



# North Byron Parklands Cultural Events Site Modification 2

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State Significant Development and Section 75W Modification Assessment  
SSD-8169-Mod-2 and 09\_0028 MOD 4 (Concept Plan)

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Cover image: View of the main entry signage to Splendour in the Grass 2018 (Source: DPE 2018)

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# Glossary

Abbreviation	Definition
<b>Applicant</b>	The Trustee for Billinudgel Property Trust
<b>BDAR</b>	Biodiversity Development Assessment Report
<b>BEEA</b>	Bushfire emergency evacuation area
<b>BSC</b>	Byron Shire Council
<b>Commission</b>	Planning Assessment Commission
<b>Department</b>	Department of Planning, Industry and Environment
<b>EES</b>	Environment, Energy and Science of the Department
<b>EPA</b>	Environment Protection Authority
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>ha</b>	Hectare
<b>LEP</b>	Local Environmental Plan
<b>LGA</b>	Local government area
<b>Minister</b>	Minister for Planning and Public Spaces
<b>NCRP</b>	<i>North Coast Regional Plan 2036</i>
<b>NPWS</b>	National Parks & Wildlife Service
<b>RFS</b>	Rural Fire Service
<b>RTS</b>	Response to Submissions
<b>SEE</b>	Statement of Environmental Effects
<b>Site</b>	126 Tweed Valley Way, Yelgun
<b>SITG</b>	Splendour in the Grass
<b>SSD</b>	State Significant Development
<b>STOP Regulation</b>	Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017
<b>TfNSW</b>	Transport for NSW
<b>TSC</b>	Tweed Shire Council

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# 1 Introduction

This report provides the Department of Planning, Industry and Environment's (the Department's) assessment of two concurrent modifications to modify the State significant development (SSD) consent and concept plan approval for the North Byron Parklands Cultural Events Site, Yelgun.

The modifications seek approval for the expansion of the existing camping area into the north-eastern section of the site and to excise land transferred to the NPWS for conservation purposes. The modification would not involve any changes to the number of approved event days or the site's maximum patron and camper capacities.

The modifications were lodged on 18 October 2020 by the Trustee for Billinudgel Property Trust (the Applicant), pursuant to section 4.55(1A) and former section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act), respectively.

## 1.1 Background

The Applicant operates the North Byron Parklands Cultural Events Site (the site) at 126 Tweed Valley Way, Yelgun in the Byron and Tweed local government areas (LGAs) (see **Figure 1**).

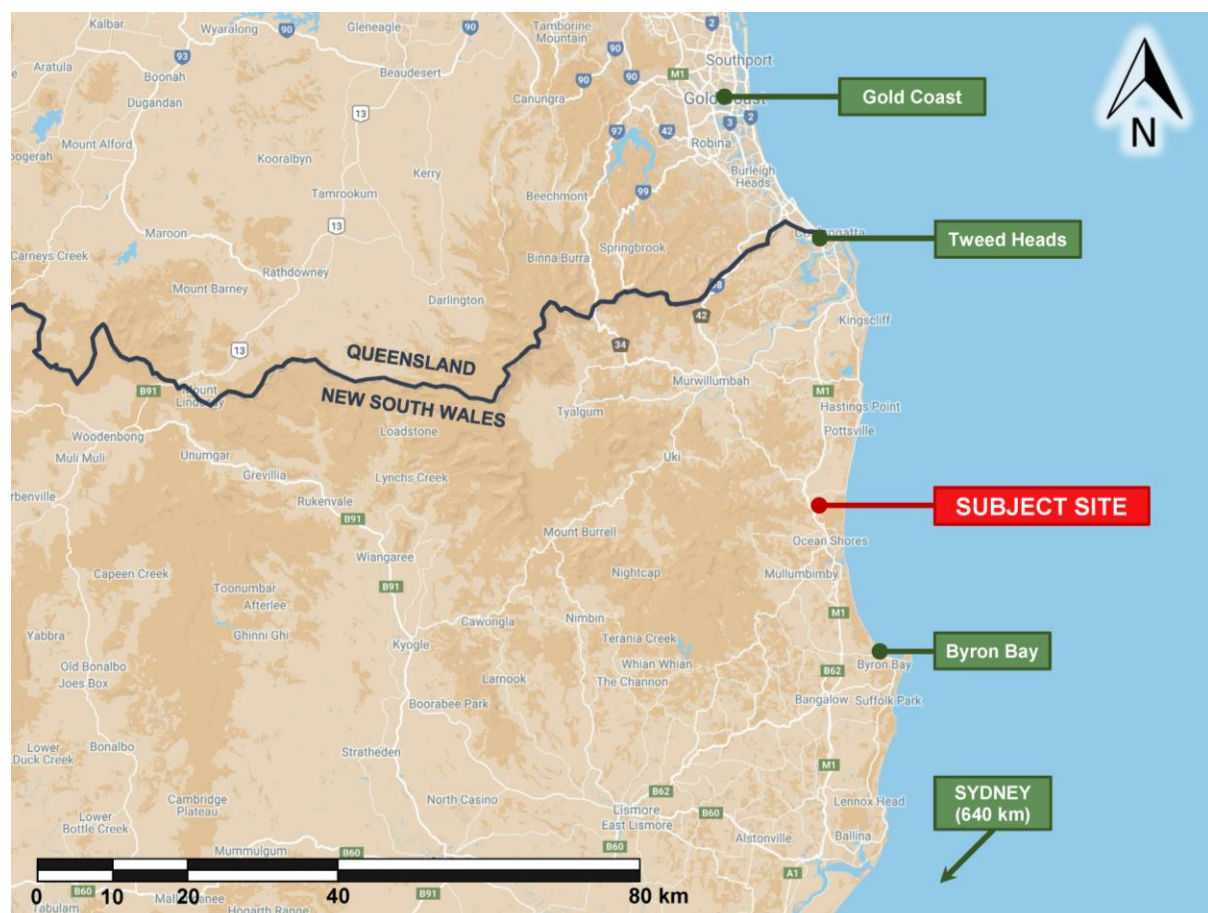


Figure 1 | Regional context

The Applicant previously operated the site under a trial project approval (MP 09\_0028), which was granted by the then Planning Assessment Commission (the Commission) on 24 April 2012. The trial period allowed for outdoor events to be carried out up until 31 August 2019.

On 24 April 2012, concept plan approval was also granted by the then Commission for the ongoing use of the site as a cultural events venue. The concept plan provides permissibility for outdoor, cultural or educational events held at the site, along with ancillary event camping and other supporting infrastructure.

Since 2013, the site has hosted two annual international music festivals, being Splendour in the Grass (SITG) in July and Falls Festival in December/January. Under the trial project approval, the Applicant held 11 major events at the site, including six large trial events (SITG) and five medium trial events (Falls Festival). The Applicant has also held four minor/community events at the site, including the Fields of Healing Festival, two cross-country events and an endurance horse riding event.

On 13 March 2019, the Applicant was granted development consent (SSD 8169) for the permanent and ongoing use of the site as a cultural events venue. Under the SSD consent, the Applicant has held two major events at the site, being SITG 2019 and Falls Festival 2019/20.

As a result of the ongoing impact of the COVID-19 pandemic, the Applicant has been unable to host any outdoor events at the site since early 2020.

