



13 March 2019

**Independent Planning Commission Statement of Reasons
North Byron Parklands Cultural Events Site
MP 09_0028 MOD 3 Concept Plan and (SSD 8169)**

1. INTRODUCTION

1. On 19 November 2018, the Independent Planning Commission NSW (the **Commission**) received from the NSW Department of Planning and Environment (the **Department**) the North Byron Parklands Cultural Events Site (the **Site**) State Significant Development (**SSD 8169**) (the **Application**) and modification 3 application to the Concept plan (**MP09_0028**) (the **Modification**) (the **Project**) from Billinudgel Pty Ltd (the **Applicant**).
2. According to the Department's Assessment Report of the SSD Application and Modification, dated November 2018 (**DAR**) the concept and project approvals are 'transitional Part 3A project' under clause 2(1) Schedule 2 to the *Environmental Planning & Assessment (Savings, Transitional and Other Provisions Regulation 2017 (ST&OP Regulation)*, as they were originally approved under the now repealed Part 3A of the *Environmental Planning and Assessment Act 1979* (the **EP&A Act**), which came into effect on 1 March 2018.
3. Under the ST&OP Regulation, projects which are the subject of existing Part 3A approvals remain transitional Part 3A projects until they are transitioned to SSD (clause 3(1)-(2), Schedule 2. A Part 3A concept approval may be modified under section 75W of the EP&A Act in certain circumstances if the request was made before the 'cut-off date' of 1 March 2018.
4. As the request to modify the concept approval was submitted before 1 March 2018, the provisions of clause 3 of Schedule 2 to the ST&OP Regulation apply.
5. The Commission is the consent authority in respect of the Application under section 4.5(a) of the EP&A Act and clause 8A of the *State Environmental Planning Policy (State and Regional Development) Act 2011 (SEPP SRD)*. This is because:
 - the Application constitutes State significant development (SSD) under section 4.36 of the EP&A Act as the Application would involve the construction of a cultural, recreation and tourist facility with a capital investment value (CIV) more than \$30 million (\$42 million), which meets the criteria set out in clause 13(1)(e) of Schedule 1 of the SRD SEPP;
 - both Byron Shire Council (**BSC**) and Tweed Shire Council (**TSC**) made an objection in accordance with the EP&A Act; and
 - there are more than 25 public submissions by way of objection in accordance with the EP&A Act.
6. Professor Mary O'Kane, Chair of the Commission, nominated Professor Richard Mackay, AM, (Chair), Andrew Hutton and Catherine Hird to constitute the Commission the Application.

1.1 Site and locality

7. According to the DAR, the site is situated in a rural-residential locality in the far north-east of the Byron Local Government Area (**LGA**), adjacent to the boundary of the Tweed LGA. The site is immediately bounded by agricultural lands to the north, the Billinudgel Nature Reserve to the south and east; and the Pacific Motorway and Tweed Valley Way to the west.
8. The DAR also indicated that the site is located on a 259-hectare (ha) area approximately 2 km north of Ocean Shores and South Golden Beach, featuring large expanses of flat cleared land and 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 site is physically divided into two main areas to the north and south of Jones Road and the Marshalls Ridge Wildlife Corridor, which traverses through the central portion of the site on an east-west alignment. The site is comprised of 14 lots owned by the Applicant.
9. Prior to events taking place, the site had historically been used for a variety of agricultural purposes, including cattle grazing, dairy farming and some cropping (banana and sugarcane).

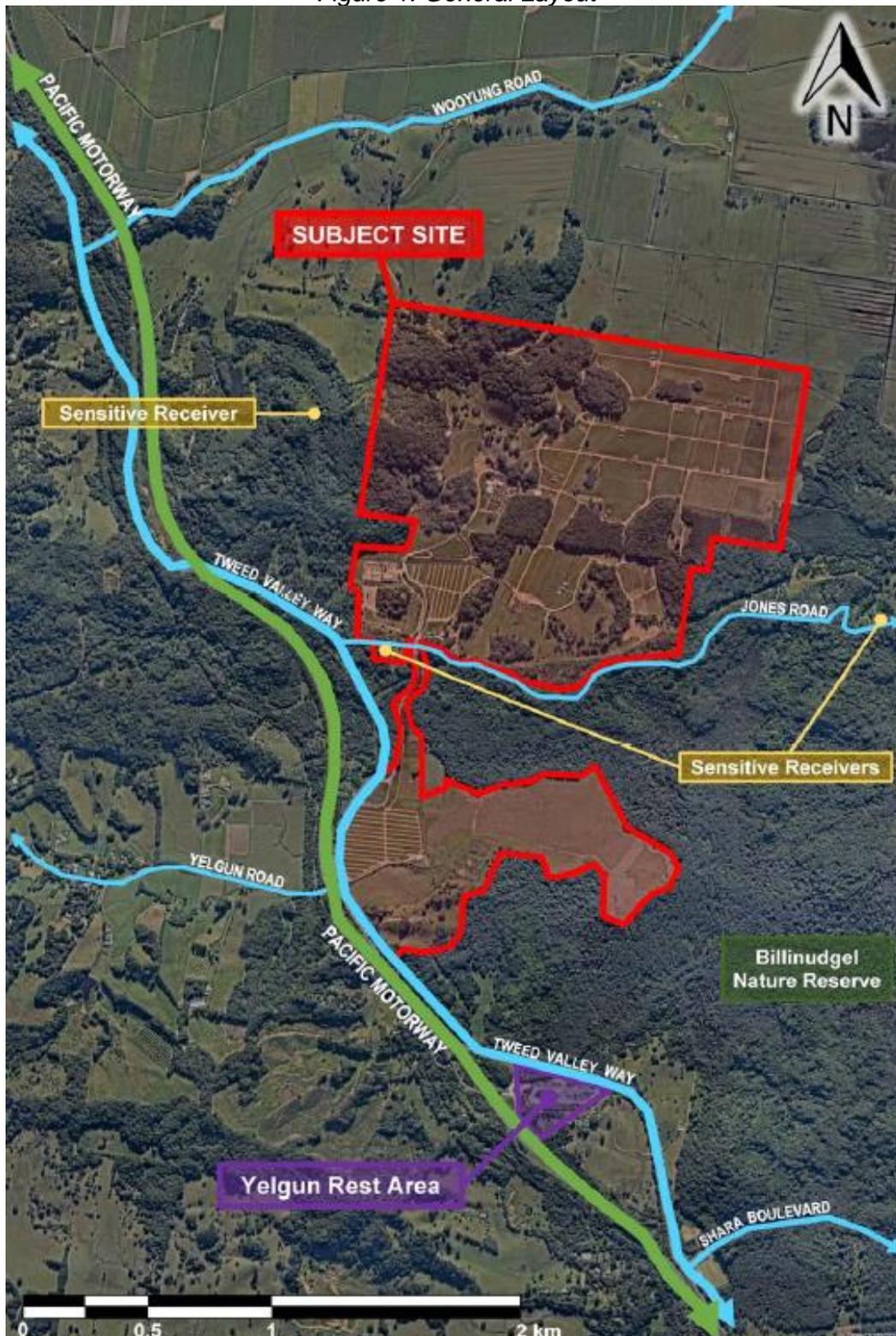
1.2 Modification Application

Background

10. According to the DAR, in 2008, the Applicant and event operators of Splendour in the Grass (**SITG**) identified the need for a purpose-built cultural event site in the Byron Shire. Since then, the Applicant has sought and obtained several development consents and approvals to use the current site. These development consents and approvals are discussed in further detail below.
11. On 6 August 2008, BSC granted consent for a temporary place of assembly with camping and associated infrastructure at the site. The consent permitted the 2009 SITG music festival to be held at the site over a four day “trial” period. The permitted event capacity for the trial was for a maximum of 15,000 patrons per day and 7,500 campers.
12. The validity of the consent was subsequently challenged in the Land and Environment Court of NSW (**L&E Court**) on the basis that the proposal was a prohibited land use 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 was prohibited on part of the land on which the development was to be carried out under the Byron Local Environmental Plan 1988. Subsequently, the approval was deemed invalid and of no effect and the SITG music festival was held at alternative locations for the next three years at Belongil Fields, NSW in 2009; and Woodford, QLD in 2010 and 2011.
13. In 2009, a concept plan and project application were made to the Department for a cultural events site at North Byron Parklands (**NBP**) under the former Part 3A of the EP&A Act. The application sought approval to host outdoor events for up to a maximum of 50,000 patrons per event.
14. On 24 April 2012, the then Planning Assessment Commission (**PAC**), granted concept plan (MP09 0028) and project approval (MP09_0028) for the cultural events site. In its decision, the PAC concluded that a trial period for outdoor events up to the end of 2017 would be appropriate, (the **trial period**) to confirm that the operational and environmental management plans were effective, and to ensure potential environmental impacts were properly managed and minimised. As such, a 5-year trial period for outdoor events was approved, which permitted the following:
 - outdoor events for a trial period of 5 years, up to the end of 2017
 - three trial events per year, with capacity gradually increasing over the trial period, including

- one large trial event per year with up to a maximum of 35,000 patrons (SITG)
 - one medium trial event per year with up to a maximum of 25,000 patrons (Falls Festival)
 - one small trial event per year with up to a maximum of 15,000 patrons
 - a total of 10 event days per calendar year.
15. Since the original determination, both the concept plan and project approval have been modified several times to amend the project's noise criteria, to introduce minor community events, to extend the length of the trial period and to address typographic errors.
16. Figure 1 below indicates the general lay out of the site in relation to its surrounding context.

Figure 1: General Layout



Source: Department of Planning Assessment Report

Summary of Modification Application

17. According to the DAR, the Modification seeks to amend the terms of the existing concept plan approval to reflect the types of permanent cultural events that would be held at the site.
18. The concurrent SSD Application seeks development consent for the ongoing use of the site for cultural, educational and outdoor events for up to 20 event days per year (consistent with the original project approval), which includes:
 - two large events per year (i.e. SITG and Falls Festival) over a maximum of five event days each, for up to:
 - 35,000 patrons per event day at SITG, increasing to 42,500 patrons and then to 50,000 patrons, subject to meeting key performance indicators (KPI);
 - 35,000 patrons per event day at Falls Festival;
 - 30,000 camping patrons at these events, arriving the day before; and departing the day after the event;
 - three medium event days per year, which would run either on separate event days (i.e. a one-off music concert) or over three consecutive event days (i.e. multi-day music festival) with up to 25,000 patrons per event day;
 - five small (5,000 patrons) and two minor (1,500 patrons) one-day community events; and
 - the construction and operation of additional site infrastructure to support events held at the site, including an event administration building, conference centre, an on-site wastewater and sewage treatment system, and on-site road and transport infrastructure.
19. The DAR also stated that the proposed development has a capital investment value (CIV) of \$42 million and is expected to generate 150 construction jobs and 561 full time equivalent (FTE) operational jobs when fully constructed.
20. On 5 March 2019, the Applicant provided correspondence to the Commission Panel, which stated:

“With respect to the above State Significant Development Application, I would like to formally request the removal of the following components of this Development Application as follows:

 - *The proposed augmentation of the wastewater treatment system (i.e. that infrastructure above and beyond the existing Byron Shire Council approved on-site sewage management system) including additional storage tanks, various reed bed systems, chlorine dosing mechanisms and all associated infrastructure for the irrigation of treated effluent across parts of the venue camping grounds).”*
21. Therefore, the Project before the Commission no longer includes the proposed onsite wastewater and sewage treatment system, which amends the application (**Project as amended**) as discussed in paragraph 20 above.

Need for the Modification Application

22. In its Environmental Impact Statement (**EIS**), the Applicant stated:

“These two events attract some of the world’s biggest contemporary artists to Australia each year, helping to keep Australia and the NSW North Coast at the forefront of the international music and creative arts industries. The need for these cultural events is demonstrated by their continued popularity, with tickets for both events highly sought after, generally selling out within hours on the day that they go on sale.”

...

“Overall, the events have demonstrated between 92% and 100% compliance with the project approval conditions and Parklands’ own KPIs. This compliance has increased to between 98% and 100% over the past 4 events, which indicates that Parklands has achieved continual improvement in its environmental performance over the course of the trial period. Calls to Parklands’ Community Hotline have also decreased significantly over the trial period.”

