



ASSESSMENT REPORT

Section 75W Modification

Cultural Events Site, Tweed Valley Way and Jones Road, Yelgun MP 09_0028 MOD 2 (Concept Plan) and MP 09_0028 MOD 4 (Project Approval)

EXECUTIVE SUMMARY

The North Byron Parklands (the site) is located on Tweed Valley Way and Jones Road, Yelgun within the Byron local government area (LGA), adjacent to the boundary of the Tweed LGA and encompasses an area of approximately 256 hectares (ha).

In April 2012, Billinudgel Property Pty Ltd (the Proponent) was granted Concept Plan and Project Approval by the Planning Assessment Commission (the Commission) for a cultural events site, subject to a 5 year trial period for outdoor events to the end of 2017.

The Commission determined that a 5 year trial for outdoor events would be appropriate in order to confirm that suitable operational and environmental management plans and procedures were in place to manage and minimise environmental impacts as a result of events at the site.

To date, nine music/cultural events have been held at the site, including five 'Splendour in the Grass' events and four 'Falls Festival' events.

The Proponent is now seeking a modification to the Project Approval to extend the trial period for outdoor events for a further 20 months, to August 2019. This would enable up to two 'Splendour in the Grass' events and two 'Falls Festival' events to be held at the site over the next 2 years (a total of 14 to 16 event days) while the Proponent prepares a separate State Significant Development (SSD) application and Environmental Impact Statement (EIS) for the permanent use of the site as a cultural events venue.

The Department publicly exhibited the modification request and accompanying documentation from 22 March 2017 until 26 April 2017. During the exhibition, the Department received a total of 634 submissions, including 7 from government authorities (no objections), 14 from community groups (4 support, 9 object and 1 comment) and 613 from the general public (504 support, 102 object and 7 comments).

As there were more than 25 public submissions objecting to the proposal, the modification request must be determined by the Planning Assessment Commission under section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act), in accordance with the delegation from the NSW Minister for Planning.

Submissions supporting the modification cited the economic and cultural benefits of hosting such major events in the region.

Submissions objecting to the modification raised concerns principally in regard to:

- whether the consent authority has the ability to legally approve an extension of a trial period by modifying the Concept Plan and Project Approval;
- the environmental performance of trial events held to date;
- management of amenity impacts on the surrounding community; and
- ongoing management of ecological assets.

In assessing the merits of the modification, the Department considered the information provided by the Proponent to support its request; the existing conditions of approval; public and agency submissions; the Proponent's Response to Submissions; and the requirements of the EP&A Act.

The Department considers that extending the 5 year trial period for outdoor events by 20 months would not fundamentally change the nature or intent of the Concept Plan or Project Approval, and the site can continue to operate with minimal impact on the environment and the local community. As such, the Department is of the view that both approvals may be lawfully modified by the Planning Assessment Commission.

In terms of the environmental performance, the Department acknowledges there have been instances where community expectations have not been met, particularly in relation to noise, traffic and general amenity in and around the site.

However, the Proponent has implemented a range of measures to refine and improve its performance, including in regard to noise and traffic, and the Department considers that residual impacts are being actively managed in consultation with nearby residents and in accordance with the intent of the Project Approval. This is supported by the most recent event on the site in July 2017 where no major non-compliances occurred and very few complaints from the local community were received.

In regard to ecological impacts, the Department acknowledges that the extension of the trial events would result in additional disturbance of ecological values on the site and surrounds, particularly during events. However, the monitoring undertaken in accordance with the Project Approval indicates these impacts are temporary and reversible, and that the cumulative impacts on ecology are negligible.

Furthermore, the Project Approval requires the dedication of nearby land to the Office of Environment and Heritage, and the Department has recommended that the Proponent be required to dedicate this land by the end of 2017, rather than defer this obligation until after the end of the trial period as requested by the Proponent.

Importantly, the extension of the trial period would provide an opportunity for the Proponent to continue to gather data as part of its ongoing process of refining its operation as it seeks to gain permanent approval for outdoor events at the site through a separate SSD application to be submitted later this year.

Overall, the Department considers that the extension to the period for trial events, resulting in 14-16 more operational event days, is a reasonable request and consistent with the intent of the Planning Assessment Commission's approval in 2012. There have been significant improvements in environmental performance over time, and with the continued implementation of the Proponent's environmental management plans and procedures, in addition to the Department's recommended conditions, the site can continue to operate for an additional 20 months with minimal impact upon the environment and the local community.

Given this, and the broader economic and social benefits that these events bring to the region, the Department considers the proposal to extend the trial period for outdoor events at the site for a further 20 months is approvable, subject to conditions.

1. INTRODUCTION

This report is an assessment of a request to modify the Concept Plan and Project Approval (MP 09_0028) for the Cultural Events Site located on Tweed Valley Way and Jones Road, Yelgun within the Byron LGA (**Figure 1**). The request has been lodged by PJEP Environmental and Planners North on behalf of Billinudgel Property Pty Ltd (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The request seeks approval to extend the operation of the trial to allow outdoor events to be held at the site for a further 20 months (until August 2019).

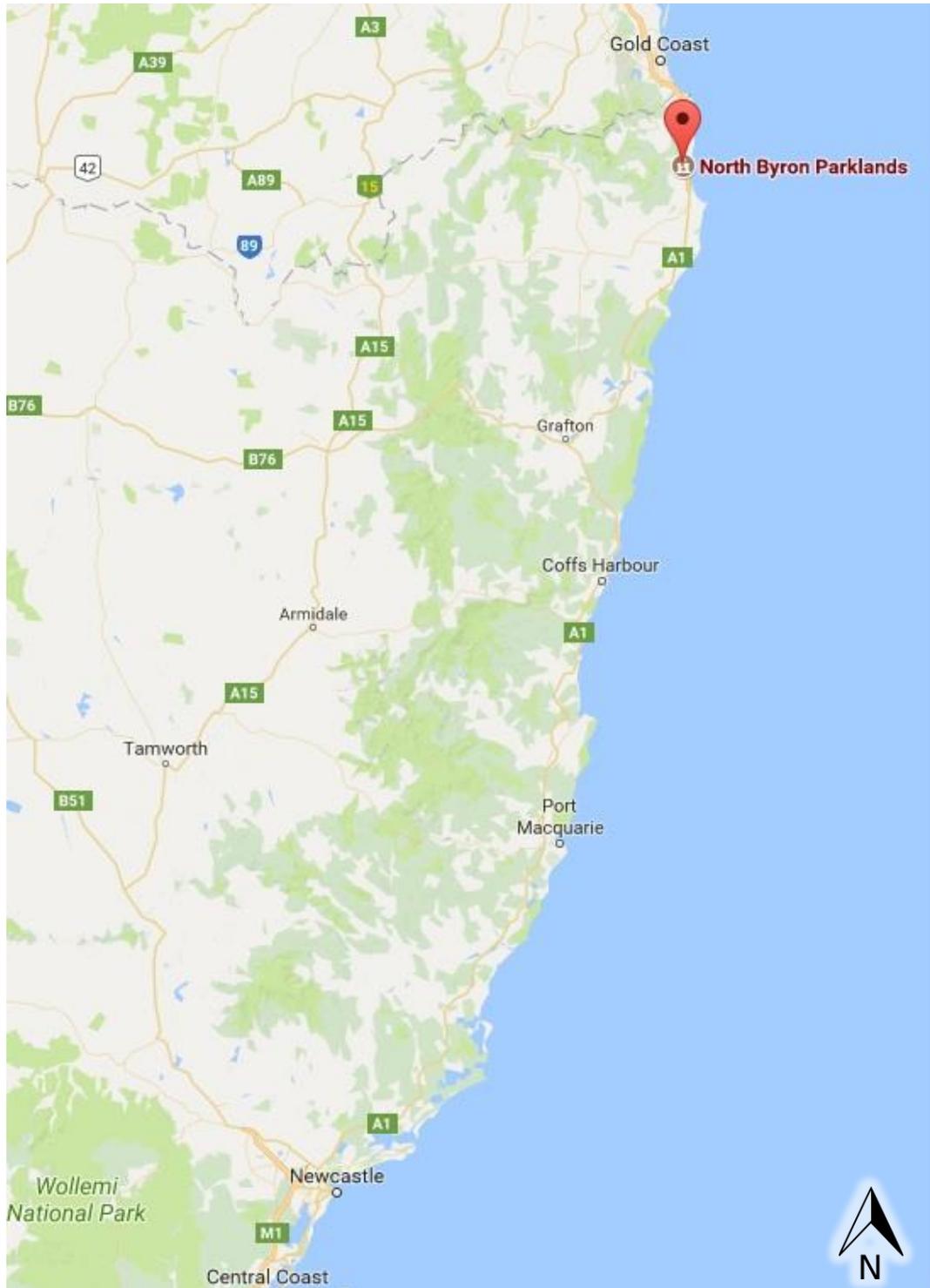


Figure 1: Site Context (Source: Google Maps, 2017)

2. BACKGROUND

2.1 Site and Surrounds

The North Byron Parklands (the site) is located on Tweed Valley Way and Jones Road in the suburb of Yelgun within the Byron LGA, adjacent to the boundary of the Tweed LGA and encompasses an area of approximately 256 hectares (ha) (**Figure 2**). There are several residential receivers in close proximity to the site, with the closest residential receiver located within one kilometre (km) of the site on Jones Road. The site forms a natural amphitheatre comprising a low lying and level central plain surrounded by steep rising hillsides on the northern, western and southern sides of the site. The Billinudgel Nature Reserve is immediately south and west of the site.