## 1.2 Subject site

The site is located in Yelgun on the NSW far north coast, approximately 22 kilometres (km) north of Byron Bay and 35 km south of Tweed Heads. The site comprises 259 hectares (ha) 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 (see **Figure 2**).

The site is situated in a rural-residential locality in the far north-east of the Byron LGA, extending slightly into the Tweed LGA. The nearest sensitive receivers are a cluster of rural-residential properties located approximately 1 km from the site on Jones Road. The site is immediately bounded by:

- agricultural lands to the north
- Billinudgel Nature Reserve to the south and east
- the Pacific Motorway and Tweed Valley Way to the west.

Local residential communities near the site include:

- South Golden Beach (1.5 km), Ocean Shores (2 km), Billinudgel (2 km) and Brunswick Heads (6 km) to the south and south-east
- Wooyung (1.6 km) and Pottsville (6 km) to the north
- Yelgun (1.5 km), Crabbes Creek (2 km) and Middle Pocket (4.5 km) to the west.

Access to the site is primarily via Tweed Valley Way but during events, the site can be accessed via five entry gates located on Tweed Valley Way, Jones Road and Wooyung Road.



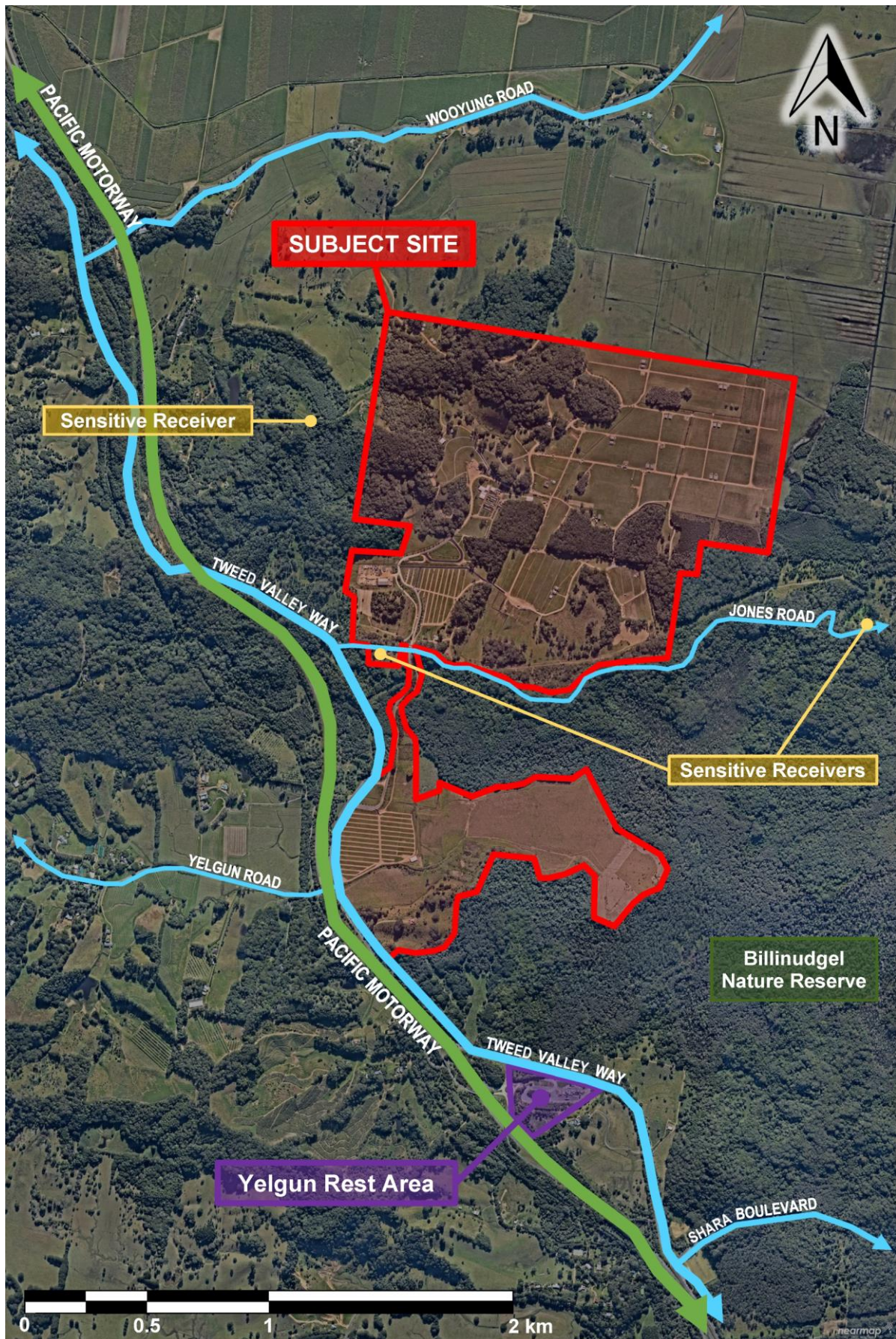


Figure 2 | Overview of the site and its immediate surrounds



## 1.3 Approval history

### Project approval

On 24 April 2012, project approval was granted by the then Commission for the carrying out of outdoor events at the site.

The project approval permitted the following:

- outdoor events for a trial period of five 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.

The original project approval was granted on a trial basis and allowed for outdoor events to be carried out up until 31 August 2019. As the event-related conditions contained within the project approval expired in August 2019, the Applicant no longer relies upon this approval for the carrying out of outdoor events.

Under the project approval, the Applicant was also required to dedicate approximately 12 ha of land to the then Office of Environment and Heritage (OEH) for inclusion within the Billinudgel Nature Reserve. In return, the Applicant would receive 7.26 ha of land which formed part of the superseded alignment for the Pacific Highway upgrade.

The dedication process was significantly delayed as a result of ongoing negotiations with the OEH and was finally completed in late 2020. As a result of the negotiation process, the Applicant agreed to dedicate a total of 37 ha of land to the National Parks and Wildlife Service (NPWS).

### Concept plan approval

On 24 April 2012, concept plan approval was also granted by the then Commission for the ongoing use of the site as a cultural events venue. The concept plan permits the following uses:

- outdoor, cultural or educational events with ancillary event camping and car parking
- temporary event infrastructure
- a cultural centre
- a conference centre and associated accommodation
- an administration building
- a spine road
- a water treatment system
- a wastewater treatment system
- a comprehensive vegetation management plan.

The proposed modification would involve minor amendments to the concept plan to reflect the changes made to the site's layout. The concept plan has been the subject of three previous modifications (see **Table 1** below).