...
“On balance, the environmental assessment indicates that the positive social, economic and environmental benefits associated with the North Byron Parklands cultural events site far outweigh the relatively isolated negative impacts, and that the continued operation of the site is in the public interest”

23. In its DAR, the Department stated:

“Given the trial approval is due to expire on 31 August 2019, the Applicant is now seeking development consent for the ongoing and permanent use of the site as a cultural events venue.”

...
“While the trial period has provided the Applicant with the opportunity to develop and refine its environmental management framework, the lack of a permanent approval and the current patron limit has resulted in uncertainty regarding the future of the site and limited the Applicant’s ability to invest in long-term infrastructure.

Consequently, the Applicant is seeking the permanent and ongoing use of the site for outdoor events, and an increase in the capacity of the SITG and Falls Festival events to 50,000 patrons and 35,000 patrons, respectively.

In 2017 and 2018, tickets for the SITG event sold out approximately one hour after their respective sale periods had commenced. The proposed development would allow the Applicant to satisfy the considerable demand experienced for both the SITG and Falls Festival events, and ensure the North Coast region remains at the forefront of the international music and creative industry in Australia. The Applicant also highlighted it has continually improved its environmental performance over the course of the trial period, and developed cutting-edge, adaptive noise management procedures to minimise impacts to surrounding sensitive receivers.”

2. THE DEPARTMENT’S CONSIDERATION OF THE APPLICATION

2.1 Key steps in Department’s consideration of the Application

24. The Applicant submitted the Application on 12 December 2017, which was accompanied by the Applicant’s EIS and specialist reports.

25. The DAR stated that the Department:

- made it publicly available from Friday 15 December 2017 until Friday 16 February 2018:
 - on the Department’s website
 - at the Department’s Sydney office (Pitt Street, Sydney)
 - at all NSW Service Centres
 - at Byron Shire Council (BSC) (Station Street, Mullumbimby)
 - at Tweed Shire Council (TSC) (Tumbulgum Road, Murwillumbah),
 - notified landowners around the proposed development about the exhibition period by letter
 - notified relevant State and Commonwealth government authorities, BSC and TSC by letter
 - advertised the exhibition in the Byron Shire Echo, the Byron Shire News and the Tweed Daily News.
- (the **exhibition period**)

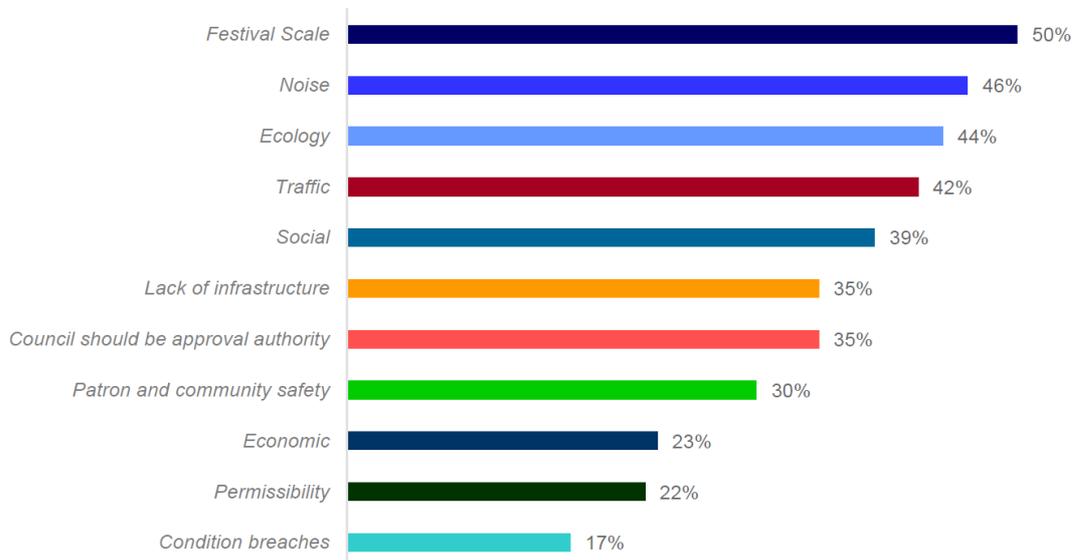
26. The DAR also stated that the Department received a total of 7,204 submissions from which 118 objected to the development, 7,057 were in support, and 29 provided comments. The DAR also stated that the submissions included:

- 8 public authorities including, BSC, TSC, NSW Police Force (**NSWPF**), NSW Rural Fire Services (**RFS**), Environmental Protection Agency (**EPA**), Roads and Maritime Services (**RMS**), Office of Environment and Heritage (**OEH**), and Department of Industry – Crown Lands (**DICLW**).
- 24 from community organisations;
- 24 from private businesses;

- 12 from artists or management agencies; and
- 7,136 from the public.

27. A breakdown of the matters raised in submissions is provided in Figure 2 in the next page.

Figure 2
Key Issues by Proportion of Total Objections

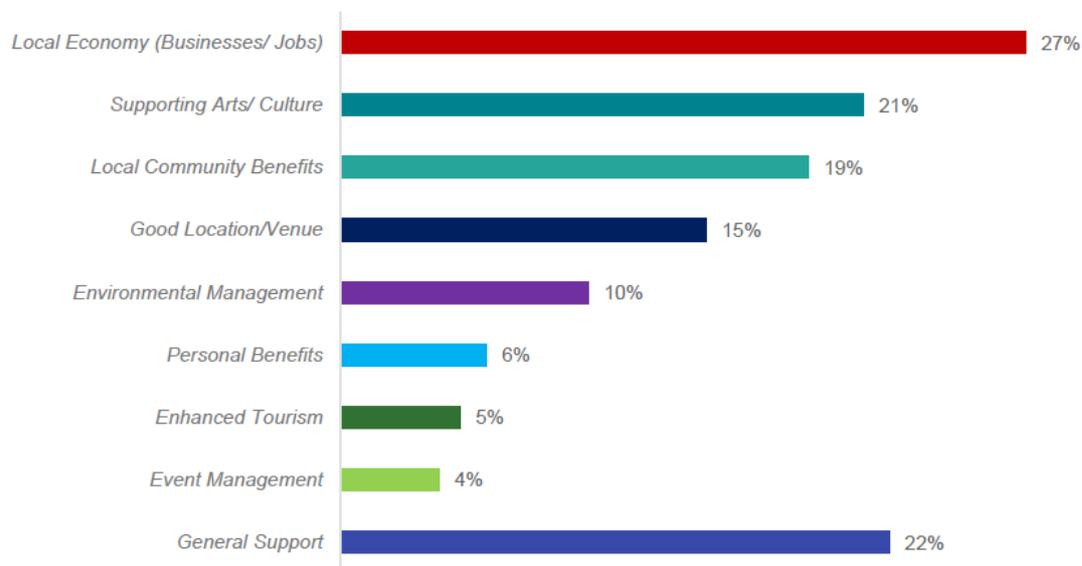


Source: Department of Planning and Environment

28. A breakdown of the submissions in support is provided in Figure 3.

Figure 3

Key Issues by Proportion of Total Website Submissions in Support



Source: Department of Planning and Environment

29. The DAR stated that “the Department sought independent advice from two organisations, Hill PDA and GHD, to support its assessment of the economic impacts of the project and to review the proposed wastewater treatment system [since withdrawn from of the Project], respectively. This advice was sought because of the concerns raised by the community during the exhibition period, the technical nature of these issues, and the importance of ensuring the proposed increase in festival capacity would be managed appropriately.”

30. The DAR also stated that in response to submissions received during the public exhibition, the Applicant provided on 11 July 2018; a response to submission (**RtS**) which included *“refinements to the proposed wastewater treatment system and the layout of the development [since withdrawn from of the Project], concept design plans for the stormwater system in the south-east car park, and a revised summary of mitigation measures for the proposed development;”* seeking to address issues and concerns raised during the exhibition period.
31. The DAR also stated that the RtS undertook *“a number of specialist studies/assessments ...to address concerns raised by the public authorities in their submissions, including:*
 - *an additional flood review for the south-east car park*
 - *a revised Biodiversity Assessment, prepared by EcoLogical*
 - *an additional traffic review, prepared by WSP Australia*
 - *a revised Wastewater Assessment, prepared by Whitehead & Associates a revised Potable Water Assessment, prepared by Jed Civil*
 - *an additional bushfire review, prepared by Bushfire Certifiers*
 - *a Crowd Management Assessment prepared by Secure Events and Assets*
 - *an addendum to the Social Impact Assessment, prepared by Sarah George Consulting, Planners North and the Applicant.”*
32. The DAR stated that 7 public authorities provided comments, including the recommended conditions, and that it subsequently requested the Applicant to provide responses to those comments. The Applicant provided an addendum to the RtS on 11 September 2018 to address agency comments, to which 6 agencies provided additional comments.
33. The RtS and the Addendum were made publicly available on the Department’s website.

2.2 The Department’s Assessment Report

34. The DAR identified the following issues as the key impacts associated with the Application:
 - modification of the concept approval;
 - event staging and KPI reporting;
 - traffic, transport and access;
 - noise;
 - wastewater; and
 - social.
35. According to the DAR, the Department assessed the Project considering the Concept plan approval and future outdoor events, documentation and plans, the Applicant’s Statement of Commitments (**SoCs**), and other administrative changes in relation to amending the “Definitions” to better reflect the operation of the site, and the “Land” section to reflect the current legal description of the site. The Department also considered the consistency with the concept approval and performance of previous outdoor events, as required in Term C1(1) of the Conditions of Consent. The Department stated in its DAR that:
 - *“the proposal is consistent with the concept approval;”* and
 - *“minor amendments to the concept approval do not fundamentally change the terms of the concept approval, but facilitates the continuation of outdoor, cultural and educational events following the conclusion of the trial period...Therefore, the Applicant has submitted an SSD application to facilitate the ongoing and permanent use of the site for outdoor, cultural and educational events following the conclusion of the trial period. The Department is satisfied the SSD application is consistent with the requirements and terms of the concept approval.”*

36. The Department also assessed the SSD Application considering the progressive increase in patron numbers attending events at the site. The DAR conclusions included:
- *“the staged approach would ensure any additional impacts are identified and continual improvements are implemented, prior to further increases in patron numbers;”*
 - *“the potential noise impacts of outdoor events would be adequately mitigated by the Applicant’s use of front-of-house volume controls, and the continued implementation of its adaptive noise management measures and complaints response procedure;”*
 - *“while traffic generated by the proposed development will result in some temporary impacts to the surrounding road network, these impacts would be appropriately managed by the Applicant’s existing and proposed traffic management measures and plans;”*
 - *“use of Wooyung Road/Gate E as a secondary access route would likely improve traffic conditions along Tweed Valley Way and throughout the broader road network, subject to the upgrading of the Wooyung Road/Gate E intersection;”*
 - *“While there is the potential for adverse social impacts to be experienced by local residents during outdoor events, such impacts would be temporary in nature, and will be mitigated through the implementation of a Planning Agreement (PA) with BSC, Community Consultation Plan and the Applicant’s existing and proposed measures to alleviate amenity impacts such as illegal camping, anti-social behaviour and littering.”*
 - *“the development will comply with the relevant bushfire regulations and have negligible flood impacts, subject to the implementation of bushfire evacuation plan and flood evacuation plan for all outdoor events;”*
 - *“any potential impacts of the proposed development on public safety would be effectively managed through implementation of the mitigation measures outlined in the RTS and Crowd Management Assessment (CMA);”* and
 - *“the proposed development would provide a substantial net benefit to the Byron Shire, the broader Northern Rivers region and to NSW.”*

37. The DAR stated:

“Throughout the trial period, the Applicant has improved the management of impacts associated with the development, particularly around traffic and noise management and public safety. The Applicant has trialled, monitored and refined a range of adaptive management and mitigation measures, which has resulted in an overall improvement in amenity and a reduction in complaints from surrounding residents. Therefore, the Applicant has demonstrated that it can adequately manage outdoor events at the site for up to 35,000 patrons.

The continuation of outdoor events at the site is consistent with the North Coast Regional Plan 2036 as it will continue to deliver a unique tourism experience that will generate positive social benefits and additional employment opportunities for the local community.”

...

“The Department has concluded that with the Proponent’s proposed mitigation measures, in addition to the Department’s recommended conditions, the site can continue operating with minimal impact upon the environment. The site will also continue to provide significant public benefits to surrounding and regional communities through increased employment opportunities and through attracting a variety of cultural events to the site.”

