace with the following:

(2) Infrastructure Approval

- i) Construction of the spine road;
- ii) Construction of an underpass beneath Jones Road, car parking areas, pedestrian walkways and boardwalks, shuttle bus turnaround area;
- iii) Upgrading of the western 340 metres of Jones Road to a two lane sealed road with a service entrance (Gate A);
- iv) Construction of the intersections associated with Gates B, C & D;
- v) Construction event laneways, resource centre, hard stand areas, drain crossings, stormwater management, regrading for positive drainage and associated works;
- vi) Construction of laneways and drain crossings within car parking area; and
- vii) Construction of entry treatment and signage.

3. In Schedule 2, 'Part A – Administrative Conditions', delete Condition A3 and replace with the following:

A3 Project in Accordance with Plans

The project is to be undertaken generally in accordance with the following drawings:

Design Drawings prepared by Design Team Ink			
Drawing No.	Revision	Name of Plan	Date
1.1		Revised Illustrative Site Plan	14.12.10

1.2		Event Area and Land Use Structure	13.10.14
1.3		Revised Ecological Structure Plan	14.12.10
Architectural Drawings prepared by Design Team Ink			
Drawing No.	Revision	Name of Plan	Date
1.1		Administration Building	28.04.10
1.1		Administration Building	27.04.10
1.1		Gate House	28.04.10
1.1		Gate House	27.04.10
Engineering Drawings prepared by Design Team Ink			
Drawing No.	Revision	Name of Plan	Date
1.1		Typical Design Roads and Laneways	25.02.10
1.2		Typical Design Bus Drop-off / Loading Area	25.02.10
1.4		Typical Design Signage	25.02.10
1.5		Typical Design Boardwalks	23.07.10
Landscape Drawings prepared by Design Team Ink			
Drawing No.	Revision	Name of Plan	Date
1.7		Administration/Cultural Centre Landscape Concept	09.06.10
1.7		Gatehouse Landscape Concept	09.06.10
Engineering Drawings Prepared by Ardill Payne & Partners			
Drawing No.	Revision	Name of Plan	Date
DA01	A	Road Hierarchy Plan and General Site Layout	May 2010
DA02		Jones Road Plan and Long Section Ch0-180	May 2010
DA03	A	Jones Road Plan and Long Section Ch180-360	May 2010
DA04		Jones Road Cross Sections Ch0-340	May 2010
DA05		Jones Road Cross Sections Ch260-340	May 2010
DA06		Tweed Valley Way Intersections	May 2010
DA07	A	Spine Road 'Drop In' Plan and Long Section Ch. 0-180	May 2010
DA08		Spine Road 'Drop In' Plan and Long Section Ch. 180-303	May 2010
DA09	C	Spine Road Plan and Long Section Ch. 0-700	May 2010
DA10	A	Spine Road Plan and Long Section Ch. 700-1400	May 2010
DA11		Spine Road Plan and Long Section Ch. 1400-2100	May 2010
DA12		Spine Road Plan and Long Section Ch. 2100-2800	May 2010
DA13		Spine Road Plan and Long Section Ch. 2800-3060	May 2010
DA14	A	Bus Turnaround and Car Parking Area	May 2010
Tree Removal Plans Prepared by Ardill Payne & Partners			
Drawing No.	Revision	Name of Plan	Date
Plan 4.7.1		Plan 4.7.1 Tree Removal Plan	Aug 2010

Plan 4.7.2		Plan 4.7 Tree Removal Plan	Aug 2010
Plan 4.7.3		Plan 4.7.3 Tree Removal Plan	Aug 2010
Acoustic Management Plan Prepared by Air Noise Environment			
Drawing No.	Revision	Name of Plan	Date
PID 4113		Proposed Noise Limit Zones	22.09.15

4. In Schedule 2, 'Part A – Administrative Conditions', delete Condition A4 and replace with the following:

A4 Project in Accordance with Documents

The project is to be undertaken generally in accordance with the following documents:

- (a) *Environmental Assessment* prepared by SJ Connelly CPP Pty Ltd on behalf of Billinudgel Property Pty Ltd, dated August 2010;
- (b) *Reply to Submissions and Preferred Project Report* prepared by SJ Connelly CPP Pty Ltd on behalf of Billinudgel Property Pty Ltd, dated February 2011;
- (c) *Flood Risk Management Plan* prepared by Molino Stewart on behalf of North Byron Parklands (Billinudgel Property Pty Ltd), dated June 2011;
- (d) *Environmental Health and Safety Management Manual* prepared by North Byron Parklands, dated August 2010;
- (e) *S.75W Modification Application – North Byron Parklands – Modification Application in relation to Concept & Project Approval MP 09_0028* prepared by Planners North on behalf of North Byron Parklands (Billinudgel Property Pty Ltd), dated May 2015; and
- (f) *North Byron Parklands – Response to Submissions* prepared by North Byron Parklands (Billinudgel Property Pty Ltd), dated October 2015.