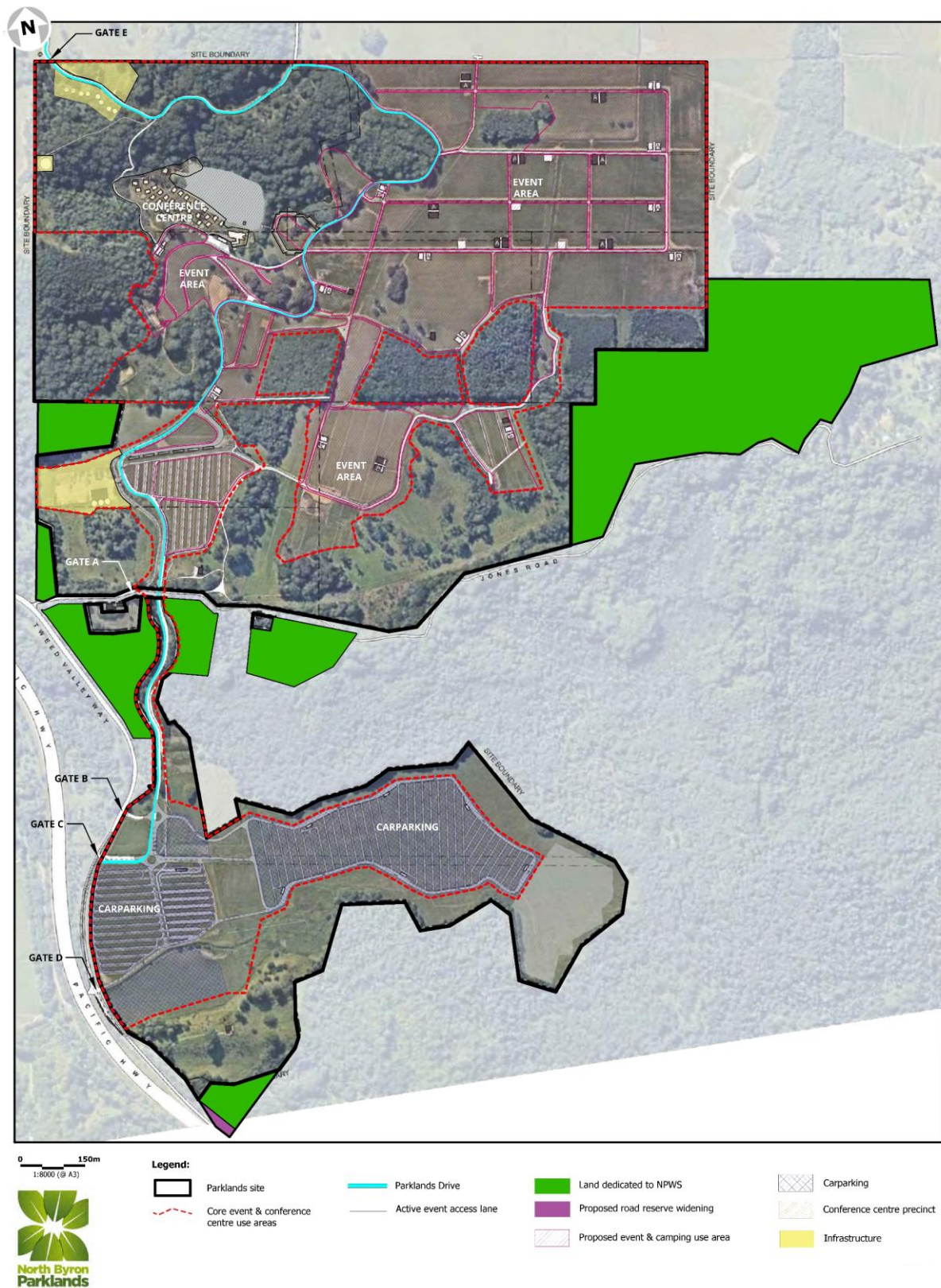
**Table 1 |** Modifications to the concept plan approval

Mod No.	Summary of Modifications	Approval Date
<b>MOD 1</b>	The modification included amendments to the approved noise criteria, number of community event days each year, and several administrative amendments to remove ambiguity and duplication.	22 April 2016
<b>MOD 2</b>	The modification permitted the extension of the trial period by an additional 20 months, until 31 August 2019.	12 September 2017
<b>MOD 3</b>	The modification included minor amendments to the concept plan to reflect the types of cultural events which would be carried out under the permanent SSD consent.	13 March 2019

### Development consent

On 13 March 2019, development consent was granted by the Independent Planning Commission for the development of the North Byron Parklands Cultural Events Site (SSD 8169). The development consent permits the ongoing use of the cultural events site for cultural, educational and outdoor events and the construction and operation of additional site infrastructure, including a conference centre, administrative building, event facilities, and on-site road and transport infrastructure (see **Figure 3**).

The development consent was previously modified on 17 September 2019 (SSD-8169-Mod-1). This modification allowed Falls Festival to commence at a capacity of 30,000 patrons, subject to meeting certain key performance indicators.



**Figure 3 | Approved Land Use Structure Plan**

## 2 Proposed Modification

On 18 October 2020, the Applicant concurrently lodged a modification application under section 4.55(1A) and a modification request under the former section 75W of the EP&A Act (hereafter referred to as modification applications) to modify development consent SSD 8169 and concept plan approval 09\_0028, respectively. The modification is described in full in the Statement of Environmental Effects (SEE) included in **Appendix B** and is illustrated in **Figure 4** and **Figure 5** below.

The modification applications propose the following:

- the expansion of the existing camping area into the north-eastern section of the site
- the construction of new event laneways and minor drainage works to accommodate the expanded camping area
- the relocation of the existing bushfire emergency evacuation area (BEEA) to accommodate the expanded camping area
- the removal of land transferred to the NPWS for conservation purposes.

The changes proposed under the modification applications are described in further detail below.

### 2.1 Expanded camping area

Under the development consent (as modified), approximately 139 ha of the site is used for outdoor events. Camping areas are typically located in the north-eastern section of the event area and immediately north of Jones Road. Up to 30,000 campers are permitted during the large summer event (Falls Festival) and up to 25,000 campers are permitted during the large winter event (SITG).

Over recent years, the two main festivals (SITG and Falls Festival) have sought to broaden their appeal to a wider demographic, through the creation of new attractions, activities and experiences such as the Science Tent and the Comedy Club.

The introduction of each new attraction has gradually increased the size of each outdoor event, and seen a corresponding reduction in the area of land available for patron camping. The proposed modification subsequently seeks to address this issue by expanding the camping area into the north-eastern section of the site (see **Figure 4**).

The modification would see the overall event area expand by an additional 31 ha, from 139 ha to 170 ha (an increase of approximately 18%). Camper densities would also slightly improve (from 19 square metres to 21 square metres) and allow for greater separation distances between individual campsites.

Importantly, the expanded area would only be used for patron camping, and the modification does not involve any changes to the number of approved event days or the site's maximum patron and camper capacities.

### 2.2 Campground infrastructure

The modification would involve the construction of a network of gravel laneways and associated drain crossings to provide patrons with access to the expanded camping area. Minor drainage works would also be undertaken to ensure stormwater is directed away from campsites into existing stormwater



drainage channels (see **Figure 5**). The upgrade works would be delivered prior to the expanded camping area being used for camping.

During outdoor events, temporary lighting towers, toilets, showers and water tanks would be provided within the expanded camping area. This infrastructure would be brought to the site during each event's bump-in period and removed during the bump-out period. As per the development consent, all wastewater generated by the temporary toilet and shower facilities would be removed from the site and taken to an appropriately licensed liquid waste facility for processing.

