



21 December 2018

Department of Planning & Environment
Attention: Chris Ritchie
GPO Box 39
Sydney NSW 2000

NSW Independent Planning Commission
Attention Jorge Van Den Brande
Level 3, 201 Elizabeth Street
Sydney NSW 2000

Email: Chris.Ritchie@planning.nsw.gov.au

Email Jorge.VanDenBrande@ipcn.nsw.gov.au

Dear Sir/Madam

I refer to the recent Independent Planning Commission meeting attended by Byron Shire Council at Tweed Council on 11 December 2018.

A two part supplementary response, to discussions held at this meeting is now provided below for the consideration of the Independent Planning Commission.

1. Notice of Motion Proposed Department of Planning approval of North Byron Parklands Cultural Events Site

A Notice of Motion was tabled at the Ordinary meeting held on 13 December 2018, where Council resolved as follows:

18-834 Resolved:

- 1. That Council does not currently support the proposal including the increase in attendance numbers, event types, and event days on the North Byron Parklands site beyond what has already been approved until its concerns as raised within its submission are satisfied**
- 2. That Council writes to advise the Department of Planning and the Independent Planning Commission of this position**
- 3. That Council does not support DOP's recommendation with respect to Parklands' self-monitoring of compliance;**
- 4. That Council proposes that any consideration of ongoing events must include an independent monitoring process, with the involvement of Council**



6. **That this monitoring needs to be used as part of the Planning Secretary's ongoing compliance**
7. **That the original trial approval was that Council would be the consent authority at the end of the trial period and that this condition should remain. (Richardson/Lyon)**

2. Additional comments on the draft conditions of consent

Notwithstanding the above, should the application be approved Byron Shire Council requests the additional conditions of consent (shown in Attachment A) be included in terms of ongoing auditing and for the construction and operation of the Conference Centre, Golden View Bar, Cabins and Spa and treatment Rooms.

In the meantime, do not hesitate to contact me should you require any further information or assistance from Council.

Yours faithfully



Chris Larkin
Manager, Sustainable Development
Sustainable Environment & Economy

Attachment A

Amend Condition C24 Wastewater Audit to read

C24. Wastewater Audit

Within 12 months of the operation of the first event under this consent, the proponent must carry out an independent audit of the Wastewater Treatment, Compost Management System and Irrigation System. The audit must

- a) be conducted by a suitably qualified, experienced and independent person whose appointment has been endorsed by the Planning Secretary;
- b) Be submitted to the Planning Secretary within Six weeks of its completion;
- c) Include consultation with Byron and Tweed Shire Council and other relevant agencies;
- d) Assess the performance of the wastewater Treatment, Compost Management System and Irrigation System;
- e) Detail any corrective actions or continuous improvement measures to be implemented; and
- f) The audit to be carried out every three years (on the anniversary of Development Consent being issued) thereafter in accordance with this conditions
- g) A copy of the audit to be provided to Tweed and Byron Shire Council.

Insert Audit conditions as follows:

Noise Management Audit

Within 12 months of the operation of the first event under this consent, the proponent must carry out an independent Noise Audit of the Noise Management Plan. The audit must

- a) be conducted by a suitably qualified, experienced and independent person whose appointment has been endorsed by the Planning Secretary
- b) Be submitted to the Planning Secretary within Six weeks of its completion
- c) Include consultation with Byron and Tweed Shire Council and other relevant agencies
- d) Assess the performance of the noise management plan
- e) Detail any corrective actions or continuous improvement measures to be implemented
- f) The audit to be carried out every three years (on the anniversary of Development Consent being issued) thereafter in accordance with this conditions
- g) A copy of the audit to be provided to Tweed and Byron Shire Council.

Biodiversity Audit

Within two years of the operation of the first event under this consent, the proponent must carry out an independent Biodiversity Audit of the Weed Management Plan, the Koala Plan of Management, the flora and fauna Adaptive Management Plan and the Billinudgel Nature Reserve strategy. The audit must

- a) be conducted by a suitably qualified, experienced and independent person whose appointment has been endorsed by the Planning Secretary;
- b) Be submitted to the Planning Secretary within Six weeks of its completion;
- c) Include consultation with Byron and Tweed Shire Council, OEH and other relevant agencies;
- d) Assess the performance of the Weed Management Plan, the Koala Plan of Management, the Flora and Fauna Adaptive Management Plan and the Billinudgel Nature Reserve strategy plan;
- e) Detail any corrective actions or continuous improvement measures to be implemented;
- f) The audit to be carried out every three years (on the anniversary of Development Consent being issued) thereafter in accordance with this condition.
- g) A copy of the audit to be provided to Tweed and Byron Shire Council.

Standard Conditions for the Conference Centre, Golden View Bar, Cabins and Spa and treatment Rooms

The following conditions are to be complied with prior to issue of a Construction Certificate for building works

1. **Tree Removal**

No trees or vegetation to be cleared or removed until a Construction Certificate has been issued.

