

CONSOLIDATED INSTRUMENT

Concept Plan Approval

Section 75O of the *Environmental Planning and Assessment Act 1979*

Under delegation of the Minister for Planning and Infrastructure dated 14 September 2011, the Planning Assessment Commission determines to give approval to the concept plan referred to in Schedule 1, pursuant to section 75O of the *Environmental Planning and Assessment Act 1979*, subject to the terms referred to in Schedule 2 and the Proponent's Statement of Commitments in Schedule 3.

The reasons for the imposition of these terms are to:

- ensure the site is appropriately managed for the proposed use;
- adequately mitigate the environmental, construction, and operational impacts of the development;
- reasonably protect the amenity of the local area and surrounding communities; and,
- protect the public interest.

Kevin Sproats
Member of the Commission

Donna Campbell
Member of the Commission

Sydney 24 April 2012

SCHEDULE 1

Application No.:

MP 09_0028

Proponent:

Billinudgel Property Pty Ltd

Approval Authority:

Minister for Planning and Infrastructure

Land:

126 Tweed Valley Way, Yelgun

Lot 1 DP 1145020; Lot 46, 402, 403, 404 & 410 DP 755687; Lot 2 & 12 DP 848618; Lot 101 DP 856767; Lot 30 DP 880376; Lot 100 & 101 DP 1178907; Lot 101, 102 & 107 DP 1001878; Lot 12 & 14 DP 875112; Lot 312 DP 1163830; Lot 21 DP 1169952; Lot 4 DP 821947; Lot 11 DP 1192842; Lot 34 DP 755721 – Byron and Tweed local government areas

Project:

Cultural Events Site, comprising:

- Use of the site for cultural, educational and outdoor events with ancillary camping and car parking;
- Temporary event infrastructure;
- A spine road;
- A water treatment plant;
- A wastewater treatment plant;
- A cultural centre;
- A conference centre and associated accommodation; and,
- A comprehensive vegetation management plan.

Summary of Modifications

MP 09_0028 (Concept Plan)	Approved by then Planning and Assessment Commission on 24 April 2012
MP 09_0028 MOD 1 (Concept Plan)	Approved by the then Planning and Assessment Commission on 22 April 2016, to: <ul style="list-style-type: none"> • amend the definitions to align with the Project Approval; • amend the terms to allow minor community, non-music focussed events; and • other administrative amendments, including update of definitions and agency references.
MP 09_0028 MOD 2 (Concept Plan)	Approved by the then Planning and Assessment Commission on 12 September 2017, to: <ul style="list-style-type: none"> • add a definition for 'trial period'; • amend an incorrect reference; and • modify the dates of the trial approval for events.
MP 09_0028 MOD 3 (Concept Plan)	Approved by the Independent Planning Commission on INSERT , for minor amendments to accommodate SSD 8169 and facilitate the continued use of the site for cultural, educational and outdoor events following the trial period.

MODIFICATION KEY

MP 09_0028	Approved 24/04/12
MP 09_0028 MOD 1	Approved 22/04/16

MP 09_0028 MOD 2	Approved 12/09/17
MP 09_0028 MOD 3	Approved INSERT

TABLE OF CONTENTS

SCHEDULE 1	1
PART A – Notes relating to the determination of 09_0028	3
PART B – Definitions	3
SCHEDULE 2	5
PART A – Terms of approval	5
A1 Concept Plan Approval	
A2 Project in accordance with documentation	
A3 Project in accordance with plans	
A4 Consistency of future development	
A5 Lapsing of approval	
PART B – Modifications to the Concept Plan	7
B2 Trial period for outdoor events	
B3 Approval process for trial events	
B5 Modifications to on- site effluent irrigation	
PART C – Requirements for future applications	8
C1 Future outdoor events	
C2 Additional flood modelling	
C3 Habitable floor levels	
SCHEDULE 3 – MANAGEMENT AND MITIGATION MEASURES	10

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PART A–NOTES RELATING TO THE DETERMINATION OF 09_0028

Responsibility for other consents / agreements

The Proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

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.

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.

Council means Byron Shire Council.

Department means the NSW Department of Planning and Environment.