### **2.3 Bushfire emergency evacuation area (BEEA)**

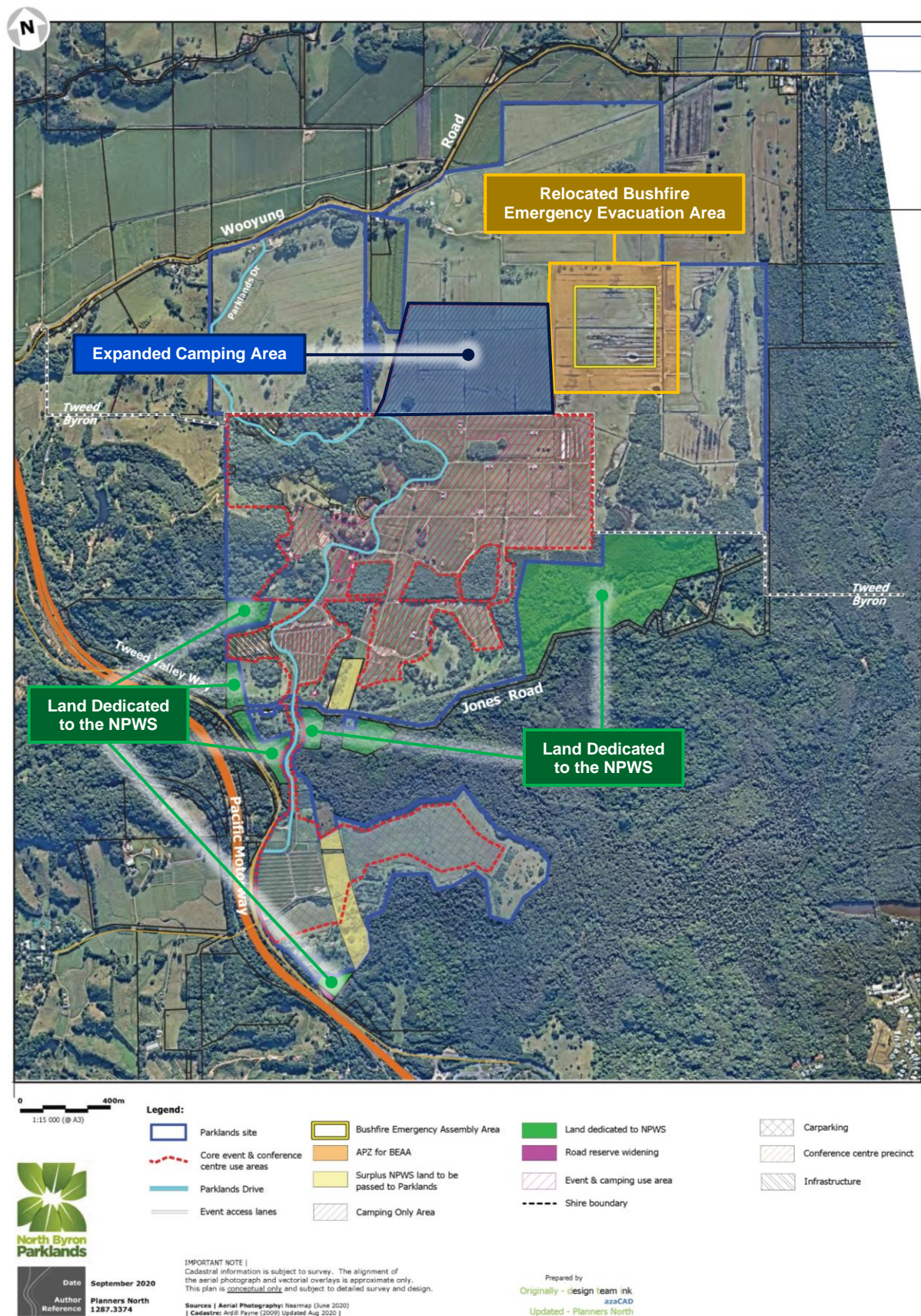
Under the development consent (as modified), the temporary BEEA for each outdoor event is located to the north of the existing camping area. As part of the proposed modification, the BEEA would be shifted east to accommodate the expanded camping area (see **Figure 5**).

### **2.4 Administrative amendment**

Under the original project approval, the Applicant had committed to the transfer of approximately 37 ha of its land to the National Parks and Wildlife Service (NPWS) for conservation purposes. The SEE noted that the NPWS was finalising the transfer of three parcels of land (approximately 7.26 ha) to the Applicant to complete the land swap process (see **Figure 4**).

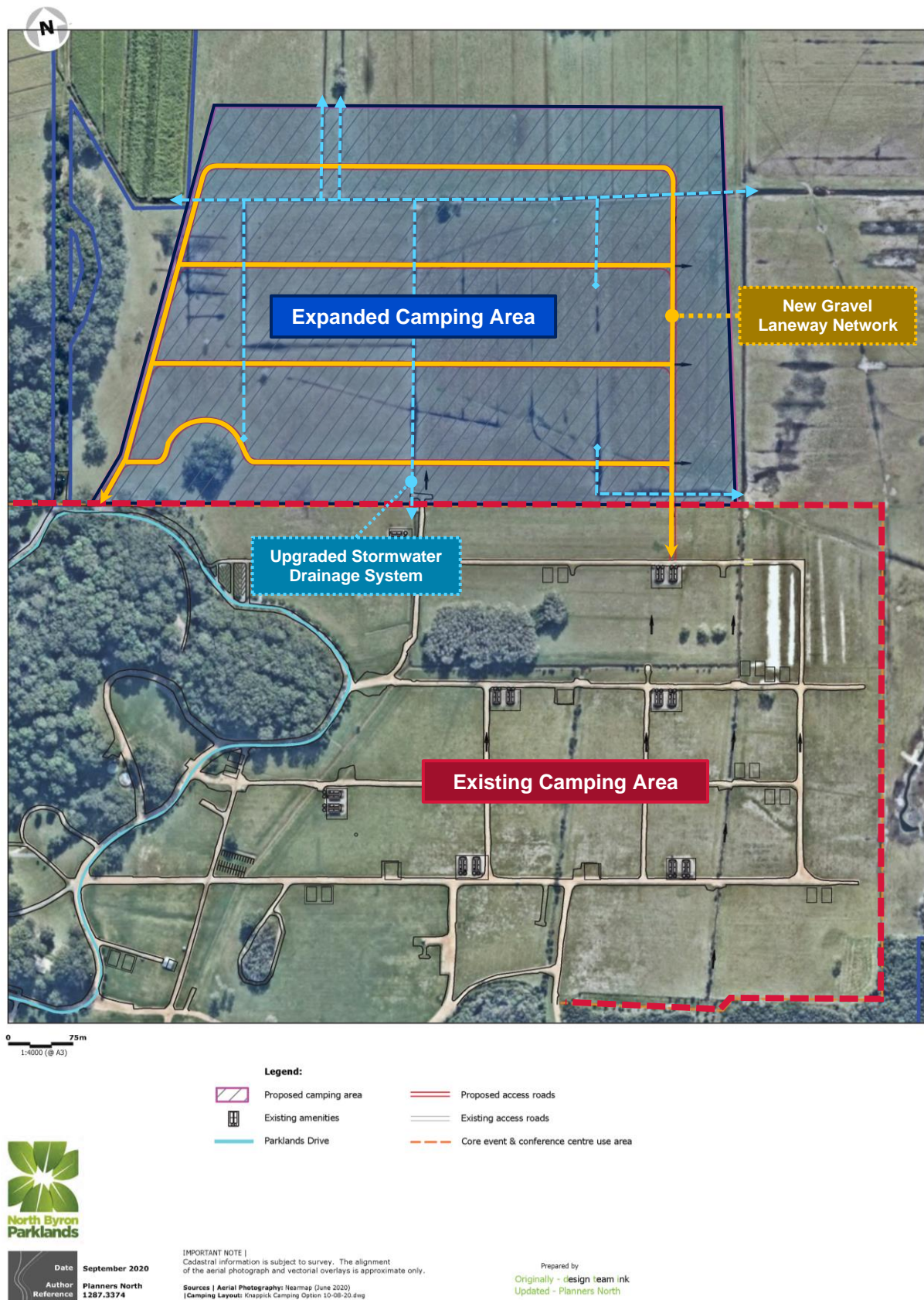
As this transfer was expected to take place by September 2020, the Department suggested the Applicant consider whether the modification applications should seek to excise the transferred land from the development consent and the concept plan approval.