38. The DAR concluded:

“the ongoing and permanent use of the site for outdoor events will overall make a positive contribution to the surrounding region. While there is potential for adverse impacts, such impacts would be temporary in nature during events, and can be mitigated through the implementation of the proposed PA with BSC, Community Consultation Plan and the Applicant’s existing and proposed measures to alleviate amenity impacts. The Department has also recommended conditions requiring the Applicant to undertake social monitoring to identify, monitor and refine its social mitigation measures. Any

staged increase in the large events would be subject to review of the social monitoring results as part of the PER.”

...
“The Department’s assessment concludes the impacts of the development can be mitigated and/or managed to ensure an acceptable level of environmental performance subject to the recommended conditions of consent, including:

- implementation of the management and mitigation measures recommended in the EIS and RTS*
- preparation of management plans for outdoor events to manage traffic, noise, biodiversity, social impacts, public safety and bushfire and flooding evacuation*
- a requirement for the Applicant to enter into a PA with BSC to address amenity and social impacts*
- provision of additional policing resources and BSC rangers during events.*

39. On 27 February 2019, the Department provided an amended version of the recommended conditions of consent, which included:
- limiting the use of Gate A by heavy vehicles to event and shoulder days associated with the large and medium events;
 - amendments to Condition C1 and Table 2 relating to the site enhancement works;
 - inclusion of a condition C2, requiring the applicant to prepare an Infrastructure Staging Plan (**ISP**) that will detail when the works listed as “As required;” now “In accordance with Condition C2” to be delivered; and
 - Provisions to ensuring that noise mitigation attenuation works to 237 Jones Road, Yelgun; are carried out in accordance with the Department’s letter dated 5 December 2014.
40. Further to the Applicant’s request of 5 March 2019, to amend its application, the Department provide on 7 March 2019 a revised recommended condition of consent to reflect the amended application, including for all wastes, wastewater, and biosolids; to be removed off-site in accordance with conditions B16 and C15.

3. THE COMMISSION’S MEETINGS AND SITE VISIT

41. As part of its determination, the Commission met with the Department, the Applicant, Byron Shire Council and Tweed Shire Council, and NSW Health. The Commission also conducted a public meeting and inspected the site accompanied by the proponent and three community group representatives. Transcripts from these meetings were made publicly available on the Commission’s website on 17 November 2018, 13 December 2018 and 22 January 2019.

3.1. Meeting with the Department

42. On 4 December 2018, the Commission met with the Department to discuss the DAR, the Project background, the Application and nature of submissions.
43. On 18 December 2018, the Department provided additional comments to the Commission Panel, responding to matters raised during the meeting. This information was made available on the Commission’s website on 21 December 2018.

3.2. Meeting with the Applicant

44. On 4 December 2018, the Commission met with the Applicant to discuss the SSD application, modification, and the Project background.

3.3. Meeting with Byron Shire and Tweed Shire Councils

45. On 11 December 2018, the Commission met with Byron and Tweed Shire Councils in a combined meeting to discuss their submissions in relation to the Application and draft conditions of consent.

3.4. Public Meeting

46. To hear the community's views on the Application, the Commission held a public meeting at the Oceans Shore Community Centre at 55 Rajah Rd Oceans Shores on 10 December 2018. A list of the 41 speakers that presented to the Commission is provided on the Commission's website. A transcript of the public meeting, (including a presentation which was conducted in private with the Commission) was made available on the Commission's website on 13 December 2018. A copy of the material tendered at the public meeting was also made available on the Commission's website on 19 December 2018.
47. Due to a technical email error, a number of the Commission's emails notifying the submitters of the public meeting of the North Byron Parklands modification and SSD 8169 project were not delivered to recipients. The Commission therefore placed newspaper advertisements on 21 November 2018 in the Byron Shire Echo, the Daily Telegraph, and the Sydney Morning Herald and on 22 November 2018 on the North Byron Shire News. Further, the modification number in the newspaper advertisements was incorrectly referred to as "Modification 5" instead of "Modification 3".
48. In view of these errors, the Chair of the panel notified attendees at the public meeting about the correct modification number and that the Commission would accept written comments up until 11 January 2018, in relation to the project, which provided an additional four weeks.
49. As part of the public meeting, the Commission accepted a request from two different stakeholders to present privately to the Commission panel to hear their views on these applications. These forums were provided to:
 - Ms Valerie and Mr Stan Scanlon; and
 - Pottsville Community Association.
50. Transcripts of these meetings were published on the Commissions website on 19 December 2018 and 18 January 2019.
51. A number of the speakers at the public meeting expressed their support, as well as other expressed their objection to the Application and the Project more broadly. A summary of the comments is provided below:
 - potential amenity and environmental impacts resulting from the proposed patrons increase and permanent use of the site;
 - the proposed management of potential impacts including, noise impacts on nearby residents and wildlife;
 - impacts of flooding and bushfire on patron safety and the environment overall;
 - potential environmental impacts resulting from the onsite wastewater and sewage treatment system;
 - potential adverse impacts on amenity and safety as a result of the construction;
 - economic benefits of the Project, including employment opportunities; and positive impacts in supporting local artists and businesses.

3.5. Site inspection

52. On 11 December 2018, the Commission inspected the site with the Applicant. The Commission invited local community group representatives to attend and observe the site inspection. Three following representatives accepted the invitation:
 - Angela Dunlop - South Golden Beach Community Association Inc.;
 - Kathryn McConnochie - Byron Environment Centre; and
 - Richard Whitting - Conservation of North Ocean Shores Inc.
53. The site inspection commenced at the south car park. The Applicant guided the Commission and community group representatives throughout the site and made various stops to understand the physical area, including
 - north car park, the proposed south east car park, and transport hub;
 - the spine road through the Billinudgel Nature Reserve;
 - the resource recovery centre;

- the amphitheatre;
 - the proposed locations for conference centre and water reservoir;
 - the locations of the existing and proposed wastewater and sewage treatment system, including the existing biosolids burial zone and associated holding tanks; and
 - Gate E and camping areas including areas proposed for irrigation of treated wastewater.
54. The Community representatives pointed out to the Commission Panel to the Paperbark Swamp Forest sections or the 'No-go Zones', as the site inspection passed adjacent to these sites and their habitats.
55. Following the site inspection, the Commission also took the opportunity to drive along the entire length of Jones Road as well as view the intersection of Jones Road with the Tweed Valley Way.

3.6. Public Comments

56. The Commission extended the period for submission of public comments on the application and on the transcripts from the public meeting until 11 January 2019. The Commission received a total of 212 written comments, which were made available on the Commission's website on 15 January 2019.

3.7. Meeting with NSW Health

57. On 18 January 2019, the Commission met with representatives of NSW Health to discuss particular public health aspects of the proposed onsite wastewater and sewage treatment system component of the application. The transcript of this meeting was made publicly available on the Commission's website on 22 January 2019.
58. On 29 January 2019, the Applicant provided a response to transcripts from the Commission's meeting with NSW Health. In its letter, the Applicant stated: "*Parklands would be satisfied with a form of development consent which did not approve the OSMS currently proposed as part of the application.*" This response was published on the Commission's website on 4 February 2019.

4. ADDITIONAL INFORMATION REQUESTS

59. On 19 December 2018, the Commission Panel requested further information from OEH in relation to the Aboriginal consultation process undertaken by the Applicant and the potential items that could be impacted as a result of the applications. OEH responded on 9 January 2019. The response was published on the Commission's website on 5 February 2019.

5. THE COMMISSION'S CONSIDERATION

5.1 Material considered by the Commission for Modification 3 and SSD 8169

60. In determining modification 3, the Commission has carefully considered the following material (the **Material**):
- original trial events development consent SSD 8169;
 - the Applicant's modification application dated 12 December 2017;
 - the Applicant's SSD application dated 12 December 2017;
 - the Applicant's EIS and Appendices A-U dated December 2017;
 - the Applicant's RtS dated July 2018; and RtS addendum and appendices A-B, dated September 2018;
 - the Applicant's Expert responses to GHD (the Department's expert) reports dated May and October 2018;
 - the Applicant's further information dated 10 December 2018 and 14 December 2018 following the Commission's meeting during 4 December 2018;
 - the Applicant's responses dated 25 January 2019 following the Commission's meeting with NSW Health on 18 January 2019; and to BSC comments dated 21

December 2018;

- the Applicant's Performance Evaluation Reports to date;
- all public submissions made to the Department in respect of the proposed modification during the public exhibition of the EIS, the RtS and RtS Addendum;
- all government agencies submissions made to the Department in respect of the proposed modification and SSD application during the public exhibition of the EIS, the RtS and RtS Addendum;
- the Independent Expert Review Economic, dated 6 August 2018;
- the Independent Expert Reviews on Wastewater, dated April 2018; and subsequent responses dated May, September and November 2018;
- the Department's Assessment Report, dated 19 November 2018, the proposed draft Notice of Modification MP 09_0028 MOD3, and proposed consent SSD 8169;
- the public submissions during the Commission's process;
- Byron Shire Council comments dated 21 December 2018;
- Tweed Shire Council comments dated 21 December 2018; OEH response to the IPC information request, dated 9 January 2019;
- the visual observations made at the site and locality inspection on 11 December 2018;
- oral comments from speakers at the public meeting on 10 December 2018
- oral comments by Tweed and Byron Council on 11 December 2018
- written comments received after the public meeting up to 11 January 2019;
- oral comments made by NSW Health on 18 January 2019;
- the Applicant's letter dated 5 March 2019; and
- the public interest.

5.2 Mandatory Considerations

61. In determining SSD 8169, the Commission has taken into consideration the following mandatory considerations, as provided in section 4.15 of the EP&A Act:
- the provisions of all:
 - environmental planning instruments, as set out in Parts 3 and 4 (and Appendix E) of the DAR;
 - proposed instruments that are or have been the subject of public consultation under the EP&A Act and that have been notified to the Commission (unless the Secretary has notified the Commission that the making of the proposed instrument has been deferred indefinitely or has not been approved);
 - development control plans, as set out in Part 6 of the DAR;
 - planning agreements that have been entered into under section 7.4 of the EP&A Act, and draft planning agreements that a developer has offered to enter into under section 7.4; as set out in the Applicant's letter to the Department, dated 28 September 2018, the details of which are set out in Appendix 3 of the recommended conditions of consent; and
 - the Regulations (to the extent that they prescribe matters for the purposes of section 4.15(1) of the EP&A Act); that apply to the land to which the project relates;
 - the likely impacts of the project, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality;
 - the suitability of the site for the developments;
 - submissions made in accordance with the EP&A Act and Regulations;
 - the public interest; and
 - the Material, as discussed in paragraph 60 above.

5.3 Likely impacts of the proposed modification and SSD application.

5.3.1 Event staging and monitoring.

62. The Commission has taken into account the Material insofar as it relates to the proposed event staging and monitoring that would result from the proposed increase in patron numbers.

Comments received

63. The Commission heard concerns from speakers at the public meeting, Byron and Tweed Shire Councils, and received written comments regarding the potential impacts from the proposed increase in patron numbers, including:
- that the previous 5-year trial period has not trialled the site with an increase in patron numbers from 35,000 to 50,000 patrons; and
 - potential public safety and crowd management risks due the proposed increase in the size of events.

Applicant's consideration

64. The Applicant provided an EIS prepared by PJEP Environmental Planning Pty Ltd and Planners North Pty Ltd which contained relevant information which sought to support the increase in patron numbers from 35,000 patrons to 50,000 patrons in 7,500 patron increments, subject to meeting, among others, certain traffic-related KPIs. These KPIs are discussed in paragraph 87 in the traffic section of this Statement of Reasons (**SoR**).

65. The Applicant stated in its EIS:

"...Parklands is now seeking to move beyond the trial period, and to re-define the event size and frequency to allow for events of up to 50,000 patrons (on a limited and staged basis, and subject to meeting key performance indicators)."

66. In relation to public safety and crowd management, the Applicant stated in its EIS:

"With regard to hazards, incidents and emergencies, the assessment indicates that the hazards associated with the proposal are not significantly greater than those associated with the existing project. These hazards and risks are able to be effectively managed subject to implementation of a range of mitigation measures, including construction of key infrastructure above applicable flood levels, continued implementation of detailed bushfire, flood and evacuation management plans, and implementation of Parklands' comprehensive Incident Command and Control System."