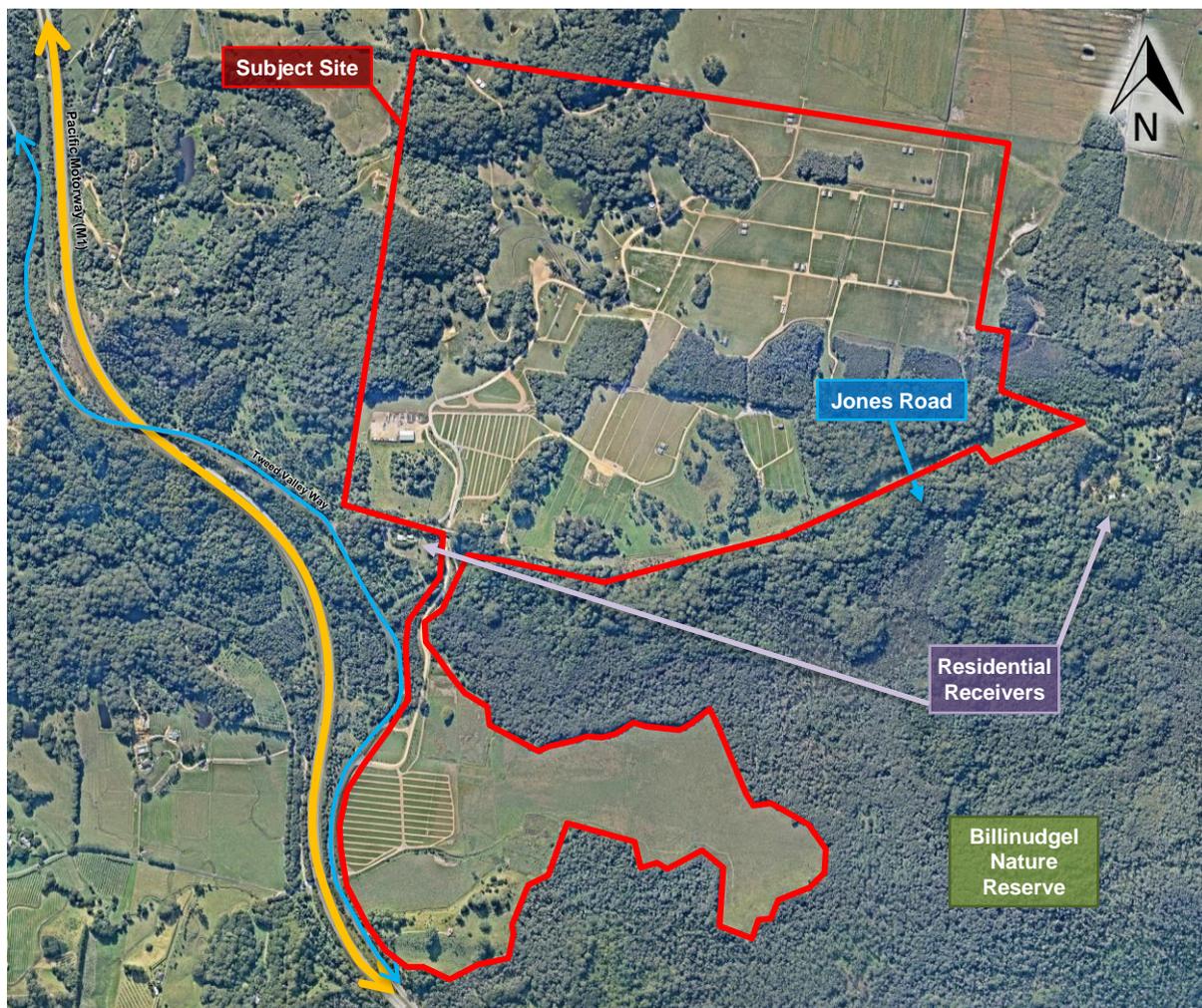


Figure 2: Site Location (Nearmap 2016)

2.2 Approvals History

2.2.1 Council Approval

An approval for a music festival at the site was first issued by Byron Shire Council (BSC) in 2009. The approval provided for the Splendour in the Grass (SITG) Music Festival to be held at the site over a four day “trial” period. However, the validity of BSC’s consent was challenged in the Land and Environment Court of NSW (L&E Court) on the basis that the proposal was prohibited and as such, considered that BSC’s approval extended beyond its power to grant. The L&E Court subsequently ruled that BSC had granted consent to a prohibited development, which was characterised as a ‘place of assembly’ and prohibited on part of the land on which the development was to be carried out under the *Byron Local Environmental Plan 1988*. As such, the approval was invalid and had no effect.

2.2.2 Current Approvals

In 2009, an application was made to the then Department of Planning and Infrastructure for Concept Plan and Project Approval for a cultural events site at North Byron Parklands, under Part 3A of the EP&A Act.

On 24 April 2012, the Planning Assessment Commission (the Commission) gave both Concept Plan and Project Approval for a cultural events at the site. In noting the concerns of the community, the Commission concluded a trial period for outdoor events up to the end of 2017 would be appropriate to confirm that the operational and environmental management plans would properly manage and minimise environmental impacts. As such, a 5 year trial period for outdoor events was approved.

Since the approvals were granted, nine events have been held at the site, including five 'large trial events' (SITG) and four 'medium trial events' (Falls Festival).

2.2.3 Judicial Review

In April 2016, the Proponent lodged a modification request to modify the trial period for outdoor events within the Concept Plan and Project Approval to a permanent approval of outdoor events in perpetuity.

The Department considered this to be outside the scope of section 75W given the nature of the approval would change from trial events to permanent events and as such, the Proponent commenced proceedings in the L&E Court. In November 2016, Justice Robson formed the opinion that a modification which sought to delete the underlying terms of an approval was not a modification within the meaning of section 75W (*Billinudgel Property Pty Ltd v Minister for Planning* [2016] NSWLEC 139). His Honour found that a modification does not include changing an essential part of the approval, in this case, converting an approval for a trial period into a permanent approval.

The current modification request differs from that which was the subject of the proceedings before Justice Robson as the modification request does not seek to alter the intent of the approval (i.e. the operation of a trial period for events), but rather seeks to extend the period of the trial. The Department considers that extending the 5 year trial period for outdoor events by 20 months would not fundamentally change the way either the Concept Plan or Project Approval operate. Both approvals would continue to permit a trial period for outdoor events and function in essentially the same way as they do now.

2.2.4 SSD Application

The judicial review highlighted the requirement for a separate consent to operate outdoor events at the site permanently. As such, the Applicant (again, Billinudgel Property Pty Ltd) is separately seeking a State Significant Development (SSD) consent for the permanent use of the North Byron Parklands as a cultural events site catering for up to 50,000 patrons. The application is subject to a separate process under Part 4 of the EP&A Act. The Department has issued detailed Secretary's Environmental Assessment Requirements (SEARs) and the Applicant is currently preparing an Environmental Impact Statement (EIS) to address the SEARs. It is anticipated that the application will be lodged later in 2017. Once received, the application will be publicly exhibited to provide the community with an opportunity to comment on the ongoing use of the site.

2.3 Environmental Performance

The conditions of the Project Approval require the Proponent to prepare a Performance Report after each year in which trial events are held demonstrating compliance with the Project Approval and the environmental criteria within the approved management plans. To date, the Performance Reports have indicated that the majority of trial events comply with the Proponent's key performance indicators (environmental, health and safety standards) and the conditions of the Project Approval, whilst there are some areas requiring ongoing management (noise and traffic). Overall, the Performance Reports have indicated that compliance has improved as a result of management responses implemented to improve event management.

3. PROJECT DESCRIPTION

Concept Plan approval was granted to provide permissibility for the site to be used for cultural, educational and outdoor events with associated camping/car parking and included:

- a cultural centre;
- a conference centre and associated accommodation;
- camping infrastructure and facilities; and
- a comprehensive vegetation management plan.

The Project Approval included a trial period for outdoor events up to the end of 2017. Other aspects of the Project Approval are described below and depicted in **Figure 3**.

Stage 1 included:

- temporary structures and camping for outdoor events until the end of 2017;
- construction of internal road infrastructure, resource centre, hard stand areas, drainage works, entry treatment and signage; and
- progressive implementation of a comprehensive vegetation management plan.

Stage 2 included:

- infrastructure, including:
 - construction and landscaping of an administration building (175m² floor area);
 - construction and landscaping of a gatehouse building (100m² floor area);
 - construction of a water treatment plant; and
 - construction of a wastewater treatment plant.

The approvals allow the Proponent to carry out three events per calendar year; a small event (up to 15,000 patrons), medium event (up to 25,000 patrons) and large event (up to 35,000 patrons). Any events being held under the Project Approval are considered to be trial events with the intent being that each trial event provides a benchmark for further monitoring, trend analysis and subsequent continuous improvement.

Since the determination of the Project Approval, nine events have been held at the site, five 'large trial events' (SITG 2013, 2014, 2015, 2016 and 2017) held during winter and four 'medium trial events' (Falls Festival 2013/14, 2014/15, 2015/16 and 2016/17) held during summer. In addition, the internal road network and the resource centre have been constructed (Stage 1). Construction of the permanent infrastructure of Stage 2 has not commenced as the events only have approval to operate for the trial period.

The Project Approval has been modified on three occasions:

- on 3 December 2012, the then Director – Metropolitan and Regional Projects North approved the first modification (MP 09_0028 MOD 1) for administrative amendments to two conditions of the Project Approval (B4 – Traffic management and car parking and E18 – Permanent Human Exclusion Fencing);
- on 29 January 2013, a second modification requesting an administrative amendment (correcting the naming of Yelgun Creek) was approved by the then Director – Metropolitan and Regional Projects North; and
- on 22 April 2016, the Commission approved a third modification to the Project Approval that included:
 - specific noise limits for all events held at the site, including criteria for lower frequency sound emissions;
 - allowance for some minor community, non-music focused events (e.g. school cross-countries, fun-runs); and
 - minor amendments to conditions to remove ambiguity and duplication.

Modifications were also made to the Concept Plan at the time of the third modification to the Project Approval to align the approvals and enable minor community events to be held at the site.