Event Day means an advertised date on the face of an event entry ticket (or other advertised event date in the case of minor community events).

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 NSW Minister for Planning (or delegate).

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, is consistent with the Parklands general management controls and the terms and conditions of this Concept Plan and Project Approval MP 09_0028, and operates between the hours of 9:00am to 10:30pm. Minor Community Events do not include motocross, monster trucks and similar motorised racing events.

Patron means anyone who holds a ticket to attend an outdoor event, excluding complimentary tickets.

Project means the project as described in Schedule 1 of this approval.

Proponent means Billinudgel Property Pty Ltd, or any person carrying out any development to which this approval applies.

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

Secretary means the Planning Secretary under the Act, or nominee.

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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.

Trial period means the period of time when trial events (including small, medium and large trial events) can be held at the site in accordance with Term B2 1) of this approval.

End of Schedule 1

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SCHEDULE 2

PART A – TERMS OF APPROVAL

A1 **Concept plan approval**

- 1) Concept plan approval is granted to use the site for the following:
- (a) outdoor, cultural or educational events with ancillary event camping and car parking;
 - (b) temporary event infrastructure;
 - (c) a cultural centre;
 - (d) a conference centre and associated accommodation, including:
 - i) a capacity of up to 180 attendees per day; and
 - ii) accommodation for up to 120 guests per day;
 - (e) an administration building;
 - (f) a spine road;
 - (g) a water treatment system;
 - (h) a wastewater treatment system; and
 - (i) a comprehensive vegetation management plan.

A2 **Project in accordance with documentation**

The Proponent shall carry out the concept plan and all related future projects generally in accordance with the following documents except as modified by this approval:

- a) *Environmental Assessment* prepared by SJ Connelly CPP Pty Ltd on behalf of North Byron Parklands, dated August 2010;
- b) *Reply to Submissions and Preferred Project Report* prepared by SJ Connelly CPP Pty Ltd on behalf of North Byron Parklands, 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;
- f) *North Byron Parklands – Response to Submissions* prepared by North Byron Parklands (Billinudgel Property Pty Ltd), dated October 2015;
- g) *North Byron Parklands - Trial Period Extension Modification – Environmental Assessment (MOD 2)* prepared by PJ Environmental Planning dated March 2017;
- h) *North Byron Parklands - Trial Period Extension Modification - Response to Submissions (MOD 2)* prepared by North Byron Parklands (Billinudgel Property Pty Ltd), dated May 2017;

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- i) *North Byron Parklands Cultural Events Site – Environmental Impact Statement*, prepared by PJEP Environmental Planning Pty Ltd in association with Planners North, dated December 2017;
- j) *North Byron Parklands Cultural Events Site – Response to Submissions*, prepared by PJEP Environmental Planning Pty Ltd in association with Planners North, dated July 2018; and
- k) *North Byron Parklands Cultural Events Site – Response to Submissions Addendum*, prepared by PJEP Environmental Planning Pty Ltd in association with Planners North, dated September 2018.

A3 Project in accordance with plans

The Proponent **must** carry out the concept plan and all related future **development** applications in accordance with the plans **outlined in Table 1**.

Table 1: Structure Plans

Structure Plans prepared by Design Team Ink, updated by Planners North		
Job No.	Title	Date
1287.1694	Proposed Land Use Structure Plan	November 2017
1287.1694	Proposed Ecological Structure Plan	November 2017

A4 Consistency of future development

- 1) In the event of any inconsistency between:
 - a) this approval and the drawings/documents referred to in terms A2 and A3, this approval prevails to the extent of the inconsistency;
 - b) any drawing/document listed in terms A2 and A3 and any other drawing/document listed in terms A2 and A3, the most recent document/ plan shall prevail to the extent of the inconsistency;
 - c) this approval and the **Management and Mitigation Measures** (at Schedule 3), this approval prevails to the extent of the inconsistency.
- 2) If there is any inconsistency between this concept plan approval and any future application/ project, this concept plan approval shall prevail to the extent of the inconsistency.

A5 Lapsing of approval

This concept plan approval shall lapse five (5) years after the date of this approval, unless works the subject of the project approval for Stage 1 have physically commenced on or before that lapse date.