5. In Schedule 2, replace all references to 'Director-General' with 'Secretary'.
6. In Schedule 2 'Part B – Trial of Outdoor Events – Parameters', delete Condition B1 in its entirety.
7. In Schedule 2, Condition B2, insert the following new conditions immediately after part 4):
- 5) This approval permits FIVE minor community events within 12 months following the determination date of MOD 3.
 - 6) The approval of ongoing minor community events during the trial period is subject to the Proponent obtaining a further approval of the Secretary, following the consideration of the 'Performance Report for Minor Events' report required by Condition B7(7).
8. In Schedule 2, delete Condition B3 and replace with the following:

B3 Noise restrictions

- 1) During trial events, all stages may operate from 11am but must be shut down at midnight, excluding New Year's Eve, where stages may operate until 1am.
- 2) Between 11am and midnight, noise levels at sensitive receivers must not exceed the following noise criteria:
 - a. For Zone 1 (shown in Schedule 4 of this approval):
 - i. between 11am and midnight amplified entertainment noise from the event at sensitive receivers must not exceed 60dB(A) LAeq, 10-minutes AND 70dB(lin) Leq, 10-minutes in the 63 hertz 1/1 octave band; and
 - ii. between midnight and 2am, amplified entertainment noise from the event at sensitive receivers must not exceed 45dB(A) LAeq 10-minutes AND 60dB(lin) Leq, 10-minutes in the 63 hertz 1/1 octave band.

- b. For Zone 2 (as shown in Schedule 4 of this approval):
 - i. between 11am and midnight amplified entertainment noise from the event at sensitive receivers must not exceed 55dB(A) LAeq, 10-minutes AND 65dB(lin) Leq, 10-minutes in the 63 hertz 1/1 octave band; and
 - ii. between midnight and 2am, amplified entertainment noise from the event at sensitive receivers must not exceed 45dB(A) LAeq 10-minutes AND 55dB(lin) Leq, 10-minutes in the 63 hertz 1/1 octave band.
 - 3) Amplified music from bars, cafes and the dance floor must cease at 2am.
 - 4) The Regulatory Working Group may make a recommendation to the Secretary that noise limits imposed under this condition should be increased or decreased for future events after considering the Noise Impact Report referred to in Condition C52.
 - 5) The Secretary may amend the noise limits imposed under this condition for specific future events after considering the results as presented within Noise Impact Report referred to in Condition C52.
9. In Schedule 2, delete Condition B5 and replace with the following:

B5 Timing and duration of trial events

- 1) The total event days each calendar year must not exceed 10 days.
 - 2) A trial event must not exceed 4 event days.
 - 3) The bump in period must not exceed 21 days and the bump out period must not exceed 14 days.
 - 4) The Secretary must consult with the Department of Roads & Maritime Services and the Council before approving the dates for any trial event.
 - 5) The site must not cater for more than one event at any time.
10. In Schedule 2, delete Condition B7 Part 1) and replace with the following:
- 1) The proponent must prepare a Performance Report that is to be submitted to the Secretary by 30 November each year detailing the performance of all large, medium and small trial events within the preceding 12 months, and at such other times as directed by the Secretary. Each Performance Report shall also include a summary of the overall progress against the baseline conditions at the commencement of the approval.
11. In Schedule 2, Condition B7, insert the following new condition immediately after part 6):
 - 7) The proponent must prepare a Performance Report for Minor Events that is to be submitted to the satisfaction of the Secretary within 12 months of the first minor community event detailing the performance of all minor community events (up to 5) held within the preceding 12 months. This report must include all relevant detail in accordance with parts 2) and 3) of Condition B7.
12. In Schedule 2, insert new Condition C8(Minor) immediately after Condition C8:

C8 (Minor) Minor Community Event Management Plan

A Minor Community Event Management Plan is to be prepared and submitted to the Secretary and Council at least 30 days prior to the first minor community event. The Minor Community Event Management Plan is to be prepared in consultation with Council, the Office of Environment and Heritage, NSW Police, NSW Rural Fire Service and State Emergency Services. The Plan is to contain the following:

- (a) A Minor Community Event Structure Plan prepared in a similar format to the structure plans provided in the EA illustrating the internal layout of the site for minor events, including the boundaries of the accessible areas, location of all temporary structures; sanitary facilities; temporary human exclusion fencing; places of public entertainment; car parking areas (including the number of car parks provided for the event); and emergency assembly areas.