2. **Long Service Levy to be paid**

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

These payments may be made online at www.longservice.nsw.gov.au or at Council's Administration Office, Station Street, Mullumbimby. When paying to Council, cheques are to be made payable to 'Byron Shire Council'.

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

3. **Car parking layout, vehicle circulation and access plans required for Conference Centre, Golden View Bar, Cabins and Spa and Treatment Rooms.**

The application for a Construction Certificate is to include plans and specification that indicate access, parking and manoeuvring details in accordance with the plans approved by this consent.

- a) The internal access, car parking and manoeuvring areas must generally be in accordance with the plans approved as part of this development including Site Plan 05 (Rev06) dated 16/11/2017 prepared by Dominic Finlay Jones.

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

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

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

4. **Section 7.12 Levy to be paid**

Prior to the issue of a construction certificate the section 7.12 levy required by the Byron Developer Contributions Plan 2012 must be paid to Council.

The levy will be calculated as follows:

Levy payable = %C x \$C

- %C is the levy rate applicable as set out in the latest Ministerial Direction issued

under section 7.17.

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

The rate of %C is:

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

The cost of development must be calculated in accordance with clause 25J of the Regulation. The Cost Summary Report (copy attached) as set out in schedule 2 of the Section 7.12 contributions plan must be submitted to Council with the payment. The cost summary report must be prepared by a quantity surveyor. Copies of Cost Summary Report are available at Council's main office or may be downloaded from Council's website.

On-site sewage management facility Section 68 approval required

An approval under Section 68 of the Local Government Act 1993 for on-site effluent disposal must be obtained from Council prior to issue of a Construction Certificate. Such approval must be issued after the date of this consent. The application for Section 68 approval must be accompanied by a report prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters, which addresses the site specific design of sewage management in accordance with the requirements of the NSW Local Government Act, and Approvals Regulation and Guidelines approved by the Director General.

Site Waste Minimisation and Management Plan

Chapter B8 of Byron Shire Development Control Plan 2014 (DCP 2014) aims to facilitate sustainable waste management in a manner consistent with the principles of Ecologically Sustainable Development. Prior to the issue of a Construction Certificate, a Site Waste Minimisation and Management Plan (SWMMP) must be submitted outlining measures to minimise and manage waste generated during demolition, construction and the ongoing operation and use of the development. The SWMMP must specify the proposed method of recycling or disposal and the waste management service provider.

A template is provided on Council's website to assist in providing this information www.byron.nsw.gov.au/files/publication/swmmp-pro-forma-doc

The following conditions are to be complied with prior to any building or construction works commencing

5. Erosion and sediment measures

Where erosion of soils or runoff of any substance is likely to occur, erosion and sedimentation controls are to be in place in accordance with the Guidelines for Erosion & Sediment Control on Building Sites. This may include stockpiled materials such as sand, etc.

Any such measures that are deemed to be necessary because of the local conditions must be maintained at all times until the site is made stable (i.e. by permanent vegetation cover or hard surface).

6. **Public safety requirements**

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. The public liability insurance cover, for a minimum of \$10 million, is to be maintained for the duration of the construction of the development. Council is not held responsible for any negligence caused by the undertaking of the works.

The following conditions are to be complied with during any building or construction works

7. **Construction times**

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible from adjoining residential premises, can only occur:

- a. Monday to Friday, from 7 am to 6 pm.
- b. Saturday, from 8 am to 1 pm.

No construction work to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

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

8. **Construction Noise**

Construction noise is to be limited as follows:

- a. For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b. For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A)

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

9. **Signs to be erected on building and demolition sites**

A sign must be erected in a prominent position on the work site:

- a. stating that unauthorised entry to the work site is prohibited, and
- b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

10. **Builders rubbish to be contained on site**

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure.

Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

11. Fill to be retained on the subject land

Fill material must not encroach onto any adjoining land.

12. Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

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

13. Maintenance of sediment and erosion control measures

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

14. Muted bushland tones external finishes

To ensure the development is compatible with the surrounding environment, colours and finishes are to be muted bushland tones. In this regard white, light or bright colours are not permissible.

15. Inspection for on-site sewage management

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

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

16. Protection of Native Trees

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

The following conditions are to be complied with prior to occupation of the building