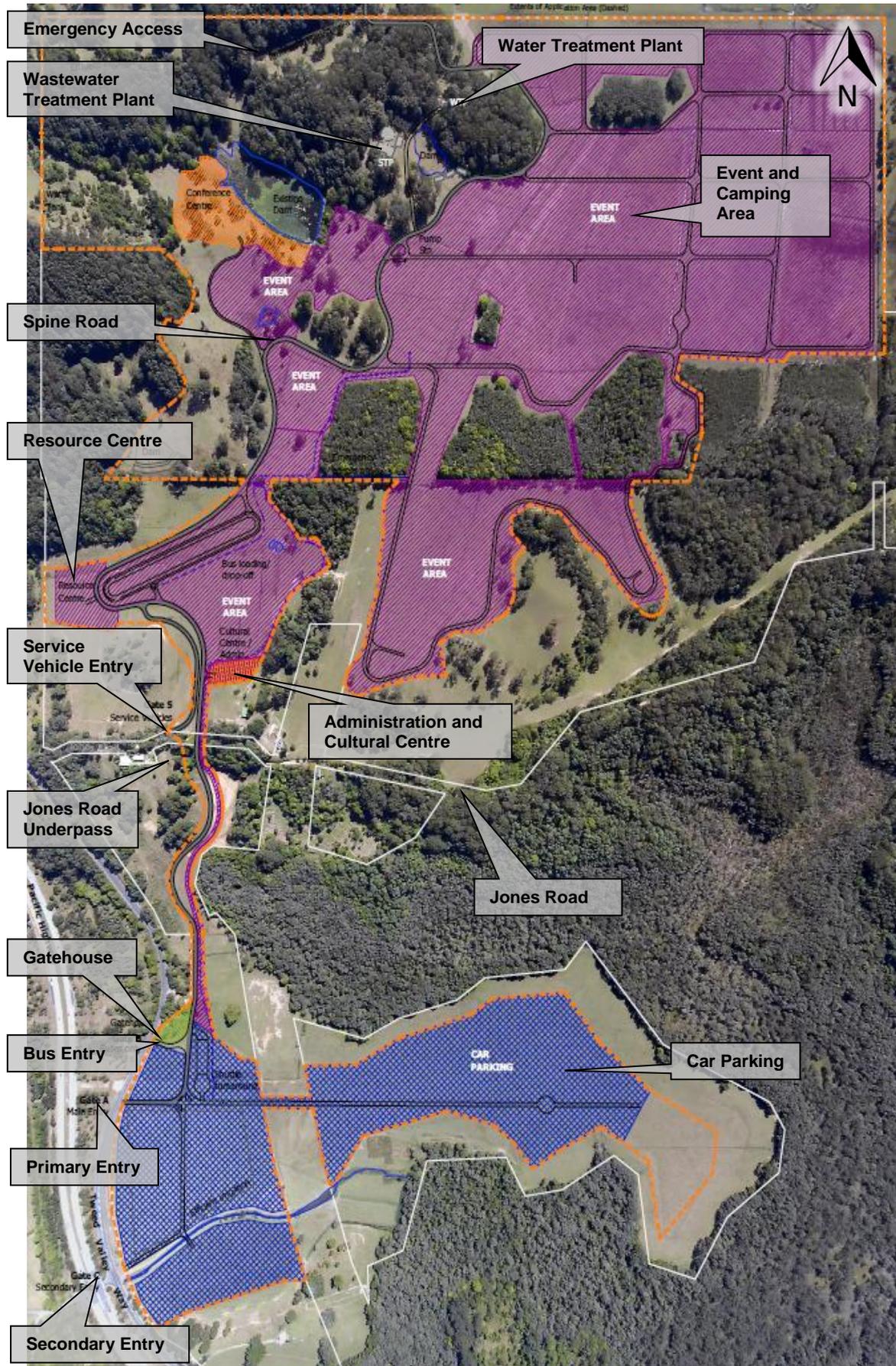


Figure 3: Cultural Events Site – Approved Project Layout – Stages 1 and 2 (MP 09_0028)

4. PROPOSED MODIFICATION

On 17 March 2017, PJEP Environmental and Planners North on behalf of Billinudgel Property Pty Ltd (the Proponent) submitted a fourth section 75W modification request to MP 09_0028 accompanied by an Environmental Assessment (EA).

The modification request seeks to modify the Concept Plan and Project Approval for the Cultural Events Site at North Byron Parklands by extending the trial period for outdoor events of up to 35,000 patrons by a further 20 months, to August 2019.

The Proponent claims that these cultural events are a significant contributor to the region's economy, workforce and the attraction of tourists from throughout the State, interstate and overseas. The Proponent has undertaken regular economic impact assessments of the events that have been held.

The most recent assessment (dated September 2015) covered the SITG 2015 and the Falls Festival 2014/15 events and identified that the total economic output of these events was \$107.8 million. The Proponent's assessment indicated that this comprised creation of 196 equivalent full time jobs, 28,995 room nights in accommodation within the Byron LGA and 7,721 room nights in other areas of Northern NSW (not including on-site camping), all over a period of eight days.

The Proponent has also requested the modification to enable events to continue operating at the site for 20 months (14-16 days of operations) while it prepares a new development application and EIS for a permanent event venue on the site (see **Section 2.2.4**).

5. STATUTORY CONTEXT

5.1 Approval Authority

The Minister for Planning is the approval authority for the request. Under the Minister's delegation of 14 September 2011, the then Minister for Planning delegated functions under section 75W of the EP&A Act to modify Part 3A approvals to the Planning Assessment Commission (the Commission) in cases where:

- council has made an objection in relation to the proposal; and/or
- more than 25 public submissions objecting to the proposal were received; and/or
- a reportable political donation has been made.

BSC did not object to the proposal and no political disclosure statements were received. However, the modification request is being referred to the Commission for determination as over 25 public submissions objecting to the proposal were received. Accordingly, the Commission may determine the application in accordance with the Minister's delegation.

5.2 Section 75W

In accordance with clause 12 of Schedule 6A of the EP&A Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

The Department notes that:

- the primary function and purpose of the approved project would not change as a result of the modification request;
- the modification relates to an extension of time of currently approved activities on the site;
- no changes are proposed that would increase the environmental impacts of the approved project; and
- any residual environmental impacts can be appropriately managed through the existing or modified conditions of approval (see **Section 7** below).

Therefore, the Department is satisfied the modification request falls within the scope of section 75W of the EP&A Act. Accordingly, the Department considers that the request should be assessed and determined under section 75W of the EP&A Act rather than requiring a new development application to be lodged.

6. CONSULTATION

As part of this modification request, the Department:

- publicly exhibited the modification request for a period of 36 days from **Wednesday 22 March 2017** until **Wednesday 26 April 2017**;
 - on the Department's website;
 - at the Department of Planning and Environment's Information Centre (Sydney);
 - at the BSC Administration Centre (Mullumbimby); and
 - at the Tweed Shire Council Main Office (Murwillumbah).
- advertised the public exhibition in the Byron Shire News, Byron Shire Echo and Tweed Daily News;
- consulted both BSC and TSC in addition to other relevant government authorities; and
- notified previous submitters on the third modification and landowners within approximately two kilometres of the site, by letter.

Over the last few years, Departmental assessment and compliance officers have also been in attendance at events to monitor compliance with the Project Approval and ensure that recommended management measures and procedures have been implemented. In addition, the Department has met with various interested community stakeholders in relation to concerns with the operation of the site and compliance with the Project Approval.

In response to the exhibition, the Department received a total of 634 submissions including seven (7) from government authorities, 14 from community groups and 613 from the general public. A breakdown of these submissions is provided within **Table 1**.

Table 1: Breakdown of submissions by classification and respondent

Respondent	Support	Object	Comment	TOTAL
General Public	504	102	7	613
Government Authorities	0	0	7	7
Community Groups/Organisations	4	9	1	14
TOTAL	508	111	15	634

6.1 Government Authorities

The Department received seven (7) submissions from government authorities during the exhibition period. Submissions were received from:

- Byron Shire Council (BSC);
- Environment Protection Authority (EPA);
- NSW Police – Tweed/Byron Local Area Command (NSW Police);
- Office of Environment and Heritage (OEH);
- Roads and Maritime Services (RMS);
- Rural Fire Service (RFS); and
- Tweed Shire Council (TSC).

BSC provided a number of comments and recommendations including:

- requesting the number of patrons be capped to no more than 32,500 patrons;
- establishment of a comprehensive approach to traffic and parking management to address conflicts with the surrounding road network;
- review of emergency evacuation and ecological monitoring procedures;
- consideration of an alternative access to the site via Wooyung Road;
- a more proactive approach to noise management; and
- a review of the adequacy of waste management to ensure no off-site pollution potential.

TSC provided comments on the modification request emphasising the importance of a continued regulatory focus on the site; the inadequacy of public transport during events; the safety of patrons and the ability to evacuate the site; the power of the Minister for Planning to legally modify the Project Approval; and the current availability of an alternate site in the region.

The **EPA** raised no concerns with the modification request.

NSW Police requested the number of events and maximum patrons do not exceed levels specified in the current Project Approval (i.e. three trial events per year; 1 large event with a maximum 35,000 patrons, 1 medium event with a maximum 25,000 patrons and one small event with a maximum 15,000 patrons).

The Department notes that there would be no change to patron numbers currently specified within the Project Approval and continued operations would comply with the NSW Police request.

OEH requested issues relating to a proposed 'land-swap' with OEH be resolved and/or conditions be included to ensure resolution. OEH also recommended amendments to the conditions associated with the approved 'Flora and Fauna Rehabilitation Plan' to ensure:

- 12.9 ha of proposed habitat are delivered to provide the buffer to the Billinudgel Nature Reserve and *State Environmental Planning Policy No. 14 – Coastal Wetlands* (SEPP 14) Wetlands;
- appropriate plant communities are selected for revegetation across the site, in consultation with OEH; and
- performance based criteria are established to ensure the preferred plant communities are achieved.

The Department has considered the matters raised by OEH and incorporated the requested amendments into the recommended conditions.

RMS supported the extension of the trial period provided maximum patrons are restricted to 35,000 for large trial events and 25,000 for medium trial events. However, the submission requested that patrons for large events should be restricted to 32,500 until such time that satisfactory performance of events from a traffic and safety perspective can be demonstrated.

The Department capped the number of patrons at the SITG 2017 event to 32,500 and will consult with both BSC and RMS prior to approving any future increase in patrons to 35,000 as discussed further in **Section 7.2**.

The **RFS** raised no concerns with the modification request.

6.2 Community Groups

The Department received 14 submissions from community groups and organisations during the exhibition period. Submissions were received from:

- Australians for Animals (object);
- Bangalow Progress Association (object);
- Brunswick Heads Progress Association (object)
- Brunswick Valley District Primary School Sports Association (support);
- Burringbar Community Association (support);
- Byron Environment Centre (object);
- Conservation of North Ocean Shores (object);
- Far North Coast Primary School Sports Association (comment);
- Middle Pocket and Yelgun Progress Association (object);
- Northern Rivers Guardians (object);
- Pottsville Community Association (object);
- Ocean Shores Tidy Towns Committee (support);
- SAE Institute (support); and
- South Golden Beach Community Association (object).