The Applicant has subsequently agreed to include this amendment in the modification applications and the Department's assessment of this issue is provided in **Section 6** below.



**Figure 4 | Proposed Land Use Structure Plan**





**Figure 5 | Overview of the expanded camping area**



## 3 Strategic context

### 3.1 North Coast Regional Plan 2036

The *North Coast Regional Plan* (NCRP) sets out the NSW Government's vision for the Tweed, Kyogle, Richmond Valley, Lismore, Byron and Ballina LGAs until 2036. The NCRP anticipates the population of the North Coast region will grow by 30% between 2016 and 2036, resulting in an increased demand for dwellings and jobs. In addition, the NCRP indicates tourism will continue to play a significant role into the future, having contributed approximately \$3.7 billion to the regional economy in 2016.

The key priorities of the Plan are to strengthen the region's economy and tourism opportunities, manage and protect natural resources, provide greater housing choices and employment and deliver infrastructure to support growth and communities. The modification applications will continue to support the directions and objectives of the NCRP by:

- providing suitable buffers between event areas, including the expanded camping area and the BEEA, and surrounding areas of high environmental value (Direction 2)
- continuing to deliver a unique tourism experience that complements the North Coast region's reputation of being a vibrant cultural and artistic destination (Direction 8)
- ensuring that the site continues to be maintained for agricultural uses, such as cattle grazing, throughout the remainder of the year (Direction 11).

## 4 Statutory context

### 4.1 Scope of section 4.55(1A) modification

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- the primary function and purpose of the approved development would not change as a result of the proposed modification
- the modification is of a scale that warrants the use of section 4.55(1A) of the EP&A Act.
- the approved number of event days and the site's camper capacity would remain unchanged as result of the modification
- any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of consent.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new development application to be lodged.

### 4.2 Scope of section 75W modification

The concept plan was originally approved under former Part 3A of the EP&A Act. Under clause 3BA of Schedule 2 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (STOP Regulation), a concept plan may continue to be modified under section 75W of the EP&A Act where the Minister for Planning and Public Spaces (the Minister) is satisfied that:

- the proposed modification is to correct a minor error, misdirection or miscalculation, or
- the proposed modification is of minimal environmental impact, or
- the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).

The Department considers the Minister (or delegate) can reasonably form the view that the 75W modification is substantially the same as the approved concept plan, as it involves a minor expansion in the size of the festival camping area and does not involve any change to the approved number of event days or the site's camper capacity.

The modification is therefore within the scope of section 75W of the EP&A Act and is capable of being determined pursuant to the transitional provisions under clause 3BA of Schedule 2 of the ST&OP regulation. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or delegate) can be satisfied that the concept plan may be modified under section 75W of the EP&A Act.

### 4.3 Determining authority

The Minister is the consent authority for the modification application under section 4.5(a) and the approval authority for the modification request under the former section 75W of the EP&A Act. Under the Minister's delegation of 26 April 2021, the Team Leader, Industry Assessments, may determine the applications under delegation as:

- the applications have not been made by a person who has disclosed a reportable political donation under section 10.4 of the EP&A Act
- there are no public submissions (other than a council) in the nature of objections
- the council has not made a submission by way of objection under the mandatory requirements for community participation listed under Schedule 1 of the EP&A Act.

Accordingly, the applications may be determined under delegation by the Team Leader, Industry Assessments.

### 4.4 Mandatory matters for consideration

The Department undertook a comprehensive assessment of the development against the mandatory matters for consideration as part of its assessment of SSD 8169. The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15 of the EP&A Act and the conclusions made as part of the original assessment.

### 4.5 Biodiversity Conservation Act 2016

Clause 30A(2)(c) of the Biodiversity Conservation (Savings and Transitional) Regulation 2017 specifies that a Biodiversity Development Assessment Report (BDAR) must be submitted and taken into consideration for any proposed modification to an SSD consent, unless the determining authority is satisfied the modification will not increase the impact of the development upon biodiversity values.

The Department's assessment of potential impacts on biodiversity values associated with the modification applications is provided in **Section 6** of this report.



## 5 Engagement

### 5.1 Department's engagement

Under Schedule 1 of the EP&A Act and the Environmental Planning and Assessment Regulation 2000, there is no requirement for section 4.55(1A) or section 75W modifications to be publicly exhibited. In addition, the Department's Community Participation Plan notes the exhibition requirements for such modifications are discretionary, and based on the urgency, scale and nature of the proposal.

Given the proposed changes would result in minimal environmental impacts (see **Section 4**), the modification applications were not publicly exhibited. However, the applications were made publicly available on the Department's website and were referred to Byron Shire Council (BSC), TSC and the relevant government authorities for comment.

**TSC** objected to the modification in terms of its permissibility and the potential land use conflicts between the expanded camping area and surrounding agricultural uses. TSC requested further information from the Applicant in relation to biodiversity, Aboriginal cultural heritage, noise impacts and soil and water impacts, and recommended conditions relating to on-site sewage management and traffic impacts along Wooyung Road.

**Environment, Energy and Science (EES)** noted the proposed modification would not increase the impact of the development on biodiversity values and therefore the applications do not need to be accompanied by a BDAR. However, EES requested the Applicant provide an updated Ecological Structure Plan for the development, along with further details regarding the timing and delivery of any rehabilitation works associated with the expanded camping area.

The **Rural Fire Service (RFS)** recommended the camping area be managed as part of the development's asset protection zone and requested the fire-related management plans be updated to reflect the revised layout.

The **Environment Protection Authority (EPA)** did not object to the modification, and noted that TSC and BSC were the relevant regulatory authorities under the requirements of the *Protection of the Environment Operations Act 1997*.

**Transport for NSW (TfNSW)** did not object to the modification and advised it had no specific comments.

**BSC** and the **NSW Police Force** did not provide a response in relation to the modification applications.

### 5.2 Response to submissions

On 8 February 2021, the Applicant submitted a Response to Submissions (RTS) report responding to the issues raised in submissions. As part of the RTS, the Applicant requested that all land dedicated to the NPWS be excised from the development consent.

Additional documentation was also provided to address the concerns raised by the Department, TSC and EES, including:

- an updated Flood Risk Management Plan
- an updated Land Use Structure Plan

- an updated Ecological Structure Plan
- a Phase 1 Contaminated Land Report
- an updated Heritage Assessment Report.

The RTS was made publicly available on the Department's website and referred to TSC and EES for comment.

**TSC** reiterated the concerns raised in its previous letter and recommended the Department confirm that the relevant property owners along Wooyung Road had been consulted regarding the expanded camping area. TSC requested the BEEA be relocated 25 m north to minimise impacts to the adjacent coastal wetland area, and recommended additional conditions relating to Aboriginal cultural heritage and contamination.