67. In its RtS dated July 2018, the Applicant provided a CMA prepared by North Byron Parklands in June 2018, in response to NSW Police Force concerns on crowd management, crowd crush, traffic, use of drugs, and impacts on police district resources. The CMA *"sought to demonstrate that future events (including the proposed incremental increases in event capacity for Splendour) can be safely and effectively managed."* The CMA indicated:

"This assessment:

- 1. Supports the current event capacity of 35,000 patrons based on the recommendations and mitigation measures provided in Table 7 on page 32.*
- 2. Supports the increase in capacity to 42,500 patrons based on the recommendations and mitigation measures provided in Table 7 page 33.*
- 3. Conditionally supports the increase in capacity to 50,000 patrons using the amphitheatre based on the recommendations and mitigation provided in Table 7 page 34. The increase to 50,000 patrons should take into consideration the following:*
 - How the gradual increase in numbers will affect the site and what additional mitigation/infrastructure will be required outside of the amphitheatre.*

- Lessons learned from the gradual increase in numbers within the amphitheatre and the event site in general.
- Event Safety Committee to be informed and consulted.

4. Supports the increase in capacity to 50,000 patrons if the main stage is located to a flat area such as the existing Mix Up stage based on the applicable recommendations and mitigation measures provided in Table 7 page 34.”

68. At the public meeting, the applicant’s consultant Stephen Connelly, representing Planners North Pty Ltd, stated:

“the work that was done to prepare the impact assessment was founded on hard evidence about the capacity of the road system in the locality to sustain the event – events as proposed. That work was calibrated with the other works that have to be done to move the event on. So the idea of having the 42 and a half thousand and 50,000 equates to serious works that have to be completed before the Large Winter event can move from 35,000 persons.

That calibration is really quite important in terms of the viability of the operation but also in terms of the phasing. So without any quibbling about the mathematics or the basis or the logic or the robustness of the analysis that has been completed, a suggestion has been made that it be 5000 increments. The difference in – between the seven and a half and the 5000, particularly, say, for the first event, would be imperceptible. So any person who’s looking at the traffic and evaluating and just a person on the street will not discern the difference. But the difference for the actual operation of the festival and its smooth economic running is really important. The second part of table 4, consent condition D9, provides for the stage 2 for the Falls Festival to be at 30,000.

Department’s consideration

69. The Department stated in its DAR *“The Department notes the Applicant has prepared a detailed CMA to address the matters raised by NSWPF and has committed to implementing a range of measures to ensure the safety and security of patrons. This includes a commitment to user-pays police and ambulance services, expanded drug dog detection operations, on site incident management, medical facilities and security personnel. NSWPF was satisfied with this response and raised no further issues.*

70. The Department has included in the recommended conditions *“a requirement for the applicant to implement mitigation measures described in the CMA for increased patron numbers... prior to increasing to 50,000 patrons, including reporting on the effectiveness of the crowd management measures and obtaining approval from the NSWPF.”*

71. In relation to the 5-year trial period and the stage increase in patron numbers, the Department stated in its DAR:

“The Department considers the staged approach over the 5-year trial has led to continual improvements in how the impacts of events are monitored and controlled. Several key improvements implemented over this period, include changes to traffic management to reduce delays and congestion, additional controls to reduce low-frequency noise and implementation of an on-site wastewater treatment system.”

The Department acknowledges the concerns raised by the public, community groups and public authorities around increased patron numbers. To address these concerns, the Department considers it appropriate to continue with a staged approach to increasing patron numbers, subject to the Applicant meeting detailed KPIs. The Department recommends continuing with the precautionary approach adopted by the Commission for the original project approval...”

Commission's Consideration

72. The Commission has considered the proposed staged increase in patron numbers from 25,000 to 35,000 for Falls Festival, and 35,000 to 50,000 for SITG, as discussed in paragraph 23 and 68.
73. The Commission accepts the Department's requirement for the applicant to implement additional mitigation measures, described in the CMA, as discussed in paragraph 69; because it would require the applicant to engage with NSWPF during the large events *"to ensure the safety and security of patrons;"* and *"NSWPF was satisfied with this response and raised no further issues;"* as discussed in paragraph 69.
74. The Commission accepts the Departments comments that *"Throughout the trial period, the Applicant has improved the management of impacts associated with the development, particularly around traffic and noise management and public safety;"* discussed in paragraph 37; because:
- it has *"trialled, monitored and refined a range of adaptive management and mitigation measures, which has resulted in an overall improvement in amenity and a reduction in complaints from surrounding residents. Therefore, the Applicant has demonstrated that it can adequately manage outdoor events at the site for up to 35,000 patrons;"* discussed in paragraph 37; and
 - *"the staged approach over the 5-year trial has led to continual improvements in how the impacts of events are monitored and controlled;"* including *"changes to traffic management to reduce delays and congestion, additional controls to reduce low-frequency noise and implementation of an on-site wastewater treatment system;"* as discussed in paragraph 71.
75. The Commission accepts the Department's comments that *"The continuation of outdoor events at the site is consistent with the North Coast Regional Plan 2036 as it will continue to deliver a unique tourism experience that will generate positive social benefits and additional employment opportunities for the local community."* discussed in paragraph 37; because the total website submissions made to the Application during the exhibition periods in support of the Application, mentioned *"Local Economy (Business/ Jobs)...Supporting Arts/ Culture...Local Community Benefits..."*; and *"Good Location/Venue"* as the highest proportion of issues in support, as shown in paragraph 28.
76. As to the proposed increase in patron numbers, the Commission accepts the Department's recommendation, discussed in paragraph 71, of *"...continuing with the precautionary approach adopted by the Commission for the original project approval,"* because the *"staged approach over the 5-year trial has led to continual improvements in how the impacts of events are monitored and controlled;"* as discussed in paragraph 71.
77. The Commission notes that the Department has amended condition C1 to reflect the changes by including condition C2, as discussed in paragraph 39; to require the applicant to prepare an Infrastructure Staging Plan (**ISP**) that will detail when the works listed as 'As required' in condition C1 are to be delivered. This ISP will be to the satisfaction of the Planning Secretary and will form part of the Construction Environmental Management Plan (**CEMP**).
78. Based on the Material, the Commission finds that the proposed increase in patron numbers under a staged approach is acceptable because:
- NSWPF was satisfied with the applicant's CMA and *"raised no further issues;"* as discussed in paragraph 69;
 - the recommended conditions include *"a requirement for the applicant to implement mitigation measures... prior to increasing to 50,000 patrons, including reporting on the effectiveness of the crowd management measures and obtaining approval from the NSWPF;"* as discussed in paragraph 70;
 - the applicant has implemented *"continual improvements in how the impacts of events are monitored and controlled..."* as discussed in paragraph 71;

- Conditions C1 and C2 of the recommended conditions of consent have been amended to reflect a requirement for an ISP to the ‘satisfaction of the Planning Secretary’; the ISP will detail when the works will be delivered, as discussed in paragraph 77.

5.3.2 Traffic and transport access.

79. The Commission has taken into account the Material insofar as it relates to traffic impacts, and transport access.

Comments received

80. The Commission heard concerns from speakers at the public meeting, Byron and Tweed Shire councils, and received written comments regarding the potential traffic impacts, including:
- traffic impacts at the intersection of Jones Road and Tweed Valley Way as traffic controllers are not managing the intersection appropriately when bus, coaches and trucks use this intersection to access gate A;
 - traffic impacts and road safety risks will worsen as a result of the increased patron numbers during festivals days if the Project becomes permanent; and
 - traffic impacts have not been trialled for the proposed increase in patron numbers, including having a patron entrance on Wooyung Road (Gate E) or having one day events larger than 2000 patrons.

Applicant’s consideration

81. The Applicant included within its EIS a Traffic and Transport Assessment (TTA) prepared by WSP Australia Pty Limited dated November 2017, that assessed “*the potential traffic and transport impacts for the proposed range of events.*”

82. In relation to impacts on other road users, the TTA concluded:

“A range of measures similar to those used for the trial events would be used for a 50,000 patron event to limit the impact on non-event road users. Restricted access to Yelgun Road and Jones Road should prevent event patrons using these roads for parking. Residents and their guests would be provided with permits to allow them to enter. Traffic controllers would assist the small number of vehicles turning out of Yelgun Road and Jones Road if their delay becomes excessive.”

Residents of the surrounding villages would experience some traffic delays during peak event times. However, public notices about the events would highlight this impact and suggest that trips be made during other times to avoid delays where possible. The largest impacts would only be experienced for a few days per year. The peak times are likely to occur at different times to the regular traffic peaks, and are unlikely to have a significant impact during before and after school times. Traffic management arrangements would seek to minimise the impact on non-event related traffic by allowing it to bypass the traffic queues.”

83. With regard to bus access, the TTA concluded:

“The event shuttle bus network has been an essential component of the NBP sites strategy to minimise its traffic impact since the first trial event in 2013. This bus network can be expanded with higher frequency to meet the needs of the 50,000 patron event.

The existing infrastructure built for buses on-site has sufficient capacity to cater for the increase in buses. Stops within the surrounding towns are likely to have sufficient capacity to accommodate the increased number of buses starting/finishing at the stops.”

84. In relation to event traffic management, the TTA concluded:

“Traffic control would be required at Jones Road and on Gates C and D during the 50,000 patron event in order to manage delays for Yelgun Road residents and for traffic exiting Gate C. Modelling shows that these delays can be managed in a satisfactory manner.

Monitoring of the performance of the Yelgun Interchange and Link Road intersection with Tweed Valley Way are required to ensure that excessive queues do not build up for the 50,000 patron event.

Roads and Maritime certified traffic controllers are required at critical intersections in the southern car parking area, to ensure efficient management of internal traffic conflicts and thus minimize any risks of on-site queuing extending onto Tweed Valley Way.”

85. In relation to traffic generating at Jones Road and Tweed Valley Way, the TTA stated:

Resident access

Whilst not part of the NBP site, access to Jones Road and Yelgun Road needs to be maintained for local residents. During large events, Jones Road and Yelgun Road are controlled by traffic controllers and/or security guards to prevent unauthorised access to the site, and to prevent unwanted parking on Jones Road. Residents are provided with resident access passes to enable them to pass through the checkpoints on Jones Road and Yelgun Road at their Tweed Valley Way entrance.

Through traffic

Through traffic on Tweed Valley Way is generally permitted to bypass any queue of vehicles waiting to enter the site. Temporary traffic management is employed to extend the length of right turn bays by making use of the road shoulder of Tweed Valley Way. A similar treatment is employed at the junction of Tweed Valley Way and the Yelgun Interchange Link Road during event bump-out to bypass any queue of patrons' vehicles waiting to turn right to get to the Interchange.”

86. In relation to the potential traffic impacts resulting from the proposed increase in patron numbers, the Applicant stated in its EIS:

“With regard to traffic flow considerations, the traffic assessment identified that ‘coming and going traffic’ (i.e. traffic to and from the site not associated with day patron or camper arrival, day patron drop-off, buses or servicing) has some potential to cause congestion during the largest event, and recommends that such traffic be restricted where practicable between 12pm and 5pm on peak event days. This is able to be achieved through on-site traffic control and prioritisation, which would be implemented for all large events.”

87. In relation to the KPIs, the Applicant stated in its EIS:

“The KPIs are traffic-related, as this is the key issue of relevance to the proposed patronage increase. Environmental assessment indicates that other environmental aspects are not likely to vary significantly with the patronage increase, and/or can be managed to an acceptable level of performance.

...

The KPIs are based on detailed traffic assessment (see Section 6.9) and the KPIs in the existing project approval, and are proposed to include:

- *minimum LoS of C to be maintained at the Yelgun Interchange;*
- *minimum LoS of D to be maintained along Tweed Valley Way in general across the day, with a maximum LoS of E for no more than 4 hours a day;*
- *queue lengths on the link road between Tweed Valley Way and the Yelgun Interchange to be limited to a maximum of 60 metres;*
- *queue lengths (95% back of queue) on the northbound off-ramp to be limited to a maximum of 210 metres (from the give way yield line);*

- *on-site queuing is not to extend onto Tweed Valley Way or the Pacific Motorway; and*
- *no appreciable impact on through traffic travel times on the Pacific Motorway.*

The progressive expansion of the large event would only occur subject to demonstrated compliance with these KPIs, to the satisfaction of the Department.”

88. As to the modelling in achievement the KPIs, the Applicant stated in its EIS:

“For the largest event (i.e. 50,000 patrons), preliminary modelling indicated that the continuation of existing mode share levels would not achieve acceptable performance levels on the road network. To achieve acceptable performance levels, bus mode share is proposed to increase to 73% for day patrons, and to 5% for campers.