The issues raised in submissions of support were in relation to the benefits provided to the broader community as a result of events held at the site. A summary of the issues raised in objection to the modification request by community groups is provided in **Table 3** and **Figure 4**.

6.3 General Public

The Department received 613 submissions from the general public including 102 objections, 504 submissions in support and seven submissions providing comments.

A breakdown of the submissions from the general public in relation to their distance from the site is provided within **Table 2**.

Table 2: Breakdown of submissions by distance from the site

Distance from the site	Number of Submissions
0-2 km	26 (20 object, 6 support)
2-5 km	48 (20 object, 28 support)
5+ km	539 (71 object, 468 support)

As can be seen from **Table 2**, 26 submissions were received from residents in the immediate vicinity of the site, the majority of which objected to the modification request. Within 2-5 km of the site, there was increased support for the modification request. The greatest number of general public submissions were from the broader region and beyond (i.e. greater than 5 km from the site), with the majority supporting the modification request.

6.3.1 Objecting Submissions

Key issues raised within the submissions from the general public that objected to the modification request included impacts on local amenity, extension of the trial period, the role of council in managing future approvals for events and the safety of patrons and the community. Other issues raised included traffic and noise, compliance to date, ecological matters and road/waste/wastewater infrastructure. The proportion of submissions that raised key issues within the objecting submissions is provided within **Figure 5**. An indicative representation of the locality of the objecting submissions is shown on **Figure 6**.

6.3.2 Submissions in Support

During the exhibition period, the Department received a large number of submissions in support of the modification request. In total, 504 submissions in support were received. These submissions generally supported the modification request with some specifying support for the economic benefits to the locality and the increase in the number of major arts and cultural events in the region.

Figure 7 depicts issues raised within the submissions in support of the modification request. An indicative representation of the location of the submissions in support are shown on **Figure 8**.

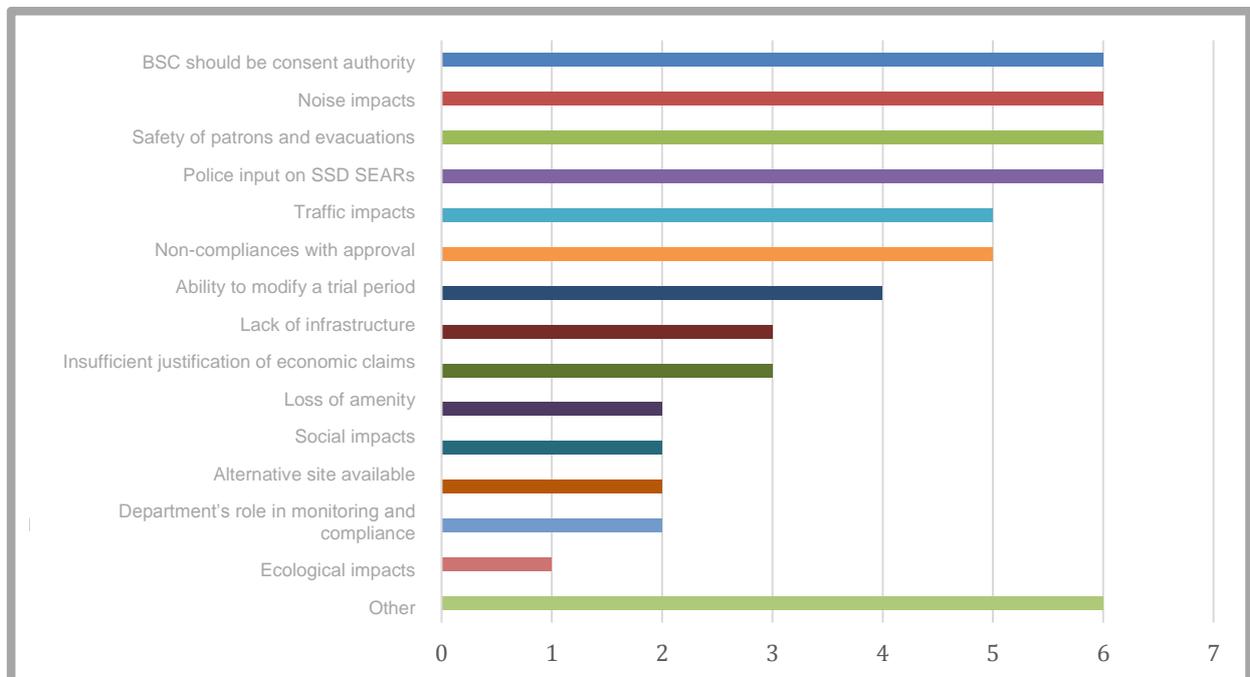


Figure 4: Number of community groups that raised key issues

Table 3: Summary of key issues raised in the nature of objection within community group submissions

	BSC should be consent authority	Noise impacts	Traffic impacts	Safety of patrons and evacuations	Police input on SSD SEARs	Non-compliances with approval	Ability to modify a trial period	Lack of infrastructure	Economic claims not justified	Loss of amenity	Social impacts	Alternative site available	Department role in monitoring/compliance	Not in the public interest	Ecological impacts	Other
Australians for Animals																
Bangalow Progress Association																
Brunswick Heads Progress Association																
Byron Environment Centre																
Conservation of North Ocean Shores																
Middle Pocket and Yelgun Progress Association																
Northern Rivers Guardians																
Pottsville Community Association																
South Golden Beach Community Association																

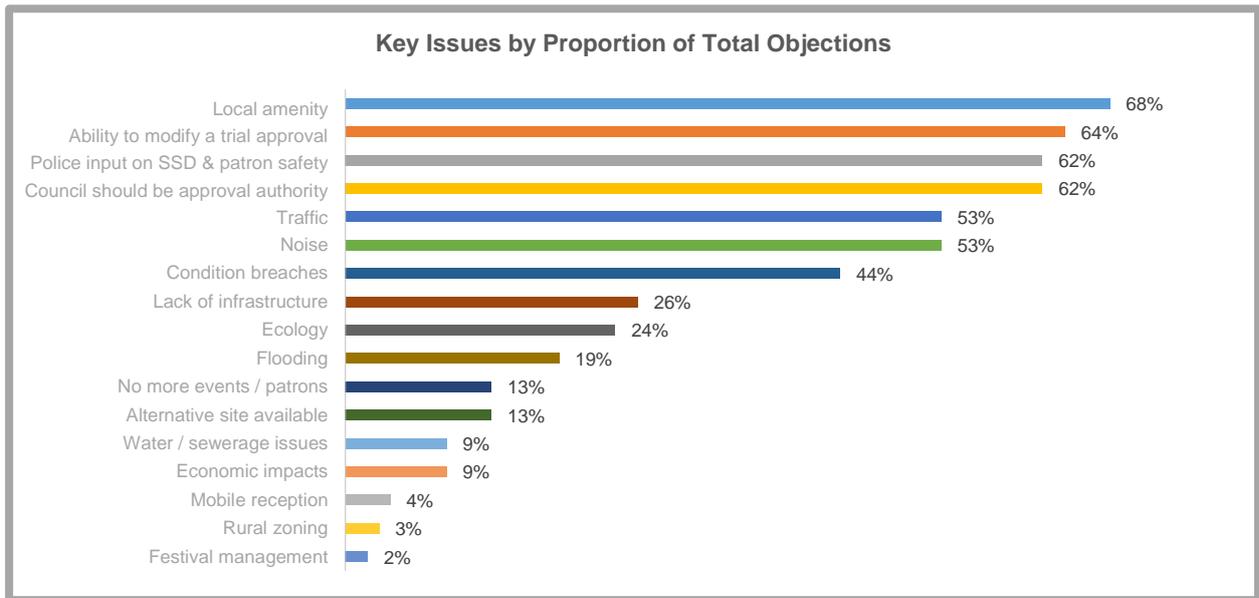


Figure 5: Key issues identified in objecting submissions and the proportion of objecting submissions that raised the issue

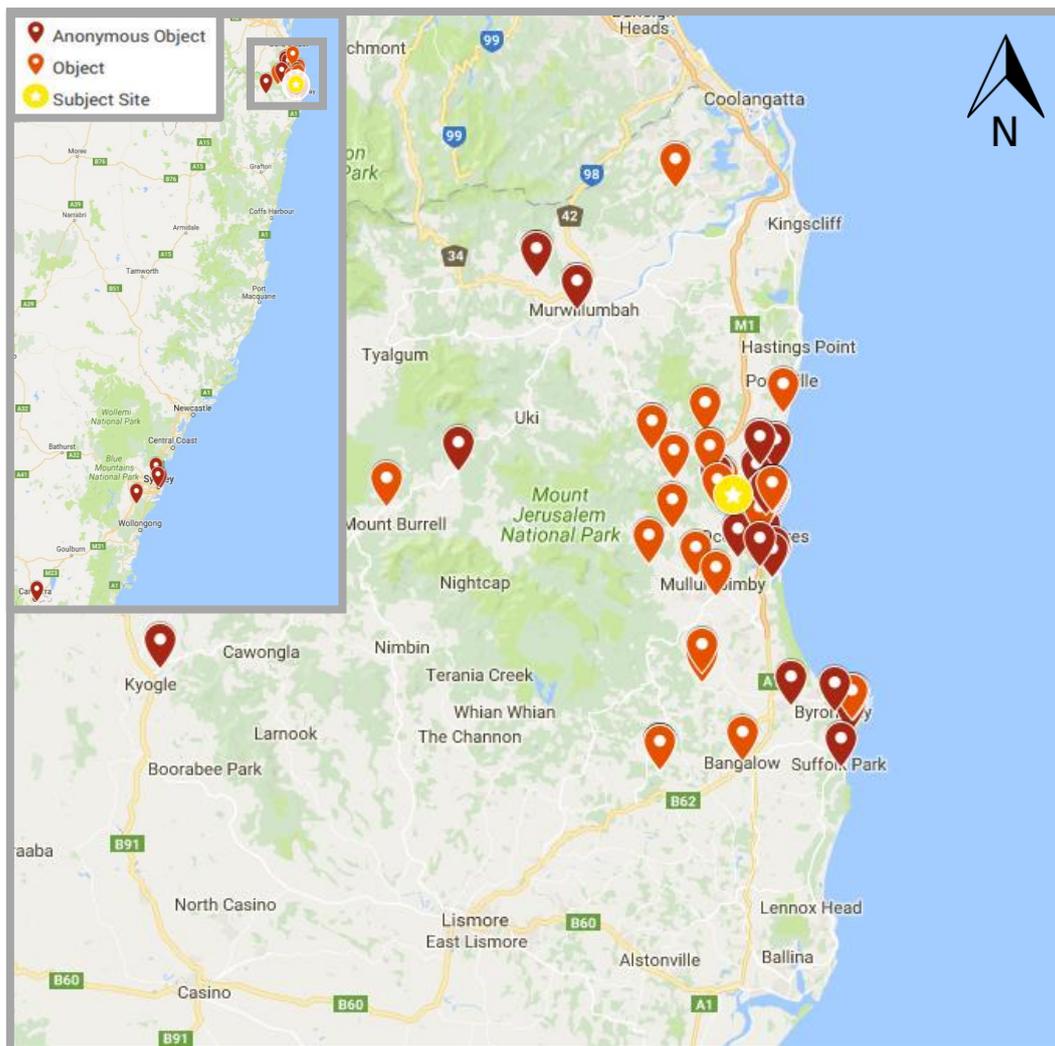


Figure 6: An indicative representation of the location of objecting submissions (See inset for overall distribution)