**EES** advised that it had no issues with the NPWS land dedications being excised from the development consent. However, the authority requested further information from the Applicant regarding planned rehabilitation works at the site and noted the submitted plans should be updated to ensure they are consistent with each other and depict the agreed intent for the site.

### 5.3 Additional information

Following receipt of TSC's response, the Department requested further information from the Applicant regarding the level of consultation undertaken with surrounding sensitive receivers, the protection of existing on-site vegetation and the location of the BEEA. The Department also requested the Applicant provide a response to EES's additional comments.

On 29 March 2021, the Applicant responded to the outstanding concerns raised by TSC and EES. In its response, the Applicant advised it has existing agreements with the identified sensitive receivers along Wooyung Road and has consulted with them regarding the expanded camping area. The Applicant also noted that a suitable buffer (100 m) would be provided between the BEEA and the coastal wetland area as a result of the required asset protection zone. Consequently, it was not considered necessary to relocate the BEEA.

Finally, the Applicant's response also included an updated version of the Ecological Structure Plan, which identifies those areas of existing vegetation which would be protected during outdoor events and ensures the core event area does not overlap with existing ecological protection areas.

## 6 Assessment

The Department has assessed the merits of the expanded camping area and the removal of NPWS land from the development consent. During this assessment, the Department has considered the:

- SEE provided to support the modification applications
- submissions from the relevant government authorities and TSC
- RTS and additional information provided by the Applicant
- the original development, concept plan and project applications, including their subsequent modification applications, accompanying documentation and corresponding assessment reports
- relevant environmental planning instruments, policies and guidelines
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department's assessment of the applications is provided in **Table 2** below.

**Table 2** | Assessment of the modification applications

Assessment	Recommendation
<b>Biodiversity</b>	
<p>The expanded camping area and the relocation of the BEEA have the potential to result in additional impacts to on-site vegetation and the adjacent bushland/wetland areas.</p> <p>The SEE included a desktop biodiversity assessment for the proposed modification, which found that no significant direct or indirect impacts are anticipated to threatened species and ecological communities, koalas or existing native vegetation, given the expanded development footprint would be located on cleared agricultural land and separated from any remnant vegetation.</p> <p>The assessment concluded that a net benefit would be provided to existing native vegetation communities and habitat value as a result of the continued implementation of the Ecological Structure Plan and the approved Flora and Fauna Monitoring and Adaptive Management Plan (FFMAMP), which form a requirement under the development consent.</p> <p>In its submission, Council requested the Ecological Structure Plan be updated to map existing biodiversity protection areas, the BEEA be relocated to provide a 50-metre buffer to the existing coastal wetland area, and that additional habitat restoration areas be established across the site.</p> <p>EES noted the proposed modification would not increase the impact of the development on biodiversity values and therefore the applications do not need to be accompanied by a BDAR. However, EES requested the Applicant provide an updated Ecological Structure Plan for the</p>	<p>Update the version of the Land Use Structure Plan and the Ecological Structure Plan referred to in the development consent and the concept plan approval.</p>

Assessment	Recommendation
<p>development, along with further details regarding the timing and delivery of any rehabilitation works associated with the expanded camping area.</p> <p>In response, the Applicant provided an updated version of the Ecological Structure Plan which identifies existing biodiversity protection areas in and around the site.</p> <p>With regard to the BEEA, the Applicant noted that a suitable buffer (100 m) would be provided to the adjacent coastal wetland area as a result of the required asset protection zone, and that this area is currently used for cattle grazing purposes. Consequently, it was not considered necessary to relocate the BEEA.</p> <p>With regard to the requested rehabilitation works, the Applicant highlighted the extent of vegetation restoration works undertaken at the site since 2013 and reiterated that any potential, residual impacts to surrounding vegetation would continue to be managed in accordance with the development's approved biodiversity-related management plans.</p> <p>The Department contends that there is no clear nexus between the modifications being sought and the habitat restoration areas requested by TSC, particularly as:</p> <ul style="list-style-type: none"> <li>• the construction of the expanded camping area and the relocated BEEA would not require the removal of any existing native vegetation</li> <li>• considerable buffer distances would be maintained between the expanded camping area, the BEEA and surrounding vegetation areas</li> <li>• the Applicant would ensure the use of the expanded camping area and the relocated BEEA are carefully managed in accordance with the development's approved FFMAMP and Koala Plan of Management.</li> </ul> <p>The development's existing biodiversity-related management plans would also be reviewed and, where necessary, updated in accordance with existing conditions E2 and E3 of the development consent. The Applicant would be required to undertake direct consultation with the EES on any updates made to these plans.</p> <p>The Department has considered the Applicant's assessment and the advice provided by TSC and EES and is satisfied the proposed modification would not result in any additional biodiversity impacts beyond those which were considered during the assessment of SSD 8169 and 09_0028 MOD 3 (Concept Plan).</p> <p>The Department's assessment concludes the proposed modification applications will not increase the impact of the development upon biodiversity values and, therefore, a BDAR is not required.</p>	



Assessment	Recommendation
<p><b>Land use conflict</b></p> <p>TSC objected to the modification on the basis of potential land use conflicts between the expanded camping area and surrounding agricultural uses.</p> <p>TSC subsequently recommended the Applicant confirm the nature of its agreement with the owners of 210-212 Wooyung Road (currently used for broad acre farming) and undertake a Land Use Conflict Risk Assessment (LUCRA) for the proposed modification.</p> <p>In its RTS, the Applicant noted that a LUCRA was undertaken during the assessment of the original SSD application, and that the occasional use of the expanded camping is not expected to result in any significant impacts to existing agricultural land uses within the vicinity of the site. All infrastructure associated with the expanded camping area (toilets, showers, etc) would be temporarily installed for the duration of each outdoor event and would allow the area to be converted back to permanent agricultural use, if required.</p> <p>The Applicant also confirmed it has an existing agreement with the owners of 210-212 Wooyung Road (the closest agricultural land use to the site) and has obtained land owner's consent from them for the subject modification applications.</p> <p>The Department has considered the Applicant's assessment and the advice provided by TSC and is satisfied the temporary use of the expanded camping area would not result in additional land use conflicts beyond those which were considered during the assessment of SSD 8169 and 09_0028 MOD 3 (Concept Plan).</p> <p>While the expanded camping area would be located closer to an existing broad acre farm, the Applicant has an existing agreement with the property owner, and the camping area would only be occupied by campers for a maximum of 23 days per calendar year (inclusive of camper arrival and departure days). For the remainder of the year, the land would be maintained for agricultural uses such as cattle grazing.</p> <p>In addition, outdoor events with a 25,000-camper limit (such as SITG) would see a reduction in the overall size of the camping area, and a subsequent increase in the extent of the buffer provided to surrounding agricultural land uses.</p> <p>The Applicant would also undertake a comprehensive sweep of the expanded camping area for any other waste materials following the conclusion of each outdoor event, in accordance with the development's approved Waste Management Plan.</p>	<p>No additional conditions are required.</p>