...

The traffic assessment considers that the proposed mode share for the largest events is achievable, given:

- *the existing and proposed transport initiatives (see Section 6.9.7);*
- *the ability for Parklands to regulate car access to the site through ticketing; and*
- *the likely natural increase in bus mode share given that the larger events would likely attract larger numbers of tourists from outside the area, who are less likely to travel to the site by car.”*

89. A complete explanation of the Applicant’s transport initiatives can be found in section 6.9.7 of the Applicant’s EIS.

90. As per the mitigation and management of the traffic and transport impacts, the EIS stated:

“To manage traffic and transport related risks associated with the ongoing operation of the Parklands project, Parklands proposes to prepare and implement a comprehensive:

- *Transport Management Plan, which would address all events on the site – from minor community events (i.e. up to 1,500 patrons) to large events (i.e. up to 50,000 patrons) – as well as the operation of the conference centre, general site operations between events, and construction works (including the need for Roads Act approvals for external road works);*
- *Traffic Monitoring Program, which would include provisions for monitoring of all large events; and*
- *Traffic Control Plans, which would be prepared for each specific event, for all events from small community events to large events.*

The Transport Management Plan and Traffic Monitoring Program would be prepared in consultation with Byron and Tweed Councils, the RMS, TfNSW and the RWG. The plan and monitoring program would be tailored to provide specific traffic management and monitoring measures for each of the events types and size classes.”

91. In relation to overall traffic, the EIS stated:

“With regard to traffic, the assessment indicates that the proposal is able to maintain reasonable traffic service levels on all of the key roads and intersections surrounding the Parklands site. For the largest event (i.e. Splendour at 50,000 patrons), the assessment indicates that service levels are able to comply with the traffic KPIs established in the existing consent at all times, with the exception of a minor decrease (to Level of Service ‘E’) on Tweed Valley Way which would occur over a period of up to 4 hours on one day of the year. This reduction would occur under traffic controlled conditions, and the assessment indicates that service levels on Tweed Valley Way would still remain reasonable during this time.

“To ensure that traffic and transport-related impacts are appropriately managed, Parklands would continue to implement a range of mitigation measures that have been successful for the trial period. These include providing accredited traffic controllers to manage all medium and large events in accordance with detailed traffic

management plans, providing extensive bus services to events, regulating passenger vehicle access and parking through ticketing, providing incentives for high occupancy vehicles, and splitting traffic flows on key intersections to ease congestion. Events on site would continue to be monitored against a range of traffic-related KPIs, and as outlined above, the progressive growth of the Splendour event is proposed to occur only upon the satisfactory compliance with these KPIs”

92. The applicant provided in its RtS dated June 2018, an addendum to the TTA in response to additional information requested by RMS in relation to the trips that would be generated; and concerns raised in relation to the use of Gate E Wooyung Rd made by TSC.
93. In relation to the use of Gate E Wooyung Rd, the Applicant stated in its RtS:

“Gate E on Wooyung Road is proposed to be used for patron arrival by vehicles from the north. This could include camper and day patron arrival via the Tweed Coast Road or camper arrival from the Tweed Coast Road and the Pacific Motorway (via Cudgera Creek Interchange). Use of this Gate by either of these vehicle sources would result in less traffic along Tweed Valley Way, especially in front of the site.

The assessment in the Traffic and Transport Assessment was based on campers and day patrons from the Tweed Coast Road. Additional SIDRA Intersection analysis of Gate E and Wooyung Road with camper arrivals from Tweed Coast Road traffic and further north (e.g. Brisbane) has been undertaken with results shown in section 6.” (Please refer to section 6 of the Applicant’s addendum to the RtS dated June 2018.)

94. The applicant provided an addendum to the RtS, dated 11 September 2018, which was later reissued on 25 September 2018; seeking to address RMS’s additional comments dated 14 September 2018. The applicant stated:

“The sensitivity assessment undertaken for the RTS indicates that reducing the bus mode share by 5% would result in an increase in car traffic of approximately 18%. This increase was tested using the SIDRA Intersection model for the Yelgun Interchange. It resulted in a deterioration in performance of the Yelgun Interchange roundabout from LoS A to D, along with an increase of queue length on the southbound off-ramp from 42m to 129m, which is within the Safe Stopping Sight Distance for this ramp.

Measures for ensuring that bus mode share targets are met would be outlined in the Transport Management Plan for the proposed development. As outlined in Section 6.9.8 of the EIS, the Transport Management Plan and Traffic Monitoring Program would be prepared in consultation with applicable stakeholders including the RMS, and would include a number of existing and proposed transport incentives for increasing bus mode share and reducing low occupant private car transport.”

...
“It is noted that there would be 15,000 additional patrons for the proposed largest event (i.e. Splendour at 50,000 patrons), compared to the largest existing approved event (i.e. Splendour at 35,000 patrons). Notwithstanding, Parklands acknowledges that the largest proposed event would increase bus services and traffic on the road network, which has been modelled in detail in the EIS and RTS.

The EIS includes measures to ensure that the growth of the largest event occurs incrementally, subject to meeting a number of traffic-related key performance measures (KPIs). The proposed increments (i.e. 7,500 patron increments per year) are similar to those recommended by the RMS (i.e. 5,000 patron increments), and have been comprehensively modelled in the EIS and RTS.”

RMS Comments

95. RMS provided comments on 23 February 2018 to the application and requested additional information on the use of Gate E Wooyung Road. The applicant provided an RtS dated June 2018, seeking to address RMS’s comments and additional information request, as discussed in paragraphs 92 to 94 above.

96. In its response to the RtS, dated 14 August 2018, RMS stated:

“Roads and Maritime consider that in our technical assessment of the ‘Response to Submissions’ and the ‘Additional Traffic Analysis for Response to Submissions’, have addressed Roads and Maritime responses for the ‘baseline’ impact assessment and is now considered a reasonable prediction of impact, which are robust and conservative.

Roads and Maritime considers that in our technical assessment of the EIS Submission to Roads and Maritime responses, specifically for the increase in patrons to 50,000 does not include all reasonably feasible mitigation options.

The impact assessment is not considered acceptable within the policy context of Roads and Maritime, for the following reasons;

- *Sensitivity assessment for major events confirms Road and Maritimes safety concerns for the Yelgun interchange roundabout. Reducing the bus mode share by 5% results in an undesirable performance and safety outcome at the Yelgun interchange roundabout. Refer: Additional Traffic Analysis for Response to Submissions. Section 5 Comparison of trip generation of additional scenarios.*
- *The number of buses required to transport 30,000 additional patrons for a 50,000 event increases from 479 to 1045. This is a significant increase which will impact resources in the local area and beyond. To effectively assess the impacts and the delivery of the proposed mode share assumption further trials are required. Roads and Maritime suggests that the major events could have 5,000 incremental increases in patrons each year subject to a satisfactory performance.”*

97. Also, in its response to the RtS dated 14 August 2018, RMS recommended:

“Roads and Maritime has identified that efficient planning and delivery of temporary traffic management will need to continue for all events. This shall include monitoring the performance of each event and capturing information and data to facilitate the ongoing assessment and approval process.

- *A Traffic Management Plan (TMP) covering the various events configurations needs to be prepared in accordance with the objectives outlined in Section 1.3 of the RTA Guide to Traffic and Transport Management for Special Events to address varying scales of events to be held at the proposed venue. The TMP is to provide the following;*
 - *Pedestrian Management - measures to manage pedestrian movement internal and external to the site including the surrounding road network.*
 - *Parking Management - measures to accommodate event parking demand within the site and protocols to manage impacts on the surrounding road network. This should include measures to address parking and/or camping by event patrons on surrounding roads and within the Pacific Highway Yelgun Rest Area.*
 - *Traffic Control Plans (TCPs) - prepared and approved by accredited persons to be implemented by appropriately qualified personnel to manage pedestrian and vehicular traffic on all access routes to and from the proposed development.*
 - *Seasonal traffic and broader network performance considerations - measures to mitigate impacts related to the interaction of event traffic with seasonal increases in traffic flows on Pacific Highway and Tweed Valley Way and impacts on the non-event community. For example the Falls Festival event increases traffic flows entering the road network at a time when the road network is experiencing traffic flows of up to 30% above average conditions.*
 - *Emergency Management Plan (EMP) and Crowd Management Plan (CMP)*
 - *integration and consideration of measures proposed in separate EMP.*

98. RMS provided an additional response on 14 September 2018, to the RtS addendum dated 11 September 2018, which was later reissued on 25 September 2018; and stated in relation to the applicant's responses:

"The responses accepts the concerns raised by Road and Maritime however the suggested means by which to manage the concerns are still subject to the successful delivery of initiatives which will be outlined in the Transport Management Plan and reported in the Traffic Monitoring Program.

The consequences of not achieving the acceptable performance measures on the Pacific Highway are considered to be significant due to the traffic volumes and the high speed environment.

Events with 35,000 patrons have demonstrated performance but events of 42,500 and 50,000 patrons have not been tested.

Roads and Maritime suggests that a permanent approval for events of the 42,500 and 50,000 patrons should be subject to further trials."

Department's consideration

99. The DAR stated that the Applicant's TTA *"relied on traffic monitoring data obtained during SITG 2017 ...and was undertaken in accordance with the relevant RMS guidelines."*

100. In relation to the staged increase of SITG and RMS's concerns dated 14 August 2018, the Department stated in its DAR:

"The Applicant proposes to progressively increase the size of one large event over two stages and in 7,500 increments, which will allow it to monitor and refine its traffic measures. This increase is contingent on the Applicant achieving key transport mode targets that maximise bus patronage and minimises the use of private vehicles. The RMS raised concern regarding the effectiveness of the Applicant's proposed transport initiatives such as paid parking charges, event bus priority and carpooling to alter the mode share. The RMS subsequently recommended any increase above 35,000 patrons should be subject to ongoing monitoring and incremental increases of 5,000, to validate the effectiveness of the Applicant's traffic management measures and transport initiatives. The Department agrees with the RMS' recommendation and considers the progressive increase of the SITG event should be undertaken in smaller increments of 5,000 patrons over three stages, to provide the Applicant with sufficient time to monitor, evaluate and improve the effectiveness of the proposed traffic management and public transport initiatives."

101. As to the traffic impacts for Falls Festival, the Department stated in its DAR:

"In relation to the Falls Festival event, the Department notes there have been no major traffic issues associated with the event over the New Year period in previous years. However, given the higher background traffic levels experienced during the Christmas/New Year period and that previous events were restricted to a maximum of 25,000 patrons, the Department has recommended the Falls Festival event also be subject to a staging regime from 25,000 patrons to a maximum of 35,000 patrons, to occur in increments of 5,000 patrons. As with the SITG event, this would provide the Applicant with the opportunity to monitor, evaluate and refine its traffic management measures to minimise the impacts of the Falls Festival event on the surrounding road network."