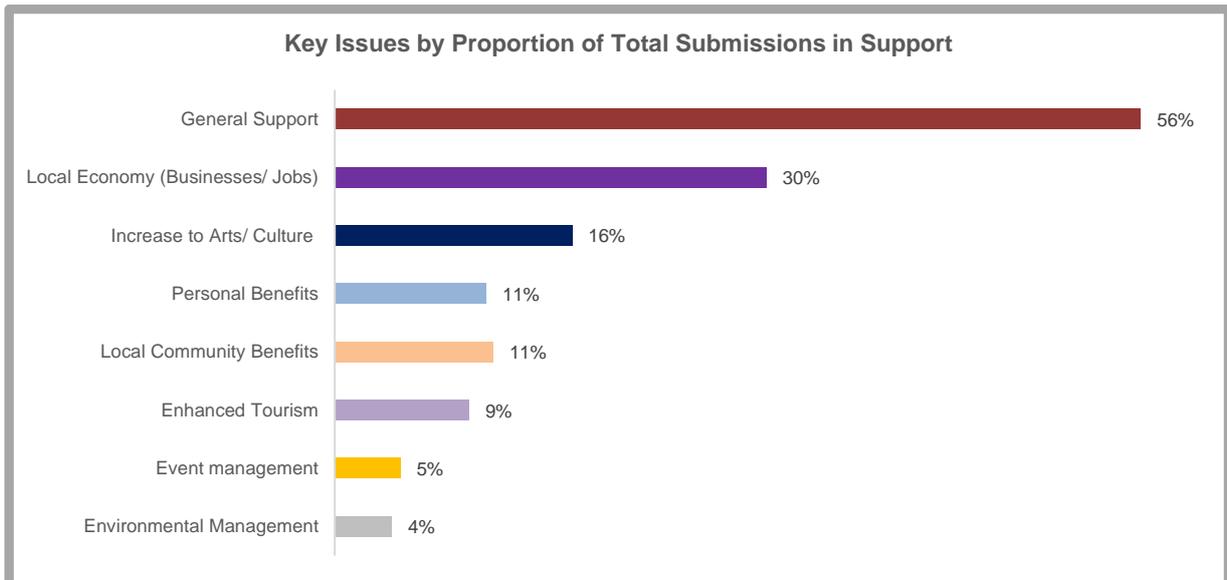


Figure 7: Key issues identified in supporting submissions and the proportion of that raised the issue

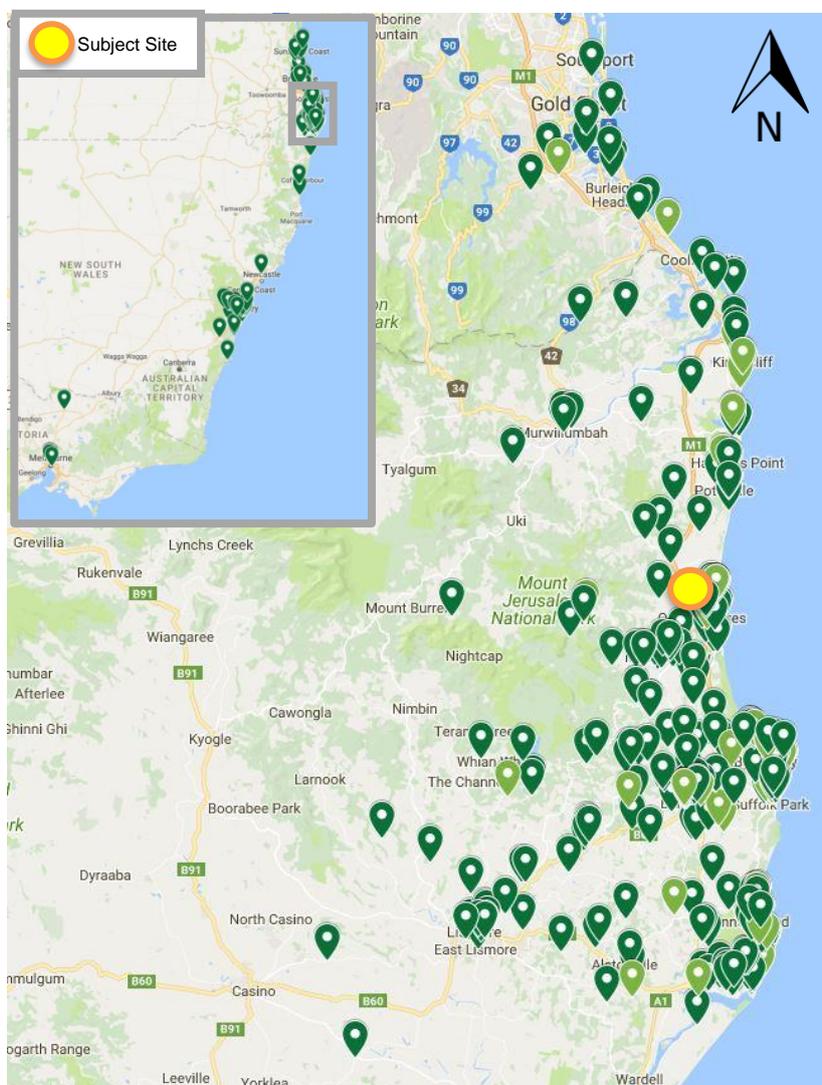


Figure 8: An indicative representation of the location of regional supporting submissions (See inset for overall distribution)

6.4 Response to Submissions

The Proponent provided a Response to Submissions (RTS) on 22 May 2017. The RTS included additional information and clarification around a number of issues raised within the submissions, particularly the management of social impacts in the broader community during events.

The Department referred the RTS to BSC, TSC, RMS, OEH, RFS (via Fire and Rescue NSW) and the NSW Police in addition to publishing the RTS on the Department's website.

The Department received further submissions from TSC, OEH and RMS. One public submission was also received. These submissions are summarised as follows.

TSC had no further comments in relation to matters raised in previous correspondence but noted that the rain and stream gauge at the site was not functioning at the time of the submission.

RMS re-emphasised the request to limit patron numbers to 32,500 until satisfactory performance of the 'large' events can be demonstrated and requested that terms within the approvals relating to consultation prior to events with RMS (Part B2(4) of the Concept Plan approval and Part B2 of the Project Approval) remain within the respective approvals.

OEH was generally satisfied that the RTS had addressed issues raised however sought clarification on the timing of the land transfer and dedication of parcels to OEH as well as the consultation requirements associated with the recommended 'Terms of Agreement' for transfer and dedication of lands.

These issues are assessed in further detail in **Section 7** below.

The public submission on the RTS raised concerns about noise impacts experienced during events and the need for additional noise mitigation.

7. ASSESSMENT

The Department has assessed the merits of the modification request. During this assessment, the Department has considered the:

- EA, Preferred Project Report and the Director-General's environmental assessment report for the original application;
- existing terms and conditions of approval (as modified);
- the EA supporting the modification request (see **Appendix B**);
- submissions from State government authorities and Council on the modification request (see **Appendix C**);
 - the Proponent's RTS (see **Appendix D**);
 - the submissions received on the RTS;
- relevant environmental planning instruments, policies and guidelines; and
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department considers the key assessment issues are:

- the ability to extend the trial period by modifying the Concept Plan and Project Approval;
- environmental performance of trial events held to date;
- ecological matters; and
- ongoing amenity impacts of events.

The Department's assessment of other issues is provided in **Table 4**.

7.1 Extension of the Trial Period

The modification request seeks to extend the 5 year trial period for outdoor events by 20 months to August 2019. A key issue to be considered as part of the modification request concerns the ability to modify a trial given the intent of the original Concept Plan and Project Approval.

In response to the exhibition of the modification request, approximately 64% of public submissions received which objected to the modification request raised concerns about the ability to modify the trial period, citing the following reasons:

- amendment to the duration of the trial period would change the terms and functions of the Concept Plan approval;

- the ability of the approval authority to modify the trial period under section 75W of the EP&A Act; and
- the role of Council as the consent authority following the conclusion of the trial period.

The Department notes the site currently operates under a Concept Plan and Project Approval. In the Commission's original determination, Project Approval was granted to enable outdoor events to be held for a trial period to gain more information and ensure appropriate operational and environmental management plans were implemented to minimise and manage impacts of the events.

Following the completion of the trial period, no further outdoor events would be permitted at the site under the Project Approval. The Concept Plan approval would continue to apply to the site with Term C1 of the Concept Plan approval outlining the requirements for future applications for outdoor events after 2017. The effect of Term C1 is that any outdoor events beyond 2017 would require a further development application to be made, considered and determined under Part 4 of the EP&A Act.

Recently, the Proponent sought to delete Term C1 altogether, which was subject to judicial consideration in *Billinudgel Property Ltd v Minister for Planning* [2016] NSWLEC 139. In handing down his judgment, Justice Robson stated that a modification which sought to delete Term C1 was not a modification within the meaning of section 75W because it sought to remove an underlying part of the Concept Plan approval.

However, the current modification request is not seeking to alter the terms and function of the Concept Plan or the Project Approval. Rather, it is seeking to continue the current trial period by allowing the same activities to occur on the site for an additional 20 months, subject to the same management measures and performance criteria imposed by the Commission under the current approvals.

