

# Technical Paper

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## Statutory Assessment



# Statutory Assessment Report

## North Byron Parklands

A report Examining Statutory Planning  
aspects associated with a concurrent  
Project and Concept Application to  
establish a Sustainable Cultural Event Site.

**Prepared for:**  
**North Byron Parklands**  
**A project of Billinudgel Property Pty Ltd**

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# Table of Contents

<b>INTRODUCTION</b>	<b>1</b>
1.1 Background .....	1
1.2 Structure of Report and its Scope .....	1
1.3 Further Information .....	3
<b>THE COMMONWEALTH LEVEL</b>	<b>4</b>
2.1 Commonwealth Environment Protection and Biodiversity Conservation Act 1999 .....	4
<b>THE STATE LEVEL</b>	<b>6</b>
3.1 NSW State Plan .....	6
3.2 Environmental Planning and Assessment Act 1979 .....	6
3.3 SEPP Major Development .....	9
3.4 SEPP Infrastructure .....	10
3.5 SEPP Temporary Structures .....	10
3.6 SEPP Rural Lands .....	11
3.7 SEPP 64 Advertising and Signage .....	12
3.8 SEPP 55 Remediation of Land .....	13
3.9 SEPP 44 Koala Habitat Protection .....	14
3.10 NSW Coastal Policy and NSW Coastal Design Guidelines .....	14
<b>THE REGIONAL LEVEL</b>	<b>16</b>
4.1 Far North Coast Regional Strategy .....	16
4.2 North Coast Regional Environmental Plan .....	16
4.3 Northern Rivers Catchment Action Plan, 2005 .....	19
4.4 Northern Rivers Regional Industry and Economic Plan .....	21
4.5 Regional Business Growth Plan – Northern Rivers Region .....	21
4.6 Draft Far North Coast Regional Conservation Plan .....	21
<b>THE LOCAL LEVEL</b>	<b>23</b>
5.1 Byron LEP 1988 .....	23
5.2 Byron DCP 2002 .....	34
5.3 Byron DCP 21 .....	35
5.4 Byron Council Management Plan 2009 -2012 .....	35
5.5 Byron Cultural Plan .....	36
5.6 Byron Sustainable Agricultural Strategy .....	41
5.7 Byron Biodiversity Strategy .....	41
5.8 Community Economic Development Policy .....	41
5.9 Marshalls Creek Floodplain Management Plan .....	42
<b>ASSOCIATED LEGISLATION</b>	<b>43</b>
6.1 Local Government Act 1993 .....	43
6.2 Roads Act 1993 .....	43



6.3	Food Act 2003 .....	43
6.4	Liquor Act 2007 .....	43
6.5	Occupational Health and Safety Act 2000.....	44
6.6	Protection of the Environment Operations Act 1997 .....	44

<b>CONCLUSIONS</b>	<b>45</b>
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## List of Plans

Plan 1.1	Site Locality Plan .....	2
Plan 5.1	Zoning Plan.....	25

## List of Tables

Table 5.1	LEP Provisions .....	26
Table 5.2	Development Control Plan 2002 .....	34
Table 5.3	Other Development Control Plans .....	35
Table 5.4	Identity Considerations .....	36
Table 5.5	Access Considerations.....	37
Table 5.6	Cooperation Considerations .....	38
Table 5.7	Creativity Consideration .....	38
Table 5.8	Conservation Considerations.....	39
Table 5.9	Diversity Considerations .....	40
Table 5.10	Recreation Considerations .....	40

## Section

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# 1

## Introduction

*This section of the report identifies the nature of client instructions, relevant background information and the structure of this statutory Assessment report.*

### 1.1 Background

S J Connelly has been engaged by Billinudgel Property Pty Ltd to provide Town Planning advice with respect to the preparation and lodgement of a Concurrent Concept and Project Application in regard to land described as the Parklands Site, Yelgun. Mr Rob Doolan of Balanced Systems assisted with the preparation of this report.

**Plan 1.1** illustrates a site locality plan identifying the subject land.

### 1.2 Structure of Report and its Scope

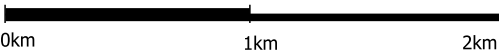
Statutory and policy guidelines at Commonwealth, State, Regional and local levels are addressed in Sections 2, 3, 4, 5 and 6 respectively of the report.

Section 7 sets out the writer's conclusion in relation to the level of compliance attained by the subject project in relation to the various laws and policy annunciations.



**Legend:**

----- Extents of Project Application Area



**IMPORTANT NOTE !**  
Cadastral information is subject to survey. The alignment of the aerial photography and vectoral overlays is approximate only.