102. The DAR stated that *“the predicted traffic volumes generated by the large 50,000 patron event is not expected to significantly impact on the operation of the Pacific Motorway. This is particularly evident for camper departure on the Monday morning when through traffic on the Pacific Highway would be at its highest. Despite the predicted decline in service on the Tweed Valley Way during a large 50,000 patron event, the traffic delays are short-term, only occurring for a maximum of four hours on one day for the duration of the event. Other events (i.e. Falls Festival, medium and small events) and the operation of the conference centre are not expected to impact on the operation of the Tweed Valley Way.*
103. However in its DAR, the Department proposed:
- “...staged increases be limited to increments of 5,000 patrons as shown in Figure 12. This would ensure the maximum capacity of 50,000 patrons would be reached after a minimum four years of successful operation.*
- In addition, the Department recommends the Falls Festival event should also remain at 25,000 patrons initially and be subject to a staged increase limited to increments of 5,000. This would enable the Applicant to demonstrate the event can operate with minimal impacts to the surrounding traffic network, noting the increase in background traffic volumes experienced during the Christmas/New Year Period.”*
104. In relation to the trial period, the Department stated in its DAR that the *“trial period has enabled the Applicant to review and refine its traffic management strategies, and over time the Applicant has demonstrated that it can manage traffic for events up to 35,000 patrons. The existing traffic KPIs and the Applicant’s existing traffic management and transport measures have been effective in maintaining good operation on the Pacific Motorway and ensuring traffic impacts on Tweed Valley Way are adequately managed.*
105. As per the proposed increase in patron numbers and its potential traffic impacts, the Department recommended in its DAR that *“the existing KPIs, the TMP, TMonP and TCP be included as conditions in the development consent. In addition, the Applicant has requested one of the KPIs be amended to allow for the level of service for local traffic and through traffic on the Tweed Valley Way to not fall below LoS E for more than four hours during the day.”*
106. The Department also stated in its DAR *“The Department has recommended conditions which would formalise these measures, and require the Applicant to maintain access for local residents and minimise impacts to existing public transport routes during outdoor events.”*
107. In relation to the use of Gate E as an alternative for patrons travelling from the north, the Department stated in its DAR:
- “The Department’s assessment concludes the use of Wooyung Road/Gate E as a secondary access route would likely improve traffic conditions along Tweed Valley Way and throughout the broader road network, subject to the upgrading of the Wooyung Road/Gate E intersection.”*
- ...
- “The use of the new Gate E access would assist with alleviating queues at Gate C, which is likely to improve traffic conditions along Tweed Valley Way and the broader road network.*
- The Department agrees with TSC’s recommendations for the upgrade of the Wooyung Road/Gate E intersection and has incorporated these requirements in the recommended conditions of consent. Provided the Wooyung Road intersection upgrade works occur outside event times, they would not impact traffic flows on Wooyung Road. The Department has recommended a condition requiring the TMP to detail the timing of road construction works to occur outside events and the bump-in and bump-out periods.”*
108. The DAR overall stated that *“the potential impacts of the additional traffic generated by the proposed development can be effectively managed by the Applicant.”*

Commission's Considerations

109. The Commission accepts the Applicant's considerations that *"the proposal is able to maintain reasonable traffic service levels on all of the key roads and intersections surrounding the Parklands site;"* as discussed in paragraph 91; because:
- residents are provided with *"resident access passes to enable them to pass through the checkpoints on Jones Road and Yelgun Road at their Tweed Valley Way entrance;"* as discussed in paragraph 85;
 - *"Measures for ensuring that bus mode share targets are met...;"* discussed in paragraph 9483; *"...would be outlined in the Transport Management Plan for the proposed development..."* as discussed in paragraph 94;
 - traffic on Tweed Valley Way would remain reasonable during *"a period of up to 4 hours on one day of the year"* when the Level of Service drops from 'D' to 'E'. However, *"this reduction would occur under traffic controlled conditions;"* as discussed in paragraph 91; and
 - as discussed in paragraph 91; the applicant would continue to provide:
 - *"accredited traffic controllers to manage all medium and large events in accordance with detailed traffic management plans;"*
 - *"...extensive bus services to events, regulating passenger vehicle access and parking through ticketing..."*; and
 - *incentives for high occupancy vehicles, and splitting traffic flows on key intersections to ease congestion..."*
 - the Transport Management Plan *"would be prepared in consultation with applicable stakeholders including the RMS, and would include a number of existing and proposed transport incentives for increasing bus mode share and reducing low occupant private car transport;"* as discussed in paragraphs 90 and 94.
110. The Commission notes that the *"staged approach over the 5-year trial has led to continual improvements in how the impacts of events are monitored and controlled..."* as discussed in paragraphs 71 and 76.
111. The Commission also notes that as discussed in paragraph 0, the Department stated:
- "the predicted traffic volumes generated by the large 50,000 patron event is not expected to significantly impact on the operation of the Pacific Motorway...*
- ...
- Despite the predicted decline in service on the Tweed Valley Way during a large 50,000 patron event, the traffic delays are short-term, only occurring for a maximum of four hours on one day for the duration of the event. Other events (i.e. Falls Festival, medium and small events) and the operation of the conference centre are not expected to impact on the operation of the Tweed Valley Way."*
112. However, as to the proposed increase in patron numbers for SITG, following RMS's advice, the Department *"proposes staged increases be limited to increments of 5,000 patrons;"* and for Falls Festival to *"remain at 25,000 patrons initially and be subject to a staged increase limited to increments of 5,000;"* as discussed in paragraph 103
113. The Commission accepts the Department's conclusion in paragraph 108 that *"the potential impacts of the additional traffic generated by the proposed development can be effectively managed by the Applicant"* because *"the Applicant has demonstrated that it can manage traffic for events up to 35,000 patrons. The existing traffic KPIs and the Applicant's existing traffic management and transport measures have been effective in maintaining good operation on the Pacific Motorway and ensuring traffic impacts on Tweed Valley Way are adequately managed;"* as discussed in paragraph 103.
114. The Commission agrees and accepts that a precautionary approach should be maintained as adopted in the original project approval so as to reflect the staged increase approach. However, from the above in paragraphs 110 to 112, the Commission does not accept the Department's recommendation to limit the proposed increments by 5,000 because *"the predicted traffic volumes generated by the large 50,000 patron event is not expected to significantly impact on the operation of the Pacific Motorway;"* as discussed in paragraph 0 and 111 above.

115. Therefore, the Commission finds that the Applicant's proposed increments of 7,500 additional patrons is acceptable, rather than the increments by 5,000; subject to meeting its KPIs, including the upgrades to Gate E, as discussed in paragraph 107 above.
116. Based on the Material, the Commission finds that the predicted traffic impacts resulting from the Application are acceptable because:
- traffic impacts resulting from the Project and the proposed increase in patron numbers would be managed by the applicant, as discussed in paragraphs 109 and 115; through:
 - a Transport Management Plan, a Traffic Monitoring Program and Traffic Control Plans, that would be prepared in consultation with Byron and Tweed Councils, the RMS, TfNSW and RWG, as discussed in paragraph 94;
 - *accredited traffic controllers to manage all medium and large events in accordance with detailed traffic management plans...extensive bus services to events, regulating passenger vehicle access and parking through ticketing; and incentives for high occupancy vehicles, and splitting traffic flows on key intersections to ease congestion;* as discussed in paragraph 91
 - the TTA and its addendum were prepared in accordance with RMS guidelines, as discussed in paragraph 99;
 - the predicted traffic volumes are not expected to *"significantly impact on the operation of the Pacific Motorway;"* as discussed in paragraph 0;
 - the traffic delays on the Tweed Valley *"are short-term, only occurring for a maximum of four hours on one day for the duration of the event;"* as discussed in paragraph 0;
 - Falls Festival, other medium and small events and the operation of the conference centre *"are not expected to impact on the operation of the Tweed Valley Way;"* as discussed in paragraph 0;
 - *"...Provided the Wooyung Road intersection upgrade works occur outside event times, they would not impact traffic flows on Wooyung Road;"* as discussed in paragraph 107;
 - *"the use of Wooyung Road/Gate E as a secondary access route would likely improve traffic conditions along Tweed Valley Way and throughout the broader road network, subject to the upgrading of the Wooyung Road/Gate E intersection;"* as discussed in paragraph 107;
 - the recommended conditions already include a requirement *"to validate the effectiveness of the Applicant's traffic management measures and transport initiatives;"* for the increments by 5,000 patrons, subject to the applicant undertaking the necessary work to meeting the requirements in the conditions of consent, as discussed in paragraph 100; which can be applied to increments of 7,500 patrons as *"the proposed increments (i.e. 7,500 patron increments per year) are similar to those recommended by the RMS (ie. 5,000 patron increments), and have been comprehensively modelled in the EIS and RTS;"* as discussed in paragraph 94;
 - residents are provided with *"resident access passes to enable them to pass through the checkpoints on Jones Road and Yelgun Road at their Tweed Valley Way entrance;"* as discussed in paragraph 85; and
 - *"the existing infrastructure built for buses on-site has sufficient capacity to cater for the increase in buses"* as discussed in paragraph 83.

5.3.3 Noise

117. The Commission has taken into account the Material insofar as it relates to the noise impacts resulting from proposed increased in patron numbers and permanent use of the site for cultural events.

Comments Received

118. The Commission heard concerns from speakers at the public meeting, Byron and Tweed Shire Councils, and received written comments in relation to the potential noise impacts, including:

- impacts of noise, including low frequency noise, generated by the festivals on wildlife, have not been dealt with and will increase if the festivals become permanent with the proposed patron increase;
- noise impacts have not been managed yet as it has become the single most important factor on community objections;
- the proposed noise limits contravene the EPA noise guidelines for Local Government; and
- although noise may be compliant, it's still disruptive, and would create sleep disturbance.

Applicant's Comments

119. As part of the development application, the applicant provided in its EIS a noise impact assessment titled *North Byron Parklands Acoustic Assessment for Permanent Approval (NIA)*, dated 20 November 2017 and prepared by Air Noise Environment Pty Ltd. The NIA sought to address “*the specific requirements of the SEARs...*” and “*...considered the potential for changes in community noise levels to occur, relative to previous large events, for proposed future large events at Parklands. The analysis has included consideration of the existing acoustic performance of the venue, and has considered a range of potential noise management measures.*”

120. The NIA stated:

“The proposed permanent operations introduce an additional main stage, and provide for additional patron numbers relative to the previous events. Acoustic modelling has determined that there is potential for increased community impacts for the larger proposed events if the same operating volumes are maintained for each venue. Provision of additional physical mitigation measures for the venue is problematic due to the distributed nature of the noise sources, and because stage specific mitigation measures are already adopted for large events and will continue to be adopted for future events.”

121. The NIA also stated:

“Historically, an extensive noise monitoring and acoustic management programme has been adopted for large events at Parklands, and the effectiveness of this approach has been demonstrated through the high degree of compliance achieved for all recent events. These monitoring and management approaches are documented in an approved Noise Management Plan. The acoustic assessment has concluded that adoption of the noise monitoring and mitigation strategies defined in the approved Noise Management Plan, in combination with reductions in operating volumes for main stages ... will achieve compliance with the venue noise criteria...”

122. In its EIS, the applicant stated:

“Base Scenario – Existing Large Event

The modelling for the base scenario (and the future event – no volume management scenario) is based on the typical front-of-house noise levels measured for the current trial events...”

“The modelling predicted that the existing Splendour and Falls Festival events would comply with the applicable noise limits at all off-site receivers, with the exception of a small number of receivers that were predicted to exceed the limits during the Splendour event (no exceedances were predicted for the Falls Festival event)... these predictions are based on worst case operating levels and worst case meteorological conditions, with no active volume management.”

123. As per the receivers to experience exceedances for the base scenario, the applicant stated in its EIS:

“...2 receivers are predicted to exceed the dBA noise limits and 6 receivers are predicted to exceed the low frequency dB(lin) limits, for a total of 7 receivers altogether.

Parklands has negotiated noise agreements with 5 of these receivers.

All of the exceedances are relatively minor (ie. 1 to 2 dB), with the exception of Receiver 5 on Jones Road which is subject to an agreement with Parklands, and is predicted to experience exceedances of 3 to 5 dB.”

In practice, noise levels are managed to comply with the applicable criteria at all off-site receivers (with the exception of those with agreements) through implementation of the active noise management system described above.

124. In its EIS, the applicant stated:

“As a result of the non-compliances identified in Splendour in 2014 and 2015, and the resulting PINs [penalty infringement notices], Parklands undertook detailed analysis of acoustic data collected during events to determine how best to manage sound emissions at future events, particularly in winter when background noise is significantly lower. The analysis found that low-frequency noise emissions from drum and bass are likely to be the cause of most of the disturbance and complaints from events. Parklands has since implemented a range of measures to mitigate these and other noise emissions during events, including:

- positioning stages to take advantage of natural topographic shielding;*
- orientating stages and speakers away from sensitive receivers and Billinudgel Nature Reserve as far as practicable;*
- using innovative speaker arrays, delay systems, drapes and roof sheeting to direct and contain noise spill;*
- using fixed or portable barriers (eg. shipping containers or hay bales) around stages;*
- using double walled tent sheets to contain noise from minor stages/venues;*
- minimising use of sub-woofer speakers to minor venues;*
- providing greater community liaison support on acoustic management, including a team of acoustic engineers to continually monitor noise at key off-site locations and residential receivers;*
- co-locating the Noise Control Co-ordination Centre (NCCC) with the Community Hotline personnel to facilitate rapid response to complaints; and*
- continuous front-of-house noise monitoring data to the NCCC, stage managers and the production team for all stages, essentially allowing the production team to ‘turn down the volume’ in prompt response to identified potential or actual noise exceedances.”*

125. The applicant also stated in its EIS:

“Future Large Event

Modelling for the future large event (ie. Splendour at 50,000 patrons) indicates that, without volume management mitigation or other mitigation measures, exceedances of the noise limits could be experienced at a number of receivers in the surrounding area (in both Zone 1 and Zone 2).”