While a number of events would be held over the next 20 months (if the modification is approved), there are no additional activities proposed as part of the modification that would materially increase the nature and scale of impacts compared with the approved project. There have also been significant improvements in minimising and managing environmental and amenity impacts since the project was approved in 2012, as discussed further below.

The Proponent is currently preparing an SSD application seeking to establish a permanent cultural events site and this application is being prepared in accordance with the requirements of the Concept Plan. The application is considered to be of State significance in accordance with Clause 13 of Schedule 1 of the *State Environmental Planning Policy (State and Regional Development) 2011* and as such, the Minister would be the consent authority. This is a separate process to this modification request and any future application would be considered on its merits.

While the Department acknowledges the concerns raised in public submissions, the Department considers that the requested modifications to the Concept Plan and Project Approval can be lawfully made.

The Department also considers that the modification is consistent with the intent of the Commission's original determination to provide a suitable period of time for the Proponent to gain more information and demonstrate continuous improvements in minimising and managing the impacts of events, prior to any consideration of a development application for a permanent event venue on the site.

7.2 Performance of Trial Events

In response to the exhibition of the modification request, approximately 44% of objecting submissions raised compliance with the Project Approval as a concern.

In considering the Proponent's request, the Department has carefully considered the issues raised in submissions and the past performance of events held at the site. A number of non-compliances were identified during the operation of the first two trial events held at the site (SITG 2013 and Falls Festival 2013/2014), primarily in relation to traffic management and noise. The Proponent implemented measures to address these non-compliances prior to the SITG 2014 event.

As a result of the identified non-compliances, the Department sent three officers to the SITG 2014 event to conduct a focused compliance audit and to monitor noise. Overall, the findings of the compliance audit indicated that management practices employed during the event were satisfactory. However, some

matters of non-compliance were identified particularly in relation to the noise limits specified under Condition B3 of the Project Approval. A Penalty Infringement Notice (PIN) was issued to North Byron Parklands in accordance with the Department's *Compliance Policy* and *Breach Management Guidelines*.

The Department issued a further PIN following the review of the Proponent's Noise Impact Report of SITG 2015 that demonstrated breaches of the noise limits during the event. The Department also requested the Proponent provide details of how the management of a number of other matters including on-site camping, lighting and sediment control would be addressed for all future events.

The Department notes that the fourth large trial event (SITG 2016) resulted in unanticipated traffic impacts on-site, primarily as a result of an unexpected increase in the number of pick-ups occurring at the conclusion of the entertainment each evening. The Proponent's response to this matter improved over the duration of the event, with the Proponent delivering an amended management approach on the final evening of the event that resolved on-site traffic issues. This continuous refinement of management measures undertaken by the Proponent during SITG 2016 aligns with the intent of the Commission's original decision for a trial period to continually improve event management procedures.

The Proponent has continued to improve management of noise and traffic across all events held to date. Measures have included a revision of traffic flows on to and around the site and an improved noise management approach including centralised noise monitoring and control, implementation of on-site noise attenuation and additional attended and unattended monitoring, both on-site and off-site, during events. Events held have demonstrated continuous improvements in environmental management and compliance with the Project Approval since the commencement of operations at the site.

The Proponent is able to seek approval for 35,000 patrons as part a progressive increase in patron numbers permitted to attend each trial under the Project Approval. However, the Department resolved, in consultation with RMS and BSC, to cap the number of patrons for the most recent (fifth) large trial event (SITG 2017) to 32,500 – the number of patrons in attendance at the SITG 2016 event. This was the first time during the trial period for outdoor events that the Department has not granted an increase in patrons. The Department considered this would provide the opportunity for the Proponent to demonstrate that adequate operational and environmental management processes were implemented and the additional traffic measures adopted towards the end of the SITG 2016 event would adequately ameliorate traffic impacts during SITG 2017. The Department's attendance at the recent SITG 2017 confirmed that the measures adopted during SITG 2016 ameliorated on-site traffic impacts, with improved flows of vehicles on and around the site. In addition, there were minimal complaints received during the event and the event complied with the conditions of approval, including in regard to noise.

Given the events held to date are permitted only to host up to 32,500 patrons, the Department considers that extending the trial period would also provide an opportunity for the Proponent to refine management measures and seek approval for a large trial event of 35,000 patrons (which is permitted under the current Concept Plan and Project Approval).

7.3 Biodiversity Impacts

The North Byron Parklands site is located within an area of significant ecological values with the Billinudgel Nature Reserve located immediately to the east of the site, the presence of *State Environmental Planning Policy No. 14 – Coastal Wetlands* (SEPP 14) wetlands to the east and south-east and the Marshalls Ridge wildlife corridor extending through the central portion of the site. The trial events held at the site take place on cleared areas with no clearing of significant vegetation required to operate trial events.

The potential impacts of the proposed 20 month extension of the trial period on ecological values would be a continuation of the impacts of the events held to date. These impacts include a continuation of:

- human presence at the site;
- trampling and edge effects upon delineated ecological assets;
- disturbance to foraging activities during events;
- increased traffic generation and amplified music during events; and
- use of artificial lighting during events.

Ecological matters were raised by OEH, BSC, one special interest group and 24% of the objecting submissions received from the general public. Issues raised related to the ongoing and cumulative

impact of events upon fauna and habitat and the provision of cumulative ecological monitoring data as well as the rehabilitation of the site.

In its determination of the project, the Commission noted that it was difficult to forecast the cumulative impacts of events upon the ecology of the area. The Commission agreed with OEH's initial recommendation that a trial and monitor approach be implemented to determine the effectiveness of the Proponent's management plans on ecological values on and around the site. As such, the Proponent has undertaken ecological impact monitoring for all events held at the site to date. The comprehensive monitoring aims to identify any ecological impacts of the events, ensuring there are no significant impacts upon the threatened species and communities located within the North Byron Parklands and in the adjoining Marshall's Ridge Wildlife Corridor. This has included detailed surveys of birds, mammals and microchiropteran bats. Data collected provides comprehensive depictions of the ecological impacts, both direct and indirect, of the events.

The Proponent's RTS provides a review and summary of the results of the ecological monitoring undertaken at the site to date, including the monitoring undertaken during the eight large and medium events held under the Project Approval. The review concluded that while there are minor and temporary impacts upon fauna during events such as temporary relocation of some species during events (e.g. bats and birds) these are generally reversible and once events cease the ecological assets of the site return to pre-event conditions. The review highlighted that cumulative impacts of the trial events held to date upon ecological assets are negligible.

The Department notes that the modification does not seek to alter the operation of events and as such, the management measures and monitoring required within the existing Project Approval would continue to apply. This includes fencing around forest blocks to minimise trampling, directing lighting away from forested areas (where possible), continued ecological monitoring at least twice per year when events are held, once during cooler months and once during warmer months as per the approved monitoring program. The Department supports the findings of the review of ecological data that indicate the cumulative impacts of events upon ecological assets were negligible. OEH did not raise any concerns with the ecological data presented. As such, the Department considers the existing monitoring conditions adequately identify and manage potential ecological impacts at the site and the monitoring program can continue to provide suitable data to inform management decisions.

7.3.1 Biodiversity Offsets and Rehabilitation

The Department recognises the extension of time for trial events was not considered as part of the original determination of the project by the Commission and would result in some further temporary impacts upon ecological assets. As such, the Department, in consultation with OEH, has identified an opportunity to provide further clarification on the rehabilitation requirements and commitments, including timing and detail around rehabilitation to ensure temporary impacts of continued events to 31 August 2019 are adequately mitigated and the environmental benefits originally envisaged are delivered.

As part of the original determination of the project, the Commission identified the potential environmental benefits the proposal would bring as a result of the commitments made by the Proponent to the rehabilitation of parts of the site and dedication of certain parcels of land to OEH. These commitments were subsequently incorporated into the Project Approval and the Proponent is currently required to undertake rehabilitation across areas of the site and dedicate specific land parcels to OEH.

Further, a land-swap was envisaged in 2009, prior to the lodgement of the application for Concept Plan and Project Approval, where North Byron Parklands would swap approximately 12 ha of land adjoining the Billinudgel Nature Reserve (held by OEH), for approximately 7.5 ha of land which forms a corridor through the middle of the site and is currently owned by OEH (see **Figure 9**). **Figure 10** depicts the location of land parcels originally agreed to be rehabilitated, dedicated and swapped with OEH and forms part of the Ecological Structure Plan that is required under the Project Approval to be delivered within the trial period for outdoor events.

In its submission, OEH requested clarification on the delivery of the ecological benefits originally required as part of the Project Approval, including:

- details of the rehabilitation of required land parcels, including the plant community to be created, performance actions and timing to achieve the target community; and

- references to timing of the dedication and swap of lands, noting the requirements of the Project Approval, and recommended a new consolidated agreement be drafted and entered into by both OEH and the Proponent.

The Proponent's RTS committed to the rehabilitation works required by the current Ecological Structure Plan including rehabilitating 12.9 ha of habitat to provide a buffer to the Billinudgel Nature Reserve and the SEPP 14 wetlands located east of the southern carpark. The Proponent agreed to work in consultation with OEH in defining the target plant community in this area. The Department supports the position of both the Proponent and OEH and has recommended the revision of the Ecological Structure Plan to require the Proponent to obtain written approval from OEH of the plant community types, not only in the rehabilitation area adjacent to the southern carpark, but also across the site. Additionally, the Department recommends that the revised Ecological Structure Plan include a detailed timeline to achieve the approved plant community type(s) within the period of trial events.

The RTS stated the dedication of identified land parcels and the land swap would be undertaken as part of the separate SSD application that seeks approval for the site to become a permanent cultural events site (see **Section 2.2.4**). In considering the original determination by the Commission, being that approval for the use of the site for events would result in environmental benefits from revegetation, the Department does not agree with the proposed timing suggested by the Proponent.

While the Department recognises the progress and works undertaken by the Proponent in the rehabilitation of the site, the modification request to extend the period of trial events would result in ongoing use of the site for events, and consequently ongoing potential direct and indirect ecological impacts on the site and surrounding area. The Department's assessment has concluded that rehabilitation of the site is required to appropriately mitigate the impacts of events at the site and the positive environmental outcomes committed to by the Proponent are required within the period of the trial events. The Department is not satisfied this timing should be altered, other than to account for the proposed extension. This includes the rehabilitation, dedication and the land swap with OEH.