**Sources |** Aerial Photography: Google (2010) |



**North Byron  
Parklands**

Date
Author
Reference

**22.07.10  
DTI  
09-120**

Prepared by  
**design team Ink**  
landscape architecture | urban design

Plan | **2.2**  
**Site Locality**

### **1.3 Further Information**

Should the Department require any additional information, or wish to clarify any matter raised by this proposal or submissions made to same, Departmental offices are requested to consult with **Stephen Connelly** prior to determination of this application.

## Section

## 2

## The Commonwealth Level

*This section of the report sets out applicable Commonwealth Government Legislation.*

### 2.1 Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The objects of this Act are:

- a) To provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance;
- b) To promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources;
- c) To promote the conservation of biodiversity;
- d) To promote a cooperative approach to the protection and management of the environment involving governments, the community, land-holders and Indigenous peoples;
- e) To assist in the cooperative implementation of Australia's international environmental responsibilities;
- f) To recognise the role of Indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity; and
- g) To promote the use of Indigenous peoples' knowledge of biodiversity with the involvement of, and in co-operation with, the owners of the knowledge.

The Ecological Assessment report within **Technical Paper E** addresses the provisions of this Act and concludes as follows:

"While minor and temporary adverse effects are likely to arise for some of the listed fauna, the disturbance phenomena are likely to be of limited duration and are most intense (in terms of noise and light) at a few specific locations during the conduct of larger scale events. Effects from construction activities are similarly temporary, localised and limited in scale.

Camping and parking areas, which currently are potential habitats for some of the species considered, will be to some extent unavailable during events. At other times of the year (~70% of the time) habitats for these species will be unaffected by the proposal.

No significant adverse effects, as defined according to criteria provided by Department of Environment, Water, Heritage and the Arts (DEWHA), are likely for any of these species examined in this assessment".

Section 9 of Appendix K of the Ecological Assessment within **Technical Paper E** addresses the provisions of this Act for the on-site potable water system and a wastewater treatment system and concludes:

"No significant adverse effects, as defined according to criteria provided by Department of Environment, Water, Heritage and the Arts (DEWHA), are likely for any of these species examined in this assessment".

## The State Level

*This section of the report looks at policy and statutory planning controls adopted by NSW Government at the State Level.*

### 3.1 NSW State Plan

The NSW State Plan lists priorities, targets and actions to guide Government decision-making and resource allocation. Local delivery plans have been prepared for each region in NSW, responding to local priorities.

The Parklands proposal is consistent with the North Coast Local Action Plan, especially in relation to creative industries, creating employment and diversifying the economy. The Economic Impact Assessment within **Technical Paper B** of the EA identifies the proposal will generate some 210 jobs (EFT's) and \$192m of total economic multiplier effects when fully operational.

### 3.2 Environmental Planning and Assessment Act 1979

The objects of the Act are outlined below in bold text. Beneath each of the Act extracts, commentary is provided in relation to consistency of the proposed development with the specific Act objective.

#### **(a) To encourage:**

**(i) The proper management, development and conservation of natural and artificial resources, (including; agricultural land, natural areas, forests, minerals, water, cities, towns and villages) for the purpose of promoting the social and economic welfare of the community and a better environment.**

The proposal represents a best practice example of appropriate management, development and conservation of the natural resources of the site and locality, while concurrently developing the cultural and economic values of the region.

The provision of a cultural event site promotes the social and economic welfare of the community by providing the community access to cultural events and the arts while simultaneously providing significant employment and local economic stimulus.

A wide range of measures are proposed to provide an enhanced natural environment and to avoid or minimise impacts.

**(ii) The promotion and coordination of the orderly and economic use and development of land.**

The proposal represents an orderly and coordinated use of the site. The site is one of the few that could meet the criteria of a regional event site as demonstrated within this report. The proposal delivers significant positive local economic stimulus and employment in an appropriate industry.

The proposal is economically sound; with complimentary land uses of habitat creation and protection, together with periodic event usage, is considered a coordinated and orderly use of the land.

**(iii) The protection, provision and coordination of communication and utility services.**

The proposal provides for the coordinated provision of utility services together with communication services.

**(iv) The provision of land for public purposes.**

Outside the scope of this application, the proposal is consistent with this object, insofar as the proponents have agreed to the approaches by NSW DECCW to provide land for additions to the Nature Reserve system.

**(v) The provision and coordination of community services and facilities.**

The proposal is consistent with this object, insofar as it will provide a private facility for a variety of community purposes in the form of cultural events for music, arts, food, leisure and technology. Demands on community services by the use of the site are managed in a manner that does not place excessive unforeseen demands on public services.