...
"The noise assessment concludes that the existing physical mitigation measures outlined in Section 6.4.1 above [discussed in paragraph 124 above] represent reasonable and feasible mitigation measures available to the development.

As such, source noise controls (ie. monitoring and volume management) are considered to be the most appropriate additional noise control strategy for the proposal."

126. As per the receivers to experience exceedances for future large events, the applicant stated in its EIS:

"Through iterative modelling, the assessment found that by reducing front-of-house sound marginally during worst case meteorological conditions, compliance would be achieved at all sensitive receiver locations, with some minor exceptions..."

...
"...the required adjustments are only 1 dBA for one stage in the 11am to midnight time period, and between 1 and 6 dBA for a number of minor stages/venues in the midnight to 2am time period. Adjustments for low-frequency noise would be 1 to 4 dBC for a number of stages in the 11am to midnight time period, and between 1 and 7 dBC in the midnight to 2am time period. The noise assessment notes that these levels would still provide acceptable sound levels for audience satisfaction."

...
"...the modelling indicates that compliance with the applicable noise criteria would be achieved during worst case conditions at all off-site receiver locations, with the exception of 2 receivers on Jones Road which are subject to noise agreements."

127. In relation to noise from event plants and equipment, the applicant stated in its EIS:

"Event Plant and Equipment

The noise assessment also includes modelling of potential noise impacts associated with the operation of fixed plant and equipment during events, in particular generators for lighting during the night time period after the cessation of event performances (ie. after midnight and 2am). The assessment adopts a night-time noise criterion of 35 dBA for these noise sources, based on the provisions of the EPA's Noise Policy for Industry.

The assessment found that noise levels would comply with this criterion at all off-site receivers during the sensitive night-time period. Further, noise levels at most receivers would be below the applicable rating background noise level (ie. 30 dBA), which indicates that this noise source is unlikely to be distinguishable from background noise.

...
The only exceptions are Receiver 5 (ie. 34 dBA) and Receiver 32 (ie. 31 dBA). The noise assessment notes that optimising the location and orientation of lighting towers and plant near these receivers would reduce noise levels further, if required."

128. As per the mitigation and management of the noise impacts, the applicant stated in its EIS:

"To manage noise related risks associated with the ongoing operation of the Parklands project, Parklands proposes to implement a range of measures that are generally consistent with the existing measures that have been implemented for the project to date. In this regard, Parklands would:

- *manage the noise emissions from the project to comply with the existing noise limits at all times...for all receivers apart from those with negotiated noise agreements;*
- *update and subsequently implement the:*
 - *Noise Management Plan, to minimise and manage noise impacts associated with the project. The plan would include a range of noise mitigation and management measures, including:*
 - *at-source acoustic attenuation measures;*

- speaker array controls;
- adaptive noise management via the Noise Control Coordination Centre (NCCC);
- noise complaint monitoring and response via the Community Hotline;
- noise impact reporting; and
- Acoustic Monitoring Program, that includes amongst other things:
 - continuous unattended monitoring before, during and after all medium and large events;
 - attended monitoring at sensitive receiver locations for all medium and large events, and/or in response to calls to the Community Hotline;
 - implementation of the NCCC for all medium and large events, which includes:
 - real-time monitoring of noise levels for all stages;
 - monitoring of local meteorological conditions; and
 - liaison between the NCCC, Community Hotline personnel, stage managers and production personnel.

The management plan and monitoring program would be updated in consultation with the applicable authorities and the RWG.”

129. In its EIS, the Applicant concluded:

“Based on the results of the modelling, and the historical management and event noise monitoring, the noise assessment concludes that the proposed events are able to be managed to achieve compliance with the applicable noise limits at all off-site receivers (with the possible exception of Receiver 5 and other receivers subject to agreements), and that noise can be managed to ensure an acceptable amenity in surrounding areas.”

Department’s Comments

130. The Department stated in its DAR that the NIA “was undertaken in accordance with the NSW Industrial Policy (INP).”

131. In relation to the noise management for the original approval, the Department stated in its DAR:

“At the time of the original approval, the Commission recommended the noise limits be based on background levels (background plus 5 dB). This approach was seen to be appropriate as it considered the rural setting of the site and the impacts of noise upon sensitive receivers, local fauna and festival attendees. The Commission recommended a flexible noise management approach to enable the Applicant, local residents and BSC to negotiate a suitable outcome, noting the use of a single overall noise limit would not be appropriate given the site’s unique use.”

132. In relation to the noise management during the trial events, the Department stated in its DAR:

“The initial trial events had different noise limits across winter and summer (due to the background plus approach) in accordance with the original conditions, which resulted in the community being exposed to different levels of noise and difficulty for the Applicant to ensure all necessary mitigation and management measures were in place for all events. Furthermore, the noise limits did not address bass noise, which is often considered the most problematic aspect of event noise. Consequently, a high number of complaints from surrounding residents were received during the initial trial events.

To better manage noise during the events and improve amenity in the broader community, the Applicant worked closely with the Department’s noise specialist to develop an acoustic monitoring program and alternative noise objectives. During this process, the Applicant frequently monitored noise from the site and collected acoustic

data to refine its noise management regime and develop new noise limits. The Applicant has entered into noise agreements with affected receivers where compliance with the noise levels could not be achieved. The Applicant has indicated these agreements would continue for the proposed development.”

133. The Department also state in its DAR:

“The main sources of noise during an outdoor event are from the main stages and speakers, rather than from an increase in the number of patrons on-site. The layout of the proposed ongoing outdoor events will be similar to the trial events, apart from the SITG event, which may involve the use of an additional main stage...”

134. As per the use of the INP as the appropriate noise criteria, the Department stated in its DAR:

“...While several public submissions raised concern regarding the noise criteria and the application of the INP, the Applicant reiterated in its response that the original noise criteria, which was set under the IP, is not suitable for short-term noise emissions. This is primarily due to the fluctuations in background noise experienced between the summer and winter seasons. The Department agreed to this approach when revising the noise criteria as part of MOD 3 to the project approval...”

135. In relation to the Applicant’s previous non-compliances, the Department stated in its DAR:

“Several non-compliances and noise complaints were received during the initial trial events held at the site... Throughout the trial period, the Applicant has taken steps to actively manage noise at the site and refine its noise management regime, including further refinement of the noise limits applicable to the site.”

...

“In 2016, the number of noise complaints received during trial SITG events significantly reduced following the introduction of noise objectives including the low frequency noise criteria to manage bass levels...”

136. As per to the noise criteria amendments resulting from the non-compliance:

“The amended noise criteria seeks to achieve a balance between what is reasonable and feasible to ensure a satisfactory patron experience, while maintaining an acceptable level of amenity for the community. Although the development will still be audible to the surrounding areas, the noise criteria would ensure levels can be managed to acceptable limits. In its assessment of MP 09_0029 MOD 3, the Department set specific noise limits which are consistent across all events at the site as they would:

- enable the Applicant to better manage noise all year round by establishing permanent controls that ensure the levels can be achieved*
- set the expectation amongst the community for each event*
- provide clear limits the Department can measure and enforce, as necessary.”*

137. The Department stated in its DAR;

“The Department has evaluated the performance of the trial events and notes the Applicant has continuously improved and refined its noise management regime throughout the trial period. The amended noise limits remain appropriate and should continue to apply to any future events at the site. Compliance with the noise limits would also need to be demonstrated in the PER as part of any staged increased in the large event. The Department has recommended the amended noise limits be included in the recommended conditions of consent.”

138. In relation to the noise from the proposed future events, the Department stated in its DAR:

“The Department is satisfied noise from future events would continue to be effectively managed via the noise criteria, the Applicant’s existing noise management regime and

the additional controls proposed in the NIA. The Applicant is also negotiating permanent noise agreements with the nearest affected sensitive receivers where the noise criteria cannot be met. The Department has recommended a condition requiring the Applicant to prepare and implement a noise management plan and monitoring program for large and medium outdoor events, which incorporates the Applicant's existing noise management regime and the recommendations in the NIA. The Department's assessment concludes noise from the site can be adequately managed by the Applicant, subject to conditions."

139. In its DAR, the Department concluded:

"The Department concludes the trial period has enabled the Applicant to test, adapt and refine its noise management regime which has led to an overall improvement in noise during recent events held at the site. The predicted noise impacts associated with the ongoing use of the site for outdoor events would be short-term and limited to a few days a year. Although there may be exceedances during operation of the main stages and after midnight, this can be adequately mitigated by the Applicant's use of front of house volume controls and other adaptive noise management measures. The Applicant has also entered into noise agreements with the most affected receivers. The Department has recommended conditions that formalise the amended noise conditions in the consent and requirements for the Applicant to prepare and implement a noise management plan and monitoring program. The Department has also recommended compliance with the noise limits be included as a KPI and reported in the PER, prior to any staged increase in large events.

Potential noise emissions from the conference centre are expected to have minimal impacts on the nearest receivers and can be adequately managed by the Applicant through additional noise attenuation. The Department's assessment concludes the potential noise impacts of the proposed development are acceptable and can be adequately managed by the Applicant."

Commission's considerations

140. The Commission accepts the Applicant's comment that *"...low-frequency noise emissions from drum and bass are likely to be the cause of most of the disturbance and complaints from events;"* as discussed in paragraph 124; and the Department's comment that *"The main sources of noise during an outdoor event are from the main stages and speakers, rather than from an increase in the number of patrons on-site"* as discussed in paragraph 133; because *"...the number of noise complaints received during trial SITG events significantly reduced following the introduction of noise objectives including the low frequency noise criteria to manage bass levels..."*; as discussed in paragraph 135.

141. The Commission accepts the Department's comments in paragraph 134; that the INP *"...is not suitable for short-term noise emissions..."* in relation to being applied for the site, because:

- *"...the use of a single overall noise limit would not be appropriate given the site's unique use;"* as discussed in paragraph 131; and
- of *"...the fluctuations in background noise experienced between the summer and winter seasons;"* as discussed in paragraph 134.

142. The Commission accepts the Applicant's comments *"that adoption of the noise monitoring and mitigation strategies...will achieve compliance with the venue noise criteria..."* as discussed in paragraph 121; and that *"...source noise controls (ie. monitoring and volume management) are considered to be the most appropriate additional noise control strategy for the proposal;"* as discussed in paragraph 125 because:

- *"...the effectiveness of this approach has been demonstrated through the high degree of compliance achieved for all recent events."* as discussed in paragraph 121;
- *"...the use of a single overall noise limit would not be appropriate given the site's unique use;"* as discussed in paragraph 131;
- *"...the Applicant has taken steps to actively manage noise at the site and refine*

its noise management regime, including further refinement of the noise limits applicable to the site.” as discussed in paragraph 135; and

- *“...the number of noise complaints received during trial SITG events significantly reduced following the introduction of noise objectives...;” as discussed in paragraph 135.*

143. The Commission accepts the Applicant’s comments that *“...potential noise impacts associated with the operation of fixed plant and equipment during events, in particular generators for lighting during the night time period after the cessation of event performances (ie. after midnight and 2am)... would comply with this criterion at all off-site receivers during the sensitive night-time period...”* because *“noise levels at most receivers would be below the applicable rating background noise level (ie. 30 dBA), which indicates that this noise source is unlikely to be distinguishable from background noise;”* as discussed in paragraph 127.

144. The Commission accepts the Department’s comment that *“...noise from future events would continue to be effectively managed via the noise criteria, the Applicant’s existing noise management regime and the additional controls proposed in the NIA;”* as discussed in paragraph 138 because:

- *“The layout of the proposed ongoing outdoor events will be similar to the trial events, apart from the SITG event, which may involve the use of an additional main stage...”* as discussed in paragraph 133;
- *“Throughout the trial period, the Applicant has taken steps to actively manage noise at the site and refine its noise management regime...;”* and *“...noise complaints received during trial SITG events significantly reduced following the introduction of noise objectives...”* as discussed in paragraph 135;
- *“The amended noise limits remain appropriate and should continue to apply to any future events at the site. The Department has recommended the amended noise limits be included in the recommended conditions of consent.”* as discussed in paragraph 137;
- *“...The Department has recommended a condition requiring the Applicant to prepare and implement a noise management plan and monitoring program for large and medium outdoor events, which incorporates the Applicant’s existing noise management regime and the recommendations in the NIA...”* as discussed in paragraph 138; and
- *“the Applicant has entered into noise agreements with affected receivers where compliance with the noise levels could not be achieved. The Applicant has indicated these agreements would continue for the proposed development.”* as discussed in paragraph 132.

