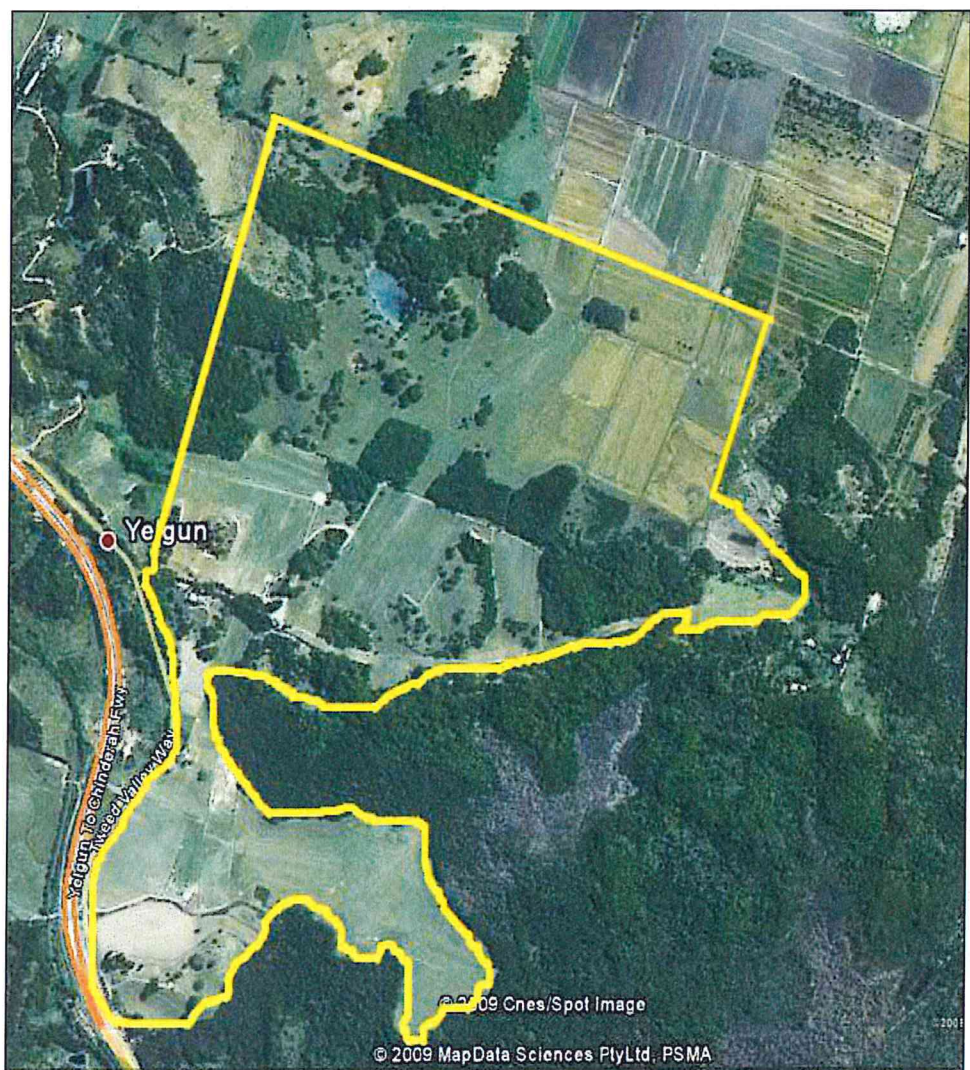




**MODIFICATION REQUEST:**  
**Cultural Events Site**  
**Tweed Valley Way and Jones Road, Yelgun**  
**09\_0028 MOD 2**



Director-General's  
Environmental Assessment Report  
Section 75W of the  
*Environmental Planning and Assessment Act 1979*

January 2013

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Published January 2013  
NSW Department of Planning & Infrastructure  
[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

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## 1. BACKGROUND

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This report is an assessment of a request to modify the Project Approval for Major Project 09\_0028 involving a Cultural Events Site at Yelgun, pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The site is formally described as Lots 46, 402, 403, 404, 410 DP 755687; Lots 10, 12, 14 DP 875112; Lots 2, 12 DP 848618; Lot 101 DP 856767; Lots 30, 31 DP 880376; Lots 101, 102, 107 DP 1001878; and Lot 1 DP 1145020, Tweed Valley Way and Jones Road, Yelgun, in the Byron local government area.