Assessment	Recommendation
<p>The Department's assessment concludes the proposed modification would not conflict with existing agricultural land uses on and around the site, subject to the recommended conditions of consent.</p>	
<b>Noise and vibration</b>	
<p>Noise associated with the use of the expanded camping area has the potential to impact upon the amenity of the surrounding area.</p> <p>Under the development consent (as modified), each outdoor event must comply with specific noise limits at surrounding sensitive receivers (unless the Applicant has entered into a noise agreement with that receiver) and a Noise Management Plan must be implemented to minimise noise generated by the large and medium outdoor events.</p> <p>The Applicant relies upon adaptive noise management measures (including noise monitoring and front of house volume controls) to both respond to meteorological conditions and to minimise impacts to surrounding sensitive receivers.</p> <p>The Noise Assessment (NA) included in the SEE provided a quantitative assessment of the entire camping area, including noise generated by campers, vehicle movements and fixed plant equipment (such as diesel generators and light towers).</p> <p>The NIA found that noise emissions associated with the camping area would continue to comply with the relevant noise criteria (45dBA L<sub>Aeq</sub> (10 minute)) at all surrounding receivers during event hours (from 11 am to 2 am).</p> <p>Noise emissions outside event hours (from 2 am to 11 am) would also comply with the relevant noise criteria (35dBA L<sub>Aeq</sub>) at all surrounding receivers which do not have an agreement with the Applicant. Receivers 11 and 25 would experience minor exceedances (0.8 and 0.4 dB, respectively) of the relevant noise criteria, but are subject to existing noise agreements with the Applicant.</p> <p>The SEE subsequently concluded the noise impacts associated with the expanded camping area would be minimal, and noted the Applicant's Noise Management Plan would be updated to ensure any residual noise impacts associated with the modification are appropriately managed.</p> <p>TSC did not raise any objections in relation to noise impacts, and recommended the Department confirm the agreements in place with receivers 11 and 25 cover the subject modification applications.</p>	<p>No additional conditions are required.</p>

Assessment	Recommendation
<p>The Applicant subsequently clarified that the existing agreements with receivers 11 and 25 have been reviewed and, where necessary, revised to accommodate the expanded camping area.</p> <p>The Department has reviewed the Applicant's NA and is satisfied it provides a conservative assessment of the operational noise impacts associated with the expanded camping area.</p> <p>The development's Noise Management Plan would be reviewed and, where necessary, updated in accordance with existing conditions E2 and E3 of the development consent.</p> <p>The Department's assessment concludes the proposed modification would comply with the approved noise limits for the development and the relevant requirements of the <i>Noise Policy for Industry</i> (EPA, 2017).</p>	
<p><b>Aboriginal cultural heritage</b></p> <p>The SEE included a desktop Aboriginal cultural heritage assessment (ACHA) for the proposed modification, which found that no Aboriginal objects are known to occur within the development's expanded footprint, and there are no environmental features which would increase the likelihood of Aboriginal archaeological sites being found.</p> <p>The assessment concluded the proposed modification would not harm Aboriginal heritage values in the area, and recommended appropriate procedures be followed should Aboriginal objects or human remains be encountered during the construction of the camping area's gravel laneways and associated drain crossings.</p> <p>In its submission, TSC requested the Applicant undertake direct consultation with the Tweed Byron Local Aboriginal Land Council (TBLALC) and incorporate any subsequent recommendations into the ACHA.</p> <p>The Applicant undertook a site meeting with representatives from the TBLALC, who concluded the construction works associated with the expanded camping area would have no impacts upon the Aboriginal cultural heritage values on the site or in the surrounding area.</p> <p>The Department concurs with the recommendations of the ACHA and is satisfied that any potential impacts to Aboriginal cultural heritage associated with the proposed modification can be appropriately managed.</p> <p>The Department has recommended Condition C27 of the development consent be updated to ensure both Heritage NSW and the TBLALC are contacted immediately if an item or object of Aboriginal heritage significance is encountered during the construction works.</p>	<p>Condition C27 of the development consent is to be updated, to ensure both Heritage NSW and the TBLALC are contacted immediately if an item or object of Aboriginal heritage significance is encountered during construction.</p> <p>New conditions (conditions C28A and C28B) are to be inserted, to ensure any potential human remains encountered during the construction works are appropriately secured and investigated.</p>

Assessment	Recommendation
<p>The Department has also recommended new conditions (conditions C28A and C28B) to ensure any potential human remains encountered during the construction works are appropriately secured and investigated.</p> <p>The Department's assessment concludes the proposed modification would not impact upon Aboriginal cultural heritage, subject to the recommended conditions of consent.</p>	
<b>Flooding and evacuation</b>	
<p>The proposed modification would involve the expansion of the existing camping area, which would increase the distance between campsites and the development's flood evacuation area (located at the main amphitheatre).</p> <p>The SEE noted that under the development's original Flood Risk Management Plan (FRMP), the furthest any patron would have to walk to the flood evacuation area was about 800-900 metres, which would take no more than 25 minutes at a slow walking pace.</p> <p>The maximum distance from the expanded camping area to the flood evacuation area is approximately 750 metres. Accordingly, the SEE concluded the modification is unlikely to result in any material change to flood risks at the site. The SEE also included an updated version of the development's FRMP which reflects the revised site layout.</p> <p>TSC did not raise any objections in relation to flood risk, and noted the modification is supported by an updated, comprehensive FRMP. The Department requested minor formatting amendments to the FRMP, which were addressed through the Applicant's RTS.</p> <p>The Department has reviewed the updated FRMP and is satisfied any potential flood risks associated with the expanded camping area can be appropriately managed. The Department has recommended Condition D43 of the development consent be updated to ensure the updated FRMP is implemented for the duration of the development.</p> <p>The Department's assessment concludes the proposed modification would not increase potential flood risks to people, the development and the surrounding environment, subject to the recommended conditions of consent.</p>	<p>Condition D43 of the development consent is to be updated, to ensure the updated FRMP is implemented for the duration of the development.</p>



Assessment	Recommendation
<p><b>Bushfire hazards</b></p> <p>The proposed modification would involve the relocation of the development's BEEA approximately 450 metres to the east to accommodate the expanded camping area.</p> <p>The SEE noted the modification is unlikely to result in any material change to bushfire hazards, as it would not involve any changes to the development's maximum patron and/or camper capacities. The SEE also included an updated version of the development's Bushfire Emergency Evacuation Plan (BEEP) which reflects the revised site layout.</p> <p>The RFS recommended the expanded camping area be managed as part of the development's asset protection zone and requested the fire-related management plans be updated to reflect the revised layout.</p> <p>TSC did not raise any objections in relation to bushfire impacts, but requested the BEEP be amended to provide a minimum 10-metre setback between vegetation to the west and the nominated defendable space to allow for forest expansion. The Applicant subsequently amended the BEEP to address this requirement.</p> <p>The Department has reviewed the updated BEEP and is satisfied any potential bushfire risks associated with the expanded camping area can be appropriately managed. The Department has recommended Condition B15 of the development consent be updated to ensure the updated BEEP is implemented for the duration of the development.</p> <p>The development's other fire-related management plans would be reviewed and, where necessary, updated in accordance with existing conditions E2 and E3 of the development consent.</p> <p>The Department's assessment concludes the proposed modification would not increase potential bushfire risks to people, the development and the surrounding environment, subject to the recommended conditions of consent.</p>	<p>Condition B15 of the development consent is to be updated, to ensure the updated BEEP is implemented for the duration of the development.</p>
<p><b>Contamination</b></p> <p>In its submission, TSC requested the Applicant prepare a Preliminary Site Investigation (PSI) to confirm the north-eastern section of the site is suitable for use as a camping area.</p> <p>The Applicant's RTS included a PSI, which concluded there is a low risk of the site being significantly contaminated and the land is suitable for its intended purpose as a short-term camping area for outdoor events.</p>	<p>A new condition (Condition C14A) is to be inserted, requiring the preparation and implementation of an unexpected contamination finds procedure for the</p>