- (b) A copy of the Bushfire and Flood Emergency Evacuation Management Plans approved under conditions C25 and C27 of this approval;
- (c) Details of traffic and noise management and monitoring that will be undertaken during each minor community event;
- (d) Disabled access and egress details and plans for access and egress to, within, around and out of the minor event area;
- (e) Location of all emergency assembly areas throughout the site;
- (f) Detail of minimum requirements for the lighting of any minor community event and how they will be directed and contained within the site;
- (g) Location of all fire-fighting facilities throughout the site; and,
- (h) A copy of all other approvals relied upon to carry out an event.

13. In Schedule 2, delete Condition C10 and replace with the following:

C10 *Traffic Control Plan*

A Traffic Control Plan (TCP) for each event must be prepared by a suitably qualified and RMS accredited Work Site Traffic Controller, at least 60 days prior to the event. The TCP must be submitted to the Local Traffic Committee for endorsement and then to Council for approval prior to commencement of each event and RMS following approval. The TCP must address the following matters:

- (a) Be designed in accordance with the requirements of the RMS's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.
- (b) The regulation of traffic must be authorised under the Roads Act 1993 and the use of traffic control devices authorised under the Road Transport (Safety & Traffic Management) Act 1999.
- (c) Reduced speed zones.
- (d) Special Event Clearways.
- (e) Appropriate signage to prohibit parking in the surrounding road network and in the Yelgun rest area.
- (f) A Traffic Incident Management Plan that details a range of approved contingency measures capable of avoiding significant impacts on the level of service. The contingency plan must be fully documented and include emergency contact names and phone numbers.
- (g) Measures to address and respond to the outcomes of the Performance report required under Conditions B7, including updating Plans for subsequent events.

The TCP must be designed to achieve the following performance during bump in, bump out and event days:

- (a) All movements at the Yelgun interchange including merges and diverges need to operate at Level of Service C or better for delay;
- (b) The level of service for local traffic and through traffic on the Tweed Valley should not fall below Level of Service D;
- (c) Queue lengths on the link road between Tweed Valley Way and the Yelgun interchange must be limited to a maximum of 70 metres;
- (d) The end of traffic queues on the interchange ramps must not be within 210 metres of the start of the ramp;
- (e) On site queuing is not to extend onto the Pacific Highway or the Tweed Valley Way; and
- (f) There is to be no impact on through traffic travel times of the Pacific Highway.

14. In Schedule 2, delete Condition C15 and replace with the following:

C15 *Speed Changes*

A copy of the Council's approval for any proposed temporary change of speed limits on surrounding roads must be submitted to RMS.

15. In Schedule 2, delete Condition C16 and replace with the following:

C16 *Noise Management Plan*

A Noise Management Plan (NMP) outlining measures to manage and minimise potential noise impacts of events is to be prepared by a suitably qualified acoustic consultant. The NMP is to be prepared in consultation with Council and the RWG, and submitted to the Secretary for approval at least **60 days** prior to any event where amplified music is a feature. The NMP is to be prepared having regard to the noise limits specified in Condition B3, the proponent's *Environmental Health and Safety Management Manual*; and, OEH's *Noise Guide for Local Government 2010* and is to include, but not be limited to:

- (a) identification of all major sources of noise emitted during the carrying out of an event;
- (b) identification of the zones and limits of the nearest sensitive receivers and the adjoining Billinudgel Nature Reserve;
- (c) identification of noise limits within the site, including camping areas between midnight and 8:00 am to support peaceful rest during events;
- (d) identification and implementation of best practice management techniques for the minimisation of noise from the site. For example, appropriate siting and orientation of performance stages and speakers, acoustic barriers.
- (e) procedures and limits for carrying out sound checks prior to and during events and rehearsals to ensure compliance with the relevant noise criteria, and measures to be undertaken if any non-compliance is detected;
- (f) requirements for sound engineers at each stage and their ability to enact noise mitigation measures;
- (g) community consultation requirements;
- (h) procedures for responding to any noise complaints received during an event. As much as is reasonable and feasible, the proponent must arrange for noise levels emanating the site to be monitored at the location of any complaints as soon as possible after a complaint has been received; and,
- (i) measures to address and respond to the outcomes of a Performance report required under Condition B7, including updating plans for subsequent events.

Note: A NMP may cover or be submitted in support of more than one event, subject to it providing sufficient detail of each event.