A concept plan and project application for Stages 1 and 2 were granted approval by the Planning Assessment Commission (PAC) under delegation of the Minister for Planning and Infrastructure (the Minister) on 24 April 2012, in accordance with Part 3A of the EP&A Act. Approval was granted for the site to be used for cultural, educational and outdoor events with ancillary camping and car parking on a five year trial basis, until the year 2017.

## 2. PROPOSED MODIFICATION

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### 2.1 Modification Description

On 22 January 2013, SJ Connelly CPP Pty Ltd on behalf of Billinudgel Property Pty Ltd (the proponent) submitted a section 75W modification request to the project approval of 09\_0028. The proposed modification involves an administrative amendment to Condition C32 to correct the naming of Yelgun Creek, which is incorrectly referred to as Billinudgel Creek.

## 3. STATUTORY CONTEXT

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### 3.1 Modification of the Minister's Approval

Approval of the project application 09\_0028 was granted in accordance with Part 3A under section 75J of the EP&A Act. Section 75W of the EP&A Act provides for the modification of the Minister's approval.

Pursuant to section 75W(2) of the EP&A Act, the proponent may request the Minister to modify approval of a project. Any request is to be lodged with the Director-General. A copy of the proponent's modification request is included at **Appendix B**.

Section 75W(3) of the EP&A Act provides that the Director-General may notify the proponent of environmental assessment requirements (DGRs) with respect to the proposed modification. Given the modification request involves only an administrative amendment, DGRs are not considered necessary.

Under section 75W(4) of the EP&A Act, the Minister may modify the approval (with or without conditions) or disapprove the modification. The following report outlines the department's assessment of the modification request.

### 3.2 Delegated Authority

Under the Instrument of Delegation dated 14 September 2011, the Minister has delegated his functions to determine section 75W modification requests to the Director, Metropolitan and Regional Projects North, whereby:

- the relevant local council has not made an objection to the proposal;
- a political disclosure statement has not been made; and
- there are less than 10 public submissions in the nature of objections.



Byron Shire Council (council) has not made an objection to the proposal, and no political disclosure statement has been made. Due to the minor nature of the modification request, the proposal was not publicly exhibited, therefore no submissions in the nature of objections were received. The Director, Metropolitan and Regional Projects North, is therefore delegated to determine the modification request.

## 4. CONSULTATION AND SUBMISSIONS

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### 4.1 Exhibition

Under section 75X(2)(f) of the EP&A Act, the Director-General is to make publicly available requests for modifications of approvals given by the Minister. In accordance with clause 8G of the Environmental Planning and Assessment Regulation 2000, the request for modification was made publicly available on the department's website.

## 5. ASSESSMENT

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The proponent seeks to amend a misdescription within Condition C32 – *Installation of Flood Monitoring Equipment*. The condition requires the proponent to install various flood monitoring equipment, including stream gauges to monitor the site's flood behaviour. Clause (c) of condition C32 currently reads:

*(c) stream gauges installed at an appropriate off-site location and linked to the existing EnviroMon system to monitor stream height readings of Crabbes Creek and Billinudgel Creek.*

The proponent has advised that reference made to *Billinudgel Creek* in Condition 32, clause (c) is incorrect and should in fact read *Yelgun Creek*. In support of the modification request, the proponent provided correspondence from Molino Stewart, Environmental and Natural Hazards consultants (who made the initial recommendations on the location of stream gauges within the approved Flood Risk Management Plan), confirming that Yelgun Creek is the southern most of the two creeks which pass through the area south of Jones Road and is the one with a larger catchment. Molino Stewart acknowledged the error in initially recommending Billinudgel Creek and hence recommends the stream gauge should instead be installed at Yelgun Creek (refer **Appendix C** for a copy of Molino Stewart's correspondence).