Assessment	Recommendation
<p>The PSI recommended an unexpected contamination finds protocol be implemented during the construction of the camping area's gravel laneways and associated drain crossings.</p> <p>The Department concurs with the recommendations of the PSI and is satisfied the likelihood of contaminated material being encountered during the construction of the laneway network is extremely low.</p> <p>The Department has recommended the Applicant prepare and implement an unexpected contamination finds procedure to ensure any potentially contaminated materials are appropriately managed/disposed of.</p> <p>The Department's assessment concludes the proposed modification would not result in adverse contamination impacts, subject to the recommended conditions of consent.</p>	<p>duration of the MOD 2 construction works.</p>
<b>Traffic and access</b>	
<p>The SEE concluded the proposed modification would have a negligible impact on the safety and performance of the surrounding road network, given the expanded camping area would:</p> <ul style="list-style-type: none"> <li>• not result in additional vehicle movements or changes to existing access points</li> <li>• be serviced by a network of internal laneways</li> <li>• include adequate space for camper vehicle inspection and unloading.</li> </ul> <p>TfNSW did not object to the modification and advised it had no specific comments.</p> <p>TSC acknowledged the expanded camping area could be accessed through existing internal roads and would not result in additional traffic at Gate E or along Wooyung Road. However, TSC requested the Applicant be required to ensure vehicle queuing does not extend out of Gate E onto Wooyung Road during the camper bump-in and bump-out periods for future outdoor events.</p> <p>The Applicant indicated it had no concerns regarding this requirement, and the Department has subsequently incorporated it into the recommended modification instrument.</p> <p>The Department's assessment concludes the proposed modification would not impact upon the safety or performance of the surrounding road network, particularly as it would not involve any changes to the development's maximum patron and/or camper capacities.</p>	<p>Conditions D16 and D27 of the development consent are to be amended to ensure vehicle queuing does not impact upon Wooyung Road.</p>

Assessment	Recommendation
<p><b>NPWS land</b></p> <p>The proposed modification seeks to remove land from the development consent and concept plan approval which has since been transferred to the NPWS for conservation purposes.</p> <p>EES did not object to this component of the proposed modification and confirmed the land transfer process had been completed.</p> <p>The Department's considers the removal of the land transferred to the NPWS is appropriate, given:</p> <ul style="list-style-type: none"> <li>the ongoing operation of the cultural events site would continue to be managed under SSD 8169 (as modified)</li> <li>the transferred land would not be used for event-related purposes.</li> </ul> <p>The Department's assessment concludes the proposed modification does not change the intent of the overall development and would not result in any additional impacts.</p>	<p>Update the site description and the versions of the Land Use Structure Plan and the Ecological Structure Plan referred to in the development consent and the concept plan approval.</p>

## 7 Evaluation

The Department has assessed the modification applications in accordance with the relevant requirements of the EP&A Act.

The Applicant is proposing to modify the development consent and the existing concept plan approval to expand the existing camping area into the north-eastern section of the site and to excise land transferred to the NPWS for conservation purposes.

The Department received five submissions in relation to the applications, including an objection from TSC and advice from four government authorities.

The Department's assessment considered potential biodiversity impacts and land use conflicts with surrounding agricultural uses to be the key matters for consideration.

The Department's assessment concludes the applications are appropriate on the basis that they would:

- support the continued operation of a unique tourism experience that complements the North Coast region's reputation of being a vibrant cultural and artistic destination
- continue to ensure the site is maintained for agricultural uses, such as cattle grazing, throughout the remainder of the year
- not significantly increase the environmental impacts of the cultural events site beyond those assessed under the original development application and the concept plan approval (as modified).

Consequently, the Department is satisfied the modification applications should be approved, subject to conditions.



## 8 Recommendation

It is recommended that the Team Leader, Industry Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the application SSD-8169-Mod-2 falls within the scope of section 4.55(1A) of the EP&A Act
- **determines** that the request 09\_0028 MOD 4 (Concept Plan) falls within the scope of the former section 75W of the EP&A Act
- **forms the opinion** under clause 30A(2)(c) of the Biodiversity Conservation (Savings and Transitional) Regulation 2017 that a BDAR is not required to be submitted with the applications, as the proposed modification will not increase the impact on biodiversity values on the site
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the applications
- **modifies** the development consent (SSD 8169) and the concept plan approval (09\_0028)
- **signs** the attached modifying instruments (**Appendix C**).

Recommended by:



6 May 2021

**Patrick Copas**

Senior Environmental Assessment Officer  
Industry Assessments

Recommended by:



14 May 2021

**Pamela Morales**

Acting Team Leader  
Industry Assessments

## 9 Determination

The recommendation is **Adopted** by:

 20 May 2021

**Joanna Bakopanos**

Team Leader

Industry Assessments

as delegate of the Minister for Planning and Public Spaces

# Appendices

## Appendix A – List of referenced documents

The Department has relied upon the following key documents during its assessment of the modification:

### Modification application

- Statement of Environmental Effects and all attachments, prepared by PJEP Environmental Planning, dated September 2020
- Response to Submissions letter and all attachments, prepared by North Byron Parklands, dated 8 February 2021
- Additional response letter and all attachments, prepared by North Byron Parklands, dated 29 March 2021.

### Submissions

- submissions received from TSC and the relevant government authorities.

### Strategic and statutory documents

- North Coast Regional Plan, prepared by the Department of Planning and Environment, dated March 2017
- relevant environmental planning instruments, policies and guidelines
- relevant requirements of the EP&A Act.

### Other documents

- Environmental Impact Statement and attachments, prepared by PJEP Environmental Planning, dated December 2017
- Response to Submissions report and attachments, prepared by PJEP Environmental Planning, dated July 2018
- Addendum to the Response to Submissions report and attachments, prepared by PJEP Environmental Planning, dated September 2018
- North Byron Parklands Cultural Events Site: State significant development and modification assessment (SSD 8169 and MP 09\_0028 MOD 3 (Concept Plan)), prepared by the Department of Planning and Environment, dated November 2018
- North Byron Parklands Cultural Events Site: Statement of reasons for decision, prepared by the Independent Planning Commission, dated 13 March 2019
- North Byron Parklands Cultural Events Site: State significant development modification assessment (SSD 8169 MOD 1), prepared by the Department of Planning, Industry and Environment, dated July 2019
- Modification application – North Byron Parklands Cultural Events Site: Statement of reasons for decision, prepared by the Independent Planning Commission, dated 17 September 2019
- existing conditions of consent in SSD 8169
- existing terms of approval in 09\_0028 (Concept Plan).

## **Appendix B – Relevant supporting information**

The relevant supporting information for the subject modifications may be found on the Department's website at: <https://www.planningportal.nsw.gov.au/major-projects/project/40361>.



## Appendix C – Modifying instruments

The modifying instruments for SSD-8169-Mod-2 and 09\_0028 MOD 4 (Concept Plan) may be found on the Department's website at: <https://www.planningportal.nsw.gov.au/major-projects/project/40361>.