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PART B – MODIFICATIONS TO THE CONCEPT PLAN

B2 Trial period for outdoor events

- 1) Concept approval is granted for a trial period up to 31 August 2019.
- 2) The Secretary may approve up to 3 trial events each calendar year, being one large trial event, one medium trial event and one small trial event. The Secretary may also approve additional small or medium events in place of a larger trial event during any calendar year so long as the number of trial events for the year does not exceed 3.
- 3) The total event days for each calendar year must not exceed 10 days. The total camper arrival and departure days each calendar year must not exceed 6 days.
- 4) The maximum number of patrons that may be approved for each large, medium or small trial event depends on the number of trials that have been held of events in that class, as set out in the Table below.

Number of trial	Large trial event	Medium trial event	Small trial event
First trial	Up to 25,000 patrons	Up to 15,000 patrons	Up to 10,000 patrons
Second trial	Up to 27,500 patrons	Up to 17,500 patrons	Up to 12,000 patrons
Third trial	Up to 30,000 patrons	Up to 20,000 patrons	Up to 13, 000 patrons
Fourth trial	Up to 32,500 patrons	Up to 22,500 patrons	Up to 14,000 patrons
Fifth trial (and subsequent trial events)	Up to 35,000 patrons	Up to 25,000 patrons	Up to 15,000 patrons

- 5) This approval permits FIVE minor community events within 12 months following the determination date of MOD 3.
- 6) No more than 10 minor community events may be held after the period specified in clause 5), subject to the Proponent obtaining further approval from the Secretary and following consideration of the 'Performance Report for Minor Events' required by Condition B7(7) of Project Approval MP 09_0028.

B3 Approval process for trial events

The process for approving trial events, including the Secretary's powers to limit or regulate trial events, must be set out in the project approval for the trial period.

B5 Modifications to on-site effluent irrigation

To ensure the protection of existing groundwater conditions and adjoining environments, no on-site effluent irrigation is to occur on land south of Jones Road. The Proponent must provide suitable areas for on-site effluent irrigation on land north of Jones Road, without introducing any adverse environmental impacts.

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PART C – REQUIREMENTS FOR FUTURE APPLICATIONS

Pursuant to sections 75P(2)(c) of the Act the following requirements apply, as relevant, with respect to future stages of the project to be assessed under Part 4 of the Act:

C1 *Future outdoor events*

- 1) Concept approval is given for future outdoor events for up to 50,000 patrons per event day.
- 2) The performance of previous outdoor events held at the site must be addressed as part of any development application under Part 4 for future outdoor events.
- 3) Any development application for future outdoor events under Part 4 must be accompanied by an environmental management and monitoring plan that details the management strategies, monitoring regimes and regular reporting on the following matters:
 - noise
 - traffic and transport
 - flora and fauna
 - bushfire
 - flood
 - surface water
 - event management.

C2 *Additional flood modelling*

The following matters are to be addressed as part of any development application for the proposed conference centre and cultural centre:

- 1) The Proponent must undertake further flood modelling of the site at a localised/catchment level with the aid of a detailed hydrological and hydraulic model prior to the construction of the conference centre and/or cultural centre.
- 2) The additional flood modelling must take into consideration the existing flood behaviour of the site and climate change requirements and provide an indication of any further flood impacts anticipated as a result of the constructed conference centre and/or cultural centre.
- 3) The Proponent must submit details of an appropriate drainage system designed around these proposed facilities, including incorporation of water sensitive urban design measures.
- 4) Any future drainage systems introduced must not generate any detrimental impacts on the sites existing infrastructure.
- 5) Any future drainage systems introduced must not exacerbate the sites existing flood regime, or exacerbate the impacts of flooding on any land adjoining the site.

C3 *Habitable floor levels*

Floor levels of all permanent habitable structures proposed as part of any future development application must be constructed a minimum of 500mm above the 100 year ARI flood level including relevant climate change requirements applying at the time of lodgement of the development applications.

End of Schedule 2

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SCHEDULE 3 MANAGEMENT AND MITIGATION MEASURES

Source: *North Byron Parklands Cultural Events Site – Response to Submissions*, prepared by PJEP Environmental Planning Pty Ltd in association with Planners North, dated July 2018

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