The department is satisfied with the advice received from Molino Stewart and supports the proposed amendment to the misdescription in Condition C32, as outlined in the attached modifying instrument (refer **Appendix A**).

## 6. CONCLUSION

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The department considers the proposal, as modified, achieves the same objectives as assessed under the original approval. The proposed modification does not alter the overall nature of the project, nor does it introduce any detrimental environmental, social or economic impacts upon the site or surrounding locality. The department therefore recommends the modification request be approved.

## 7. RECOMMENDATION

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It is recommended that the Director, Metropolitan and Regional Projects North, as delegate for the Minister, under section 75W of the EP&A Act approve the proposed modification to 09\_0028, as detailed in **Section 2.0** of this report; and vary the conditions of approval as set out in the modifying instrument included at **Appendix A**.

Prepared by:



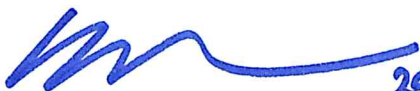
Brent Devine  
**A/Senior Environmental Planner**  
**Metropolitan and Regional Projects North**

Endorsed by:



Joanna Bakopanos  
**Team Leader**  
**Metropolitan and Regional Projects North**

Approved by:

  
29/11/13

Heather Warton  
**Director**  
**Metropolitan and Regional Projects North**

## **APPENDIX A    MODIFYING INSTRUMENT – 09\_0028 MOD 2**



# Modification of Minister's Approval

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

As delegate of the Minister for Planning and Infrastructure under delegation executed on 14 September 2011, I approve the section 75W modification of the project approval referred to in Schedule 1, subject to the modified conditions of approval outlined in Schedule 2.

Heather Warton  
**Director**  
**Metropolitan and Regional Projects North**

Sydney **29th** January 2013

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### SCHEDULE 1

<b>Project Approval:</b>	MP 09_0028 granted by the Planning Assessment Commission on 24 April 2012.
<b>Proponent:</b>	Billinudgel Property Pty Ltd.
<b>Land:</b>	Lots 46, 402, 403, 404, 410 DP 755687; Lots 10, 12, 14 DP 875112; Lots 2, 12 DP 848618; Lot 101 DP 856767; Lots 30, 31 DP 880376; Lots 101, 102, 107 DP 1001878; and Lot 1 DP 1145020, Tweed Valley Way and Jones Road, Yelgun – Byron local government area.
<b>Project:</b>	<p>Project Application for a development comprising:</p> <ul style="list-style-type: none"><li>• Erection of temporary structures;</li><li>• Temporary camping ancillary to the events usage;</li><li>• Construction of an administration building;</li><li>• Construction of a gatehouse building;</li><li>• Temporary toilet and shower facilities;</li><li>• Temporary water and wastewater facilities;</li><li>• Construction of an internal spine road;</li><li>• Construction of a water treatment plant;</li><li>• Construction of a wastewater treatment plant;</li><li>• Upgrading of local public roads, creation of site access intersections and an underpass beneath Jones Road;</li><li>• Construction of event laneways, walkways, car parking areas, drainage improvements and associated works;</li><li>• Resource recovery centre and art installations; and,</li><li>• Progressive implementation of a vegetation management plan.</li></ul>
<b>Modification:</b>	Amendment to a misdescription within Condition C32 (09_0028 MOD 2).

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### SCHEDULE 2

The project approval as described in Schedule 1 is modified as follows:

- (a) Delete the words 'Billinudgel Creek' in Condition C32(c) and replace with the words 'Yelgun Creek'.