16. In Schedule 2, delete Condition C17 and replace with the following:

C17 *Acoustic Monitoring Program*

Prior to the commencement of the any event where amplified noise is a feature, a qualified acoustic consultant must prepare and implement an Acoustic Monitoring Program (AMP) to monitor and assess the impact of noise generated by the event on the amenity of the area. The AMP must be prepared in consultation with the RWG and be consistent with the provisions and limits within the NMP and required under Condition B3, consistent with Condition C16 and consistent with the proponent's *Environmental Health and Safety Management Manual (Standard 008)*. The AMP shall include, but not be limited to:

- (a) locations (identified on a map) at which monitoring will be undertaken. As a minimum monitoring locations must include the most sensitive noise receivers (where no noise agreement is in place between the proponent and the receiver) and the adjoining nature reserve as identified in the Noise Management Plan;

- (b) procedures and protocols in accordance with OEH's *Noise Guide for Local Government 2010* and Australian Standard AS1055 *Acoustics - Description of measurement of environmental noise* (or any subsequent versions thereof);
- (c) a program for periodic attended and unattended monitoring of noise at each of the set monitoring locations, including:
 - (1) Unattended monitoring must be undertaken at a minimum of eight monitoring locations (to be determined in consultation with the RWG) before, during and after each event;
 - (2) Attended monitoring must occur on at least one (1) occasion prior to the commencement (including during sound check) and during the operation of each event; and,
- (d) procedures for the reporting of monitoring results to enable an assessment of the noise performance of the event.

The AMP must be submitted for the approval of the Secretary at least 60 days prior to the commencement of the event.

17. In Schedule 2, delete Condition C18 and replace with the following:

C18 *Noise Mitigation*

Upon receiving a written request from any sensitive receiver within Zone 1, identified on the plan in Schedule 4 of this approval, where subsequent noise monitoring shows that the noise generated by activities onsite is:

greater than the specified criteria within Condition B3;

- a) is sustained in duration for that event (i.e. over 3 x 10 minute samples); and
- b) that such inner noise criteria exceedances have occurred over two large, medium or small events within the preceding 12 months,

the proponent shall implement additional noise mitigation measures at the residence in consultation and agreement with the landowner. Mitigation measures may be in the form of double glazing, secondary glazing of 'weak' areas, insulation and must be reasonable and feasible.

If within three (3) months of receiving this request from the landowner, the proponent and landowner cannot agree on the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Secretary for resolution.

18. In Schedule 2, delete Condition C20 and replace with the following:

C20 *Flora and Fauna Rehabilitation Program*

Within three months of the determination of MOD 3, a suitably qualified ecologist must prepare and implement a Flora and Fauna Rehabilitation Program to monitor and assess the impact of the project on flora and fauna within and adjacent to the site. This Program must provide a summary of the baseline condition (prior to the commencement of the Project Approval) and present detail of the impacts that the previous events have had upon flora and fauna within and adjacent to the site. The Program must be prepared in consultation with the RWG and OEH. The Program shall include, but not necessarily be limited to:

- (a) identification of the changes that have occurred upon flora and fauna within and adjacent the site as a result of the events held to date;
- (b) identification of predictions relating to changes that may occur to flora and fauna within and adjacent the site as a result of the continued operation of the project;
- (c) a revised ecological structure plan and detail of the implementation of the plan within the period of the existing trial approval and timing for when the required parcels of land will be dedicated to the OEH;
- (d) locations at which monitoring will be undertaken, including a map showing locations. As a minimum, monitoring locations must include areas near amplified sound and lit areas, Billinudgel Nature Reserve and Marshall's Ridge fauna corridor;

- (e) identification of the key performance indicators that would determine whether the operation of the project is having a detrimental effect on the fauna;
- (f) procedures and protocols for the sampling and analysis methodology to be undertaken for the monitoring, including sample design, statistical analyses and reporting. Procedures must be consistent with any relevant government publication and/ or Australian Standard; and
- (g) a program for periodic monitoring of the parameters at each of the monitoring locations. As a minimum, monitoring must occur at least twice per year (once in cooler months and once in warmer months).

The final Rehabilitation Program must be submitted for the approval of the Secretary within three months of this approval.

19. In Schedule 2, delete Condition C21 and replace with the following:

C21 *Updated Koala Plan of Management*

The *Draft Vegetation Management and Biodiversity Plan* – submitted as Appendix M to the Ecological Assessment is to include an updated Koala Plan of Management (KPoM) if a resident population (within the meaning of SEPP 44) of koalas becomes established at the site. The KPoM is to include a contemporary assessment of any existing and/or potential areas of core Koala habitat within the site, and results of further Koala surveying efforts. The KPoM must also address the operation of ongoing events carried out at the site and the potential impacts that this will have on areas of core Koala habitat and any existing Koala populations.