The current approval requires rehabilitation of the site to mitigate these impacts and this is required to be delivered in conjunction with the trial events. As such, the Department has recommended a condition that requires the Proponent to provide evidence that an agreement has been entered into with OEH to rehabilitate and dedicate all required lands by 31 December 2017. This agreement should detail the administrative and operative conditions required to manage and transfer all lands, as well as the timing for when parcels would be dedicated to OEH. The Department concludes that this would ensure the delivery of environmental benefits committed to as part of the original approval of the proposal. The Proponent has agreed to the proposed approach.

With the revision of the ecological structure plan in addition to the development of a formal agreement between OEH and the Proponent, the Department's assessment concludes that impacts upon biodiversity as a result of the extension of the trial period would be appropriately mitigated.

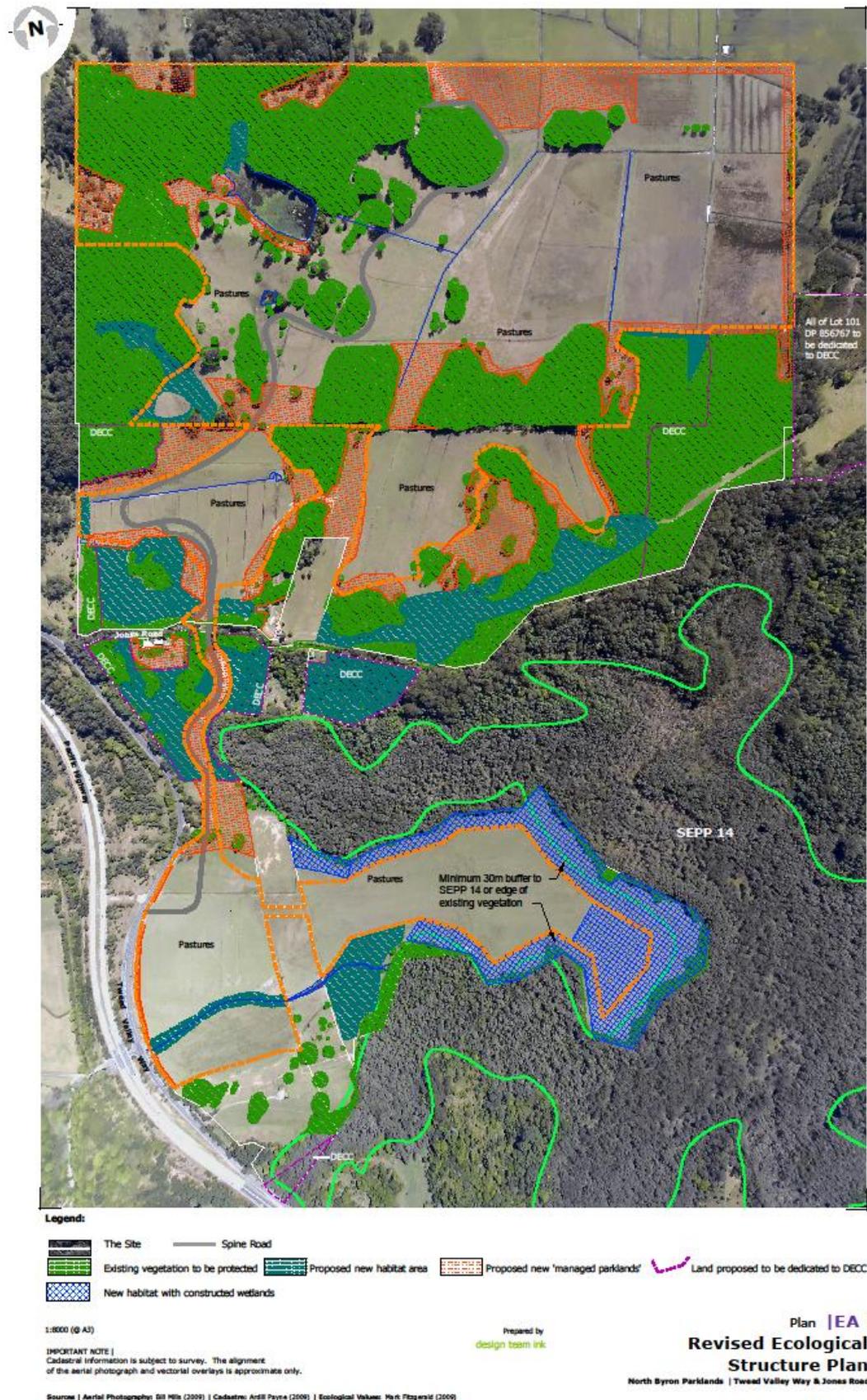


Figure 10: Approved Ecological Structure Plan

7.4 Amenity

The proposed 20 month extension of the trial period has the potential to contribute to ongoing impacts upon the surrounding community during events. Impacts identified during previous events include anti-social behaviour, illegal camping and littering within the broader Byron and Tweed LGAs.

Amenity related issues (social impacts, noise, traffic) were raised in the majority of objecting submissions including submissions received from BSC, TSC, six special interest groups, and more than 68% of the objecting submissions received from the general public. Issues raised related to the potential for the extension of the trial period to continue to impact upon the overall amenity and appeal of the area, the increase in litter experienced throughout both the Tweed and Byron LGAs during events and anti-social behaviour of patrons throughout the community during events.

In its determination of the project, the Commission noted it was difficult to quantify and control off-site impacts upon the community and acknowledged the Proponent would have limited direct control over off-site impacts. The Commission highlighted the trial period would provide the Proponent with an opportunity to develop and refine the plans of management to achieve a "...reasonable level of community acceptance".

The Proponent has improved the management responses to amenity impacts identified during events held to date. The Proponent has engaged both a community advocate year round and a community manager prior to and following each event to directly engage with the local community. There is also a 'litter response team' utilised during events to manage litter at various locations surrounding the site including Jones Road, Tweed Valley Way, the Yelgun Interchange and designated event shuttle bus stops during events.

The RTS highlighted additional management measures are constantly being considered in consultation with the Regulatory Working Group (RWG) and relevant stakeholders, to minimise amenity impacts within the Byron and Tweed LGAs. For the SITG 2017 event, the Proponent offered to fund additional BSC rangers to patrol for illegal camping and illegal parking in the vicinity of the site (during events only) and installed signage advising of the illegal nature of camping in public places.

7.4.1 Noise

The Proponent has endeavoured to continuously improve the management of noise from trial events. The previous modification to the Project Approval (MOD 3) resulted in a revision of the noise limits based on extensive data collected during trial events held by the Proponent and on research undertaken by the Department in considering the MOD 3 request in relation to international standards for similar outdoor events. Further, the Proponent's RTS provided a detailed overview of the measures implemented throughout the trial period to minimise impacts upon the communities surrounding the site. Most notably, this includes the establishment of an innovative and advanced Noise Control Co-ordination Centre (NCCC) to instantaneously and constantly monitor sound at all main stages enabling proactive management of noise levels. In addition, the Proponent has informed the Department that there were a number of noise agreements with nearby sensitive receivers for the most recent SITG 2017 event. Initial indications for the Department's attendance at the SITG 2017 event indicated that noise complied with the approvals.

The Department notes the modification does not seek to alter or intensify the operation of events and, as such, the approved plans of management required within the existing Project Approval, including for noise and acoustic management, would continue to apply. The Department notes a number of matters were raised in the submissions which the Department does not have compliance functions (those being off site impacts such as litter, illegal camping and general inconvenience of the events).

Several of these matters have been brought to the attention of the Department previously and recommendations have been subsequently provided to the Proponent to assist in managing these matters at future trial events. This has included recommending the Proponent revise complaints handling procedures, increase monitoring of bus stops and locate additional bins around the site. These actions have been implemented by the Proponent including the utilisation of 'sweep teams' that survey the surrounding streets and collect waste and the regular checking of bus stops as well as monitoring of camping within non-designated areas.

The Department also supports the Proponent's ongoing engagement with the RWG, which includes representatives from the community, BSC, and NSW Police, and engagement with relevant

stakeholders in establishing the most appropriate responses to off-site impacts of events upon the surrounding community. For example, at the recent SITG 2017 event, the Proponent implemented a recommendation of the RWG by installing a large 'Camping in Byron Streets is illegal' sign at Shara Boulevard, North Ocean Shores. The Department is also aware that there is a NSW Police presence monitoring trial events.

The Department concludes that an extension of the trial period provides the Proponent with the opportunity to continue to improve localised off-site amenity during events to gain a "...reasonable level of community acceptance", consistent with the intent of the Commission's original determination. The Proponent improved traffic management during the recent SITG 2017 event minimising impacts upon the surrounding areas and initial reviews have indicated compliance with noise limits and the requirements of the approvals. Further, the Proponent has indicated that there were three calls to the community hotline during the SITG 2017 event relating to off-site impacts; two related to illegal camping and one related to bus services. The illegal camping was investigated and determined to be not connected to the SITG 2017 event. Information was provided on bus services.

The Department has not recommended any modifications to the existing management plans and monitoring programs required within the existing Project Approval, however supports the modifications to the trial period, as it would allow further refinement of management procedures to minimise amenity impacts upon the surrounding community.

7.5 Other Issues

The Department's assessment of other issues is provided in **Table 4**.

Table 4: Assessment of Other Issues

Issue	Assessment	Condition
Safety and evacuation	<ul style="list-style-type: none"> • Evacuation of the site during flood events was considered and conditioned as part of the Commission's determination of the original application and the Project Approval requires that events be carried out in accordance with the actions outlined within the <i>Flood Risk Management Plan</i>. The Proponent's flood consultant, Molino Stewart, provided a supplement to plan that indicates that the actions within the plan continue to be appropriate for events of up to 35,000 patrons. • Given the recent severe weather events experienced in the region in March/April 2016 that resulted in widespread flooding, the Department understands the importance of this matter generally and to the surrounding community. This is evidenced by the number of submissions received (64% of objecting submissions) that raised patron safety and evacuations at the site. • Additionally, the majority of submissions received in the nature of objection referred to a letter received by the Department from the NSW Police that provided input into the Secretary's Environmental Assessment Requirements (SEARs) for the SSD application. The letter referred to patron and community safety during events proposed as part of the SSD application (see Section 2.2.4). This submission relates to a separate application to this modification request. As such, the NSW Policy SEARs letter is not considered as part of this modification request. • The Proponent highlights within its RTS that emergency evacuation plans for various incident types (including bushfire, flooding, terrorism and medical) are continuously reviewed by the event's Safety Management Committee prior to and after each event. Plans are developed for each of these scenarios and relevant emergency service authorities are consulted on these plans. In addition, there is a significant emergency response presence on site, 	No modifications to the Concept Plan of Project Approval are recommended.