## **APPENDIX B    MODIFICATION REQUEST – 09\_0028 MOD 2**

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Also refer the Department's website at:

<http://majorprojects.planning.nsw.gov.au/>



22 January 2013  
Our Ref: SJC1287-286

The Director General  
Department of Planning & Infrastructure  
GPO Box 39  
Sydney NSW 2001

**Attention: Brent Devine**

Dear Sir,

**Re: Cultural Events Site - Tweed Valley Way and Jones Road  
Yelgun, Byron Local Government Area (09\_0028)  
Modification Application #2**

This application for modification involves a "typographical error" relating to Condition C32

The reference to Billinudgel Creek in that Condition is wrong. It should be Yelgun Creek. Set out below is Condition C32. I have shown in cross-through text the deletion of the words Billinudgel Creek and replaced those with Yelgun Creek.

**C32 Installation of Flood Monitoring Equipment**

*The proponent is required to install flood monitoring equipment to monitor the site's flood behaviour. The flood monitoring equipment is to include the following:*

- (a) An automatic rainfall recording station;
- (b) At least two (2) soil moisture sensors installed by a suitably qualified person; and,
- (c) Stream gauges installed at an appropriate off-site location and linked to the existing EnviroMon system to monitor stream height readings of Crabbes Creek and ~~Billinudgel Creek~~ **Yelgun Creek**. The data obtained from the flood monitoring equipment must be made available for collection remotely via telemetry, with data connections to the on-site administration office on the site and available for the Director-General and Council. A certificate from a suitably qualified engineer, with experience in flood matters, together with suitable documentation from the installer, certifying that the flood monitoring equipment has been installed correctly and at appropriate locations, must be submitted to the Director-General and Council prior to the first event. In addition, the alert matrices contained within the Flood Risk Management Plan prepared by Molino Stewart on behalf of North Byron Parklands (Billinudgel Property Pty Ltd), dated June 2011 are to be updated to include the appropriate stream gauge readings to determine threshold actions. The stream gauge readings are to be developed in collaboration with the Bureau of Meteorology. A copy of the updated Flood Risk Management Plan is to be provided to the Director-General.

Please find attached herewith an advice from Molino Stewart, Environmental and Natural Hazards Consultants dated 27 September 2012 confirming the proper location for the stream gauging equipment.

Yours faithfully



Stephen J Connelly FPIA  
Certified Practising Planner

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Encl. Letter from Molino Stewart dated 27 September 2012.

## **APPENDIX C    ADVICE FROM MOLINO STEWART**

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# MOLINO STEWART

ENVIRONMENT & NATURAL HAZARDS

27 September 2012

Mr Mat Morris  
General Manager  
North Byron Parklands  
PO Box 517  
BANGALOW NSW 2479

Dear Mat

**Re: Location of Stream Gauge for North Byron Parklands**

I refer to your recent inquiry regarding the statement in section 5.1 of our report *North Byron Parklands - Flood Risk Management Plan*.

"The Parklands will install and maintain stream gauges to better monitor water levels within the catchments. This will increase the accuracy of forecasting for the site and provide better flood warnings. ... Two stream gauges would be installed. One on Crabbes Creek downstream of the site to detect backwater flooding from that stream and one on Billinudgel Creek upstream of the site to detect potential flooding of the southern carpark. The gauges will be linked into the existing ENVIROMON system to assist in flood forecasting for the whole region."

On closer inspection of the topographic maps I have realised that I was mistaken as to which Creek was Billinudgel Creek and which was Yelgun Creek. I now understand that Yelgun Creek is the southern most of the two creeks which pass through the area south of Jones Road and it is the one with the larger catchment. The stream gauge should therefore be installed on Yelgun Creek and not Billinudgel Creek.

I apologise for any inconvenience this has caused.

Yours faithfully

For Molino Stewart Pty Ltd



Steven Molino

Principal

cc: R Doolan