145. Based on the above, the Commission finds that the proposed noise impacts and management measures are acceptable, because:

- *“...the effectiveness of this approach [noise objectives] has been demonstrated through the high degree of compliance achieved for all recent events.”* as discussed in paragraph 121;
- *“The layout of the proposed ongoing outdoor events will be similar to the trial events...”* as discussed in paragraph 133;
- *“...the number of noise complaints...significantly reduced following the introduction of noise objectives...;”* as discussed in paragraph 135.
- noise levels at most receivers, from event plant and equipment, *“...is unlikely to be distinguishable from background noise;”* as discussed in paragraph 127.
- *“The amended noise limits remain appropriate and should continue to apply to any future events at the site;”* as discussed in paragraph 137;
- *The Department has recommended the amended noise limits be included in the recommended conditions of consent;”* as discussed in paragraph 137; as well as *“a condition requiring the Applicant to prepare and implement a noise management plan and monitoring program for large and medium outdoor events, which incorporates the Applicant’s existing noise management regime and the recommendations in the NIA...”* as discussed in paragraph 138; and
- The Applicant would maintain the noise agreements with affected receivers

“where compliance with the noise levels could not be achieved, for the proposed development;” as discussed in paragraph 132.

5.3.4 Objects of the EP&A Act and Public Interest

146. In determining the public interest merits of the Application, the Commission has had regard to the objects of the EP&A Act.
147. The Commission notes that the Applicant states that *“the proposal is considered to be consistent with the objects of the Act;”* without a specific assessment of its consideration of these objects.

Department’s consideration

148. In relation to the public interest, the Department stated in its DAR:

“The development would generate up to 150 jobs during construction and 561 FTE jobs during operation. The development is a considerable capital investment in the Byron LGA and Northern Rivers region which would contribute to the provision of local jobs (see Section 6.7).

The environmental impacts of the development would be appropriately managed via the recommended conditions. On balance, the Department considers the development is in the public interest.”

149. In relation to the objects of the Act, the Department stated in its DAR, that:
- *the proposed development would provide a substantial net economic benefit to the Byron Shire, the broader Northern Rivers region and NSW, and provide employment and tourism opportunities for the locality. In addition, outdoor events held at the site would continue to make a significant contribution to the live music and arts economy in NSW.*
 - *the proposed development would generate opportunities for local business operators and enable the site to host cultural events that attract local, state and international tourists.*
 - *the proposed development would not have an adverse impact upon threatened species, endangered ecological communities or critically endangered ecological communities in and around the site. As part of the development, the Applicant will continue its habitat restoration works and maintain adequate buffers between the site and adjacent ecological features (including the Billinudgel Nature Reserve, SEPP 14 wetlands and the Marshalls Ridge wildlife corridor).*
 - *the proposed development would not have an adverse impact on nearby indigenous and non-indigenous heritage items. The site contains several stone artefact scatter sites, which would not be disturbed by the construction of the conference centre, cabins or south-east carpark. These sites have been and would continue to be fenced off and protected during outdoor events.*
 - *The site is located in an existing rural-residential locality and largely shielded from surrounding sensitive receivers by the existing topography and native vegetation. The proposed conference centre and associated accommodation, administration building, and Golden View Bar have been designed to reflect the surrounding rural character, and would be constructed of materials which are commonly used in the surrounding region. Temporary lighting used during outdoor events would be managed in accordance with Australian Standard (AS) 4282-1997 – Control of the obtrusive effects of outdoor lighting.*
 - *Permanent buildings at the site would be constructed to meet a combination of deemed to satisfy (DTS) and Performance Requirements of the Building Code of Australia and relevant construction standards to implement bushfire hazard reduction measures. The Department has recommended as a condition that any cladding used for permanent structures is to be made of non-combustible materials.*
 - *The Department has assessed the SSD application and the section 75W modification application in consultation with, and giving due consideration to, the technical expertise and comments provided by other Government authorities*

(including BSC and TSC). This is consistent with the object of sharing the responsibility for environmental planning between the different levels of government in the State.

- *The Department publicly exhibited the SSD application and the section 75W modification application"...which included notifying adjoining landowners, placing notices in the local newspapers and displaying the applications on the Department's website and at BSC and TSC's offices."*

150. In relation to ecologically sustainable development (**ESD**), referenced in object (b) of the EP&A Act, the Department stated in its DAR:

"...the development is not anticipated to have any adverse impacts on native flora or fauna, including threatened species, populations and ecological communities, and their habitats.

The development requires the removal of 300 m² of native vegetation to widen the northern access road, which falls below the trigger for offsetting in accordance with the NSW Biodiversity Offsets Policy for Major Projects (the Offsets Policy). The development also requires the removal of approximately 14.8 ha of exotic grassland for the construction of the south-east carpark. The removal of this grassland would also not require offsetting, as the Offsets Policy does not apply to exotic species.

As such, the Department considers that the development would not adversely impact on the environment and is consistent with the objectives of the EP&A Act and the principles of ESD."

Commission's consideration

151. Under section 1.3 of the EP&A Act, the relevant objects applicable to the project are:

- a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- c) to promote the orderly and economic use and development of land,*
- e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- g) to promote good design and amenity of the built environment,*
- h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State, and*
- j) to provide increased opportunity for community participation in environmental planning and assessment.*

152. The Commission finds that the Project as amended, if approved, is generally consistent with the objects of the EP&A Act, discussed in paragraph 151 above, because the amended Application:

- *meets object (a) of the EP&A Act because it would provide "...a substantial net economic benefit to the Byron Shire, the broader Northern Rivers region and NSW, and provide employment and tourism opportunities for the locality;" as discussed in paragraph 149;*
- *meets object (c) of the EP&A Act because it would generate "...opportunities for local business operators and enable the site to host cultural events that attract local, state and international tourists;" as discussed in paragraph 149;*
- *meets objects (e) to (i) of the EP&A Act because:*
 - *it would "...not have an adverse impact upon threatened species, endangered ecological communities or critically endangered ecological communities in and around the site...;" as discussed in paragraph 149;*

- it would “...not have an adverse impact on nearby indigenous and non-indigenous heritage items...,” as discussed in paragraph 149;
 - the onsite buildings “...have been designed to reflect the surrounding rural character, and would be constructed of materials which are commonly used in the surrounding region;” and in accordance with applicable regulation as “...The Department has recommended as a condition that any cladding used for permanent structures is to be made of non-combustible materials;” as discussed in paragraph 149; and
 - “The Department has assessed the SSD application and the section 75W modification application in consultation with, and giving due consideration to, the technical expertise and comments provided by other Government authorities (including BSC and TSC);” as discussed in paragraph 149.
153. The Commission finds that the Project as amended is generally consistent with object (j) of the EP&A Act because the Department publicly exhibited the SSD application and the section 75W modification application, as discussed in paragraphs 25 paragraph 149.
154. A relevant object of the EP&A Act to the Application, as outlined in paragraph 151, is the facilitation of ESD. The Commission notes that section 6(2) of the *Protection of the Environment Administration Act 1991* (the **POEA Act**) states that ESD requires the effective integration of social, economic and environmental considerations in its decision-making, and that ESD can be achieved through the implementation of:
- (a) the precautionary principle;
 - (b) inter-generational equity;
 - (c) conservation of biological diversity and ecological integrity; and
 - (d) improved valuation, pricing and incentive mechanisms.
155. The Commission finds that the Project as amended is generally consistent with the ESD principles because:
- “...As part of the development, the Applicant will continue its habitat restoration works and maintain adequate buffers between the site and adjacent ecological features (including the Billinudgel Nature Reserve, SEPP 14 wetlands and the Marshalls Ridge wildlife corridor);” as discussed in paragraph 149;
 - the Application “...is not anticipated to have any adverse impacts on native flora or fauna, including threatened species, populations and ecological communities, and their habitats;” as discussed in paragraph 150; and
 - The removal of 300 m² of native vegetation and approximately 14.8 ha of exotic grassland, would “not require offsetting” under the NSW Biodiversity Offsets Policy for Major Projects, as the native vegetation “...falls below the trigger for offsetting...” and “...the Offsets Policy does not apply to exotic species;” as discussed in paragraph 150.
156. On balance, the Commission finds that the Project as amended is in the public interest because:
- “the 5-year trial has led to continual improvements in how the impacts of events are monitored and controlled...;” including “...changes to traffic management to reduce delays and congestion, additional controls to reduce low-frequency noise and implementation of an on-site wastewater treatment system;” as discussed in paragraph 71;
 - there will be a development that has been trialled for a period of 5 years involving a range of components, including but not limited to:
 - noise generation and attenuation;
 - traffic generation and management;
 - waste generation and management
 - risks identification and management;
 - mitigation measures to overall impacts and to affected receivers;
 - Aboriginal cultural heritage protection;
 - community consultation; and
 - employment generation and social and economic benefits to the local community and overall area and state.

- *“The continuation of outdoor events at the site is consistent with the North Coast Regional Plan 2036 as it will continue to deliver a unique tourism experience that will generate positive social benefits and additional employment opportunities for the local community.”* as discussed in paragraphs 37 and 75;
- *“...the Applicant has demonstrated that it can adequately manage outdoor events at the site for up to 35,000 patrons;”* as discussed in paragraphs 37 and 74;
- *“...the site can continue operating with minimal impact upon the environment;”* as discussed in paragraphs 37 and 74; and
- the Project as amended meets the objects of the EP&A Act, as discussed in paragraphs; 152 to 155.

6. HOW THE COMMISSION TOOK COMMUNITY VIEWS INTO ACCOUNT IN MAKING ITS DECISION

157. The views of the community were expressed through:

- public submissions and comments received (as part of exhibition, during and after the public meeting; and as part of the Commission’s determination process) as discussed in paragraphs 63, 78, 80, 109, 118, 140, and 152 to 156.

158. The Commission carefully considered all views as part of making its decision. The way in which these concerns were considered by the Commission is set out in **section 5** above.

7. DETERMINATION

159. The Commission has carefully considered the Material before it, as set out in paragraph 60 of **section 5** above.

160. The Commission has also considered the matters for consideration specified by the EP&A Act, including section 4.15(2) of the EP&A Act and the matters it requires the Commission to consider, as discussed in paragraphs 60 and 61.

161. The Commission finds: that the amended Project is acceptable because:

- the Applicant has demonstrated throughout the five-year trial period that it can adequately manage outdoor events for up to 35,000 people at the site – including trialling, monitoring and refining a range of measures to manage and mitigate impacts associated with development. This has resulted in overall improvements in amenity and a reduction in complaints from local residents, as set out in paragraphs 37 and 74;
- the development will continue to deliver a unique tourism experience with positive economic and social benefits, including local employment, as set out in paragraphs 37 and 75;
- the proposed staged increases in patron numbers are appropriate as set out in paragraph 78; subject to the Applicant implementing the required mitigation measures as set out in paragraph 70;
- the predicted traffic impacts are acceptable and appropriate traffic management will be in place; as set out in paragraph 116;
- the proposed noise impacts and management measures are acceptable, as set out in paragraph 145 because appropriate noise limits are included in the conditions of consent, and the Applicant will be required to prepare and implement a noise management plan and monitoring program for large and medium outdoor events, as discussed in paragraph 138;
- the development generally consistent the objects of the EP&A Act, as discussed in paragraphs 152 to 156; and
- the development is in the public interest; as set out in paragraph 156.

162. For the reasons in paragraph 161 above, the Commission has determined that the consent should be granted subject to conditions. These conditions are designed to:
- prevent, minimise and/or offset adverse social and environmental impacts;
 - set standards and performance measures for acceptable environmental performance;
 - require regular monitoring and reporting; and
 - provide for the ongoing environmental management of the development.

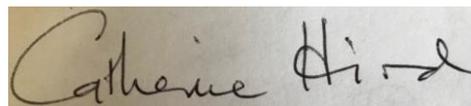
163. The reasons for this Decision are given in this Statement of Reasons for Decision dated 13 March 2019.



Prof Richard Mackay AM (Chair)
Commission Member



Andrew Hutton
Commission Member



Catherine Hird
Commission Member