Issue	Assessment	Condition
	<p>including NSW Police, RFS and medical professionals.</p> <ul style="list-style-type: none"> For weather related events, the rain and stream gauges installed at the site, in addition to the <i>Flood Risk Management Plan</i>, are in place as early warning mechanisms to inform flood risks and the protection of life and assets. These mechanisms provide the Proponent with up-to-date information that would enable the cancellation of events, if necessary (e.g. forecast, water on-site, rainfall and flood warnings). In response to the RTS, TSC indicated that one of the stream gauges was not functioning. The Proponent indicated the gauge was damaged during the floods of March/April 2017 and is currently undergoing repairs. The Proponent is endeavouring to re-install the gauge as soon as practicable. In the interim, daily visual assessments of flow and stream height at a fixed measuring rod are being undertaken by the Proponent until this is operational. The Commission considered emergency evacuations in the event of bushfires and the Project Approval requires that the approved Bushfire Emergency Evacuation Plan be reviewed with relevant authorities prior to any event. The Department considers that the existing conditions adequately address the safety of patrons in relation to evacuations. The Department notes the presence of significant numbers of emergency personnel on the site during events, which would continue for the extension period. As the management of the outdoor events is not changing and the required management plans would continue to be implemented, the Department concludes that no modifications are required. 	
<p>Traffic Management</p>	<ul style="list-style-type: none"> Since the commencement of the trial events at the site, traffic has been an issue that has required ongoing management since the commencement of the trial events. Initial trial events resulted in some queuing on public roads, however the Proponent has continually improved traffic management, with limited queuing off the site at recent events. The Department notes that during SITG 2016 there was an unanticipated volume of traffic at the conclusion of the entertainment each evening. In response to the issue, the Proponent implemented additional traffic management measures which addressed this issue. Approximately 53% of submissions objecting to the modification request raised traffic impacts upon the surrounding road network as a key reason for objecting to the extension of the period for trial events. The RMS requested the number of patrons at large events be capped at 32,500 until such time the Proponent can demonstrate satisfactory management of vehicle movements and pedestrian safety on and around the site. This was primarily in response to the on-site traffic issues experienced at SITG 2016. The Proponent provided details of the issues experienced at the site during the SITG 2016 event, particularly in relation to the unanticipated number of vehicles picking up patrons at the conclusion of events and the subsequent pedestrian issues. This continuous refinement of management measures undertaken by the Proponent (relocating the pick-up area to the south) during SITG 2016 aligns with the intent of the Commission's original decision for a trial 	<p>Retain existing conditions B2(2) and B4(4) of the Project Approval requiring the Department to consult with RMS and BSC following receipt of any request to increase patron numbers.</p>

Issue	Assessment	Condition
	<p>period to confirm appropriate management measures were in place.</p> <ul style="list-style-type: none"> • Whilst improvements were demonstrated, the Department supported the view of RMS and capped the number of patrons for the SITG 2017 event to 32,500. • The Department's attendance at the SITG 2017 event confirmed that traffic management measures that were implemented at SITG 2016 were further refined and implemented at the SITG 2017 event. This resulted in an improved flow of traffic around the site throughout the event. • As the modification request does not seek to alter the operation of events the Department concludes the extension of the trial is unlikely to change the impact upon the road network. • Existing conditions of approval appropriately manage and respond to impacts and the Department considers would satisfactorily manage the extension of the period for outdoor events. • Any future request to increase current patron numbers to 35,000 (as permitted under the approvals) would be considered on its merits in consultation with RMS and BSC, in accordance with condition B2 of the Project Approval. 	
Economics	<ul style="list-style-type: none"> • The Proponent has undertaken reviews of the economic impacts and benefits of events held at the site. The most recent Economic Impact Assessment (September 2015) was prepared by economists at RPS Australia and was based on financial information provided from events held at the site. • The Economic Impact Assessment identified that the economic output (through accommodation, jobs, etc.) of SITG 2015 and Falls Festival 2014/15 was \$107.8 million. • Approximately 9% of objecting submissions disagreed with the findings of the economic assessment and 30% of submissions in support of the modification request raised the economic benefits of events held at the site. • As stated within Section 4 and within the Proponent's RTS, events held at the site provide significant positive economic output to the broader community through the creation of jobs and accommodation requirements. • The Department reviewed the economic data provided for previous events and has considered submissions received and concludes the ongoing use of the site would likely continue to provide economic and employment benefits to the broader locality and region. 	No modifications to the Concept Plan of Project Approval are recommended.
Infrastructure and alternative site	<ul style="list-style-type: none"> • The operation of trial events at the site requires various solid and liquid waste infrastructure to manage waste generated during events. As the site does not have its own waste facility or wastewater treatment plant, all waste is presently transported off site to appropriately licensed facilities. • Approximately 26% of submissions objecting to the proposed modification included reference to the lack of adequate infrastructure to support events held at the site. • Additionally, some submissions (~13%) noted the availability of an alternate site at Tyagarah, less than 20 kilometres south of the site. • In relation to waste infrastructure at the site, the RTS highlights that solid waste management plans are 	No modifications to the Concept Plan of Project Approval are recommended.

Issue	Assessment	Condition
	<p>developed for each event, with waste sorting/storage infrastructure being located in a flood free area of the site.</p> <ul style="list-style-type: none"> In relation to sewage, the Proponent worked in consultation with BSC to improve water and waste management at the site and a number of composting toilets and greywater showers have been constructed on the site and are in operation. As the modification request does not intend to alter the operation of events held at the site, the Department considers that no changes are presently required to the infrastructure on the site. As highlighted in Section 2.2.4, the Proponent is currently preparing an application to become a permanent event site with an increased number of patrons. The Department will consider any amendments to the approved infrastructure as part of its assessment of this future application. In relation to the availability of an alternate site, the Department considers that the Concept Plan and Project Approval apply to the North Byron Parklands site and as such, this is not relevant to this modification request. The Department concludes that the modification request does not seek to alter the operation of events held under the Project Approval and as such, is satisfied that these issues have previously been considered and addressed within the Concept Plan and Project Approval. 	
Administrative conditions	<ul style="list-style-type: none"> The approval to hold outdoor events at the site is due to cease on 31 December 2017. The Department has considered the Proponent's request to extend the trial period by 20 months to 31 August 2019 and is satisfied that the extension should be given. To facilitate this, several administrative conditions need to be modified, including references to the trial period for outdoor events ending in 2017. The Department concludes that the request is within the scope of section 75W of the EP&A Act and has recommended modifications to both the Concept Plan and Project Approval to extend the trial period to 31 August 2019. 	<p>Modify wording of:</p> <ul style="list-style-type: none"> terms B2(1), B2(4), B4(1), B4(2), C1(1), C1(2) and C1(3) to extend the period for trial events until 31 August 2019 <p>Modify wording of:</p> <ul style="list-style-type: none"> terms A2(a)(1)(i), B2(1) and B2(2) to extend the period for trial events until 31 August 2019 <p>Insertion of a new definition 'Trial period' within 'Part B – Definitions'.</p>

8. CONCLUSION

In its assessment of the modification request, the Department reviewed the EA, submissions received from government authorities, community groups and the general public, the Proponent's RTS as well as the past performance of the events held at the site.

The Department has concluded that, with the continued implementation of the Proponent's environmental management plans and procedures, in addition to the Department's recommended conditions, the site can continue to operate for an additional 20 months with minimal impact upon the environment and the local community.

Further, the Department is of the view that the requested modifications would not fundamentally change the way either the Concept Plan or Project Approval operates and only relates to an extension of time of currently approved activities on the site. Accordingly, the Department considers that the request can be assessed and determined as a modification under section 75W of the EP&A Act rather than requiring a new development application to be lodged.

The Department acknowledges that the events that have occurred to date there resulted in some amenity impacts on the local community and interested stakeholders. However, it is also acknowledged that the Proponent has endeavoured to improve the overall environmental performance of events,

particularly in relation to amenity matters, such as noise management, and that these measures have continued to result in improved outcomes over time.

This is highlighted through the Department's attendance at the most recent event, SITG 2017 which found that the Proponent has made important steps towards continuously improving management of the outdoor events, with initial findings demonstrating full compliance and very few community complaints.

While not in the Proponent's direct control, the Proponent also continues to seek opportunities to improve the off-site impacts of events as evidenced by the ongoing consultation with relevant stakeholders and installation of temporary signage to regulate illegal parking in the vicinity of the site during events.

In relation to ecological matters, the Department recognises the monitoring undertaken by the Proponent to date. However, to ensure that environmental benefits originally envisaged as part of the project are delivered, the Department has recommended that the Ecological Structure Plan be revised to include greater detail on specific rehabilitation requirements and timing of implementation, and that evidence of an agreement between the Proponent and OEHL in relation to the dedication and land swap be provided to the Department by 31 December 2017.

With these conditions in place, the Department concludes that the extension to the period for trial events, resulting in 14-16 more operational event days, would provide the Proponent with an opportunity to demonstrate continuous improvement in the operation of events and would provide continued economic, social and environmental benefit to the broader region.

On balance, the Department considers extending the trial for outdoor events at the site for a further 20 months is appropriate to allow the Proponent to obtain more information, refine its operations and continue to provide the economic and social benefits to the broader community as it seeks to obtain a permanent site for outdoor events through a separate State significant development application.

9. RECOMMENDATION

It is recommended the Planning Assessment Commission, as delegate for the Minister for Planning:

- **consider** the findings and recommendations of this report, noting the Department considers the modification is approvable, subject to conditions;
- **determine** the Proponent's request is a modification request under section 75W of the EP&A Act; and
- if the Commission determines to modify the approvals, **sign** the attached instruments of modification.

Rebecca Sommer
Senior Planner

ENDORSED:



Chris Ritchie
Director
Industry Assessments

1/8/17



Mike Young
A/Executive Director
Key Sites and Industry Assessments

1/8/17