**(vi) The protection of the environment, including the protection and conservation of native animals and plants (including threatened species, populations and ecological communities) and their habitats.**

The ecological assessments accompanying this EA confirm that the proposed development is consistent with this object. The proposal involves periodic use, of predominantly that part of the site of little environmental value, while protecting the portions of the site with ecological values.



**(vii) Ecologically sustainable development.**

The principles which underlie the concept of ecologically sustainable development include:

- (i) the precautionary principle;
- (ii) intergenerational equity;
- (iii) biodiversity conservation; and
- (iv) improved valuation pricing and incentive mechanisms.

- **Precautionary principle**

The precautionary principle essentially requires that if there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In practice, the precautionary principle means avoiding serious or irreversible environmental damage by properly assessing potential impacts and taking the necessary mitigation measures. The proposed development is consistent with this principle in that the assessments that have been conducted are based, in essence, on a worst case scenario. Where a potential threat to the environment has been identified, appropriate mitigation and management measures have been developed in response. This is principally done through the design of the facility and the management plan which will regulate the ongoing use of the site. In this way the proposed development is consistent with the precautionary principle.

- **Social equity including intergenerational equity**

This principle requires that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations. The environmental management plan will operate to ensure that there is no effect on the environment on or around the project site which would diminish the health, diversity or productivity of the environment for future generations. On the contrary, the proposal is likely to assist with fostering the cultural interest and diversity of future generations.

- **Conservation of biological diversity and ecological integrity**

This principle requires the conservation of biodiversity and ecological integrity as a fundamental consideration of any proposal. In this case, the environmental constraints of the site have been considered in detail and it has been shown that, if left unmanaged, there may be impacts. This has resulted in the preparation of a comprehensive management regime in consultation with suitably qualified experts to ensure that the biological diversity and ecological value of the site is maintained in the long term.

- **Improved valuation pricing and incentive mechanism**

This principle requires that environmental factors should be included in the valuation of assets and services and that users should pay for goods and services based on the full lifecycle costs. It also requires the establishment of environmental goals and the pursuit of them in a cost-effective way. The management plan that is proposed as part of the present development sets environmental goals and requires the management of pollution and waste generated on the site to be dealt with appropriately and, where possible, recycled. These management initiatives will be the responsibility of the event operator, with the consequence that the management of all pollution and waste will be incorporated into the pricing of events staged at the facility. In those circumstances, the proposal is consistent with this principle of ecologically sustainable development.

**(viii) The provision and maintenance of affordable housing.**

Not applicable - the proposal does not propose housing.

**(b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State.**

While assessed at a state level, the project is consistent with regional and local planning controls.

**(c) To provide increased opportunity for public involvement and participation in environmental planning and assessment.**

The project has been subject to an array of community consultation, and this EA is to be publicly exhibited.

### **3.3 SEPP Major Development**

The Major Development SEPP defines certain developments that are major projects to be assessed under Part 3A of the

Environmental Planning and Assessment Act 1979 (EP & A Act) and determined by the Minister for Planning. It also provides planning provisions for State significant sites.

The Parklands proposal is a major project under the SEPP, a determination of this issue has been made by the Minister, and the concurrent Concept Plan and Project Application is a matter to be determined under Part 3A of the EP&A Act by the Minister.

### **3.4 SEPP Infrastructure**

State Environmental Planning Policy (Infrastructure) 2007 aims to provide a consistent planning regime for infrastructure and the provision of service access across NSW, along with providing for consultation with relevant public authorities during the assessment process.

Referral to the RTA is required for the proposal due to the location of the site in regard to a classified road and the traffic generation of the development.

The project consultants have consulted with the RTA and prepared a Traffic Impact Assessment within **Technical Paper C** of the EA.

### **3.5 SEPP Temporary Structures**

The aims of this Policy are as follows:

- (a) To ensure that suitable provision is made for ensuring the safety of persons using temporary structures;
- (b) To encourage the protection of the environment at the location, and in the vicinity, of temporary structures by (among other things) managing noise, parking and traffic impacts and ensuring heritage protection; and
- (c) To specify the circumstances in which the erection and use of temporary structures are complying development or are exempt development.

The policy requires that development consent is required for the erection of temporary structures. The Parklands proposal seeks such consent.

The matters to be considered by the consent authority include the following, which are addressed within **Technical Papers** of the EA.