20. In Schedule 2, delete Condition C42 in its entirety.

21. In Schedule 2, delete Condition C51 and replace with the following:

C51 *Emergency Evacuation Plans*

Emergency evacuation plans for flooding and bushfires must be available on site under the control of the site/event manager and copies located at the Emergency Management Centre. This plan is to be located at each stage, at all exits from the site and at the site office. A copy is also to be given to all security personnel.

22. In Schedule 2, delete Condition C58 and replace with the following:

C58 *Removal of Temporary Structures*

Within fourteen (14) days of the conclusion of an event, all temporary structures, lighting towers, event facilities and temporary fencing are to be removed from the site.

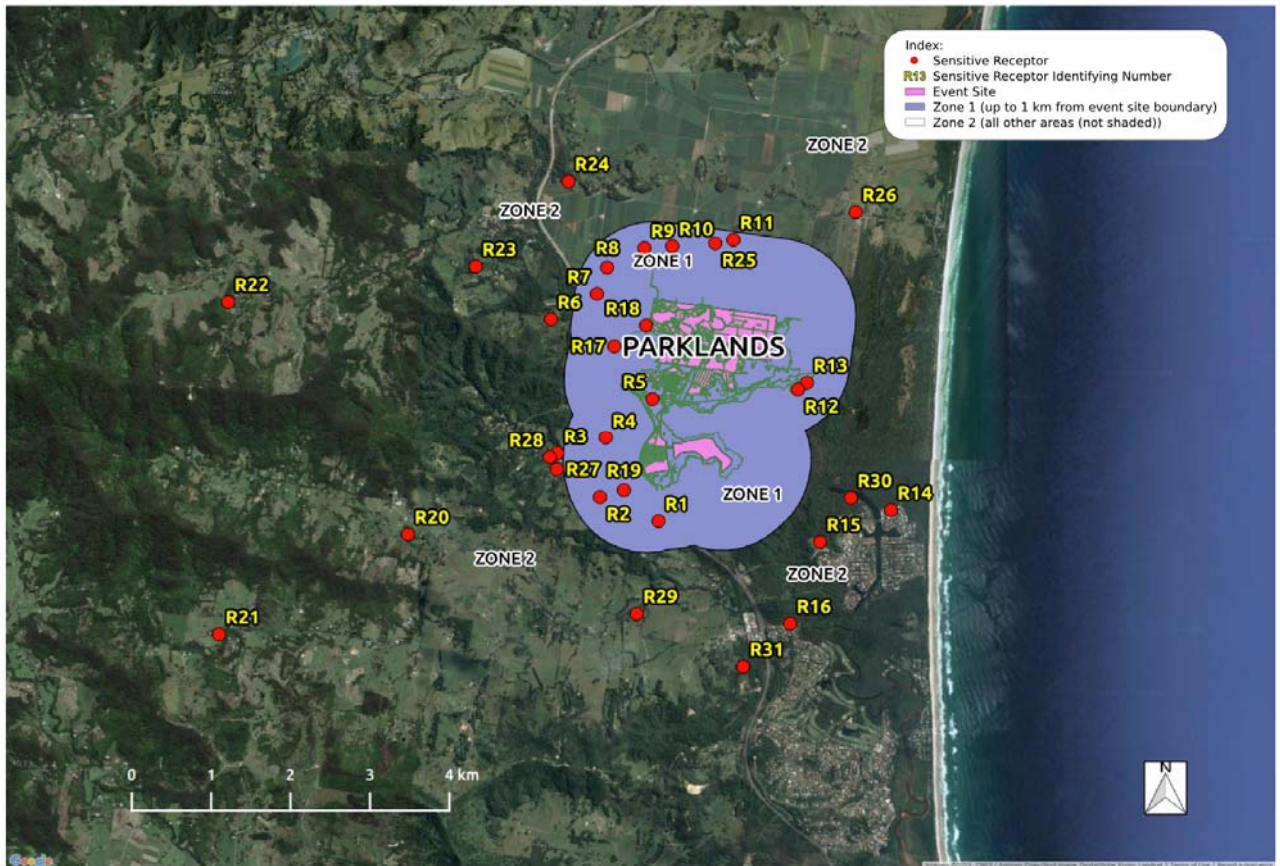
23. Insert new Schedule 4, immediately following Schedule 3 as follows:

SCHEDULE 4

NORTH BYRON PARKLANDS CULTURAL EVENTS SITE

TWEED VALLEY WAY AND JONES ROAD, YELGUN

ZONES FOR NOISE LIMITS



END OF MODIFICATION MP 09_0028 MOD 3