17. Works to be completed prior to issue of a Final Occupation Certificate

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

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

18. **Access and parking areas to be completed.**
The access and parking areas are to be constructed in accordance with the approved plans and Roads Act consent.
19. **Stormwater disposal**
Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:
- a. Clear of buildings and infrastructure,
 - b. Clear of effluent disposal areas,
 - c. Not concentrated so as to cause soil erosion,
 - d. Not directly to a watercourse, and
 - e. Not onto adjoining land.
20. **On-site sewage management system must be completed**
The on-site sewage management system is to be constructed in accordance with approved plans and in accordance with current specifications and standards. The system is not to be used and/or operated until a Council Officer has inspected the system and authorised its use.
21. **Approval to Operate required**
In accordance with the Local Government Act, an Approval to Operate the onsite sewage management system must be obtained from Council. Forms may be downloaded from Council's website with '<http://www.byron.nsw.gov.au/on-site-sewage>'.
22. **Bushfire Certification for Conference Centre, Cabins, Golden View Bar, spa and Treatment rooms**
Documentary evidence from a suitably qualified professional is to be submitted to the PCA demonstrating that
- the Conference Centre, Cabins, Golden view Bar, Spa and Treatment rooms comply with the AS3959 -0 2009 Construction of Buildings in Bushfire Prone Areas as required by Condition C30;
 - All new roads that are part of the development are constructed in accordance with Section 4.2.7 of Planning for Bushfire Protection 2006 as required by Condition C31; and
 - That relevant Asset Protection Zones are in place as required by Condition C32;
 - That any gas service has been installed to comply with the requirements of Condition C34.
23. **Access and parking areas to be completed.**
The access and parking areas are to be constructed in accordance with the approved plans and Roads Act consent.
24. **Food Preparation and Kitchen Facilities**
Any food preparation areas, kitchens, and restaurant facilities associated with the Conference Centre and Golden View Bar to comply with the requirements of Australian Standard AS4674 – 2004 *Design, construction and fit-out of food premises* and NSW Food Authority *Food premises – Design, construction and fit-out guide* demonstrating necessary construction standards for the food premises.

25. **Register with Council as per Public Health Regulation 2012**

The Treatment rooms to be registered with Council (contact tel 02 66 26 7000) under the requirements of the Public Health Regulation 2012. All nail technicians that carry out skin penetration procedures as defined by the Public Health Regulation 2012 must also register with Council. Note: Notification forms are available from NSW Health website www.health.nsw.gov.au/phact/Pages/default.aspx

The following conditions are to be complied with at all times

26. **Must not interfere with the amenity of the neighbourhood**

The use of the tourist and visitor accommodation must not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater or otherwise. In particular:

- a) The noise level emanating from the use of the premises must comply with the New South Wales Industrial Noise Policy. All sources of noise and vibration must be effectively managed so as not to be intrusive or 'offensive' within the nearest residential properties.
- b) Only clean and unpolluted water is permitted to be discharged to the stormwater drainage system or any waters.
- c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- d) All trade waste pre-treatment devices and other waste storage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- e) Goods deliveries shall be restricted to daytime operating hours.

27. **Laundering of Linen, towels, sheets**

All laundering of linen towels, sheets and the like to be carried out off site.

28. **Guest Numbers at the Conference Centre and cabins**

Guest numbers to be limited to

- 180 patron per day for the conference Centre
- 120 guests in the onsite cabins

29. **Pets prohibited at the Conference Centre or Cabins**

Pets are prohibited other than Guide Dogs.

30. **Hours of operation of the Conference Centre and Golden View Bar**

The Hours of operation of the Conference Centre and Golden View Bar as follows:

- Sunday to Thursday 8am to 8pm
- Friday and Saturday 8am to 10pm

31. **Spa and Treatment Rooms**

The spa and treatment rooms to be used only in conjunction with the Conference Centre and associated Cabins at all times as follows.

- Hours of operation limited to 8am to 6pm.
- The Spa and Treatment rooms to comply with the Public Health Act and Public Health Regulations
- The operator to comply with the *Work Health & Safety Act 2011* statutory requirements. Adequate amenities, lighting, ventilation and washing facilities are essential to maintain a safe and healthy workplace. NSW WorkCover should be consulted in the event that further information is required in regard to this condition

32. **Swimming pool health requirements**

The spa pool water is to be re-circulated, filtered and disinfected in accordance with the requirements of Council and NSW Health. The spa pool water is to be maintained at satisfactory levels of purity for bathing at all times

Use of Conference Centre and Golden View Bar

The use of the premises shall not interfere with the amenity of the surrounding neighbourhood by reason of noise, vibration, smell, fumes, smoke, dust, wastewater, vehicle noise or otherwise. In particular:

33. The noise level emanating from the use of the premises must comply with the New South Wales Industrial Noise Policy. All sources of noise and vibration must be effectively managed so as not to be intrusive or 'offensive' within the nearest residential properties.
34. Only clean and unpolluted water is permitted to be discharged to the stormwater drainage system or any waters.
35. All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
36. All trade waste pre-treatment devices and other waste storage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
37. Goods deliveries shall be restricted to daytime operating hours.

38. **Food Preparation and Kitchen Areas**

Any food preparation areas, kitchens, and restaurant facilities associated with the Conference Centre and Golden View Bar must be operated and maintained to ensure that the requirements of the *Food Act 2003* and *Food Regulation 2015* (incorporating *Food Standard Code*) are satisfied at all times. Access to the *Food Standard Code* is available at <http://www.foodstandards.gov.au>. The operator is required to ensure that the business is registered with the NSW Food Authority. Notification may be carried out or updated when required at <http://www.foodnotify.nsw.gov.au>.