- (a) Whether the number of persons who may use the structure at any one time should be limited;
- (b) Any adverse impact on persons in the vicinity of any noise likely to be caused by the proposed erection or use of the structure and any proposed measures for limiting the impact;

- (c) Whether the hours during which the structure is used should be limited;
- (d) Any parking or traffic impacts likely to be caused by the erection of the structure or its proposed use;
- (e) The principles for minimising crime risk set out in Part B of the Crime Prevention Guidelines;
- (f) Whether the proposed location of the structure is satisfactory in terms of the following:
  - (i) The proposed distance of the structure from public roads and property boundaries;
  - (ii) The location of underground or overhead utilities;
  - (iii) Vehicular and pedestrian access;
- (g) Whether it is necessary to provide toilets and washbasins in association with the use of the structure;
- (h) Whether the structure is to be erected on land that comprises, or on which there is:
  - (i) An item of environmental heritage that is listed on the State Heritage Register, or that is subject to an interim heritage order, under the Heritage Act 1977; or
  - (ii) A place, building, work, tree, relic or Aboriginal object that is described as an item of environmental heritage or as a heritage item in another environmental planning instrument; or
  - (iii) Land identified as a heritage conservation area, an archaeological site or a place of Aboriginal heritage significance in another environmental planning instrument;
- (i) The duration for which the structure should be permitted to remain on the land concerned; and
- (j) Whether any conditions should be imposed on the granting of consent in relation to the dismantling or removal of the structure in view of any safety issues.

### **3.6 SEPP Rural Lands**

The aim of this policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. The policy applies to the Byron LGA containing the Parklands site.

This SEPP provides for the protection of agricultural land that is of State or regional significance. A small portion of the site, in its south-west corner, contains land mapped as regionally significant. This land is to be used primarily for continuing agricultural uses and only used for car parking for a maximum of 12 days per year.

The Rural Planning Principles are as follows:

- (a) The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas;

- (b) Recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State;
- (c) Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development;
- (d) In planning for rural lands, to balance the social, economic and environmental interests of the community;
- (e) The identification and protection of natural resources, with regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land;
- (f) The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities;
- (g) The consideration of impacts on services and infrastructure and appropriate location when providing for rural housing; and
- (h) Ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.

The Parklands proposal is considered consistent with these Rural Planning Principles, where applicable.

### **3.7 SEPP 64 Advertising and Signage**

SEPP 64 regulates advertising and signage with its aims including:

- (a) To ensure that signage (including advertising):
  - (i) Is compatible with the desired amenity and visual character of an area;
  - (ii) Provides effective communication in suitable locations; and
  - (iii) Is of high quality design and finish.

The Parklands proposal includes an entry sign displaying the name of the property. This sign requires consent.

The sign is considered consistent with the assessment criteria, where applicable, in Schedule 1 of the SEPP as the sign:

- Is compatible with the character of the area and does not detract from the amenity or visual quality of the rural landscape;
- Does not obscure or compromise important views, nor dominate the skyline or reduce the quality of vistas;
- Is of a suitable scale and proportion appropriate for its setting;

- The sign design shows innovation and imagination in its relationship to the site; and
- The proposed sign does not reduce the safety for the public road.

### **3.8 SEPP 55 Remediation of Land**

Under SEPP 55 the consent authority is required to consider whether the land has been contaminated by past land uses.

Clause 7 of SEPP 55 requires a consent authority to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the development before consent is granted.

The preliminary investigation (see **Technical Paper N**) concluded and recommended as follows:

"The soil-sampling regime was based on a systematic sampling pattern. The soil analysis confirmed the background site history of no metal or pesticide contamination of the soil within the area investigated. All composite analysis results showed contaminant levels below the modified Column 1 HBIL (with the exception of Chromium and Manganese). These metals are naturally found at high levels in soils of this region (northern NSW); therefore elevated levels found at the site are attributed to these background levels rather than any source of contamination at the site. With the exception of Chromium and Manganese in some composite samples, all analyte concentrations were within the expected background levels and below adopted composite sample guidelines for this assessment. Analysis on a sample taken from the vicinity of an abandoned car body did indicate the presence of TPHs. Recommended remediation for this issue is the careful removal of the car body from within the Melaleuca Forest. Soils should be retained in situ as best possible. Natural volatilisation and degradation is anticipated to remediate the area over time."

While no contamination was identified in the vicinity of other rubbish located on the site, the removal of such wastes to a licensed landfill facility is recommended to minimise any future contamination issues on the site. Therefore, no individual soil analysis was required and it is considered a detailed investigation or site remediation is not required.

Based on the findings of this preliminary investigation, the site is not considered to represent a significant risk of harm to end users of the proposed temporary place of assembly with camping and associated infrastructure.

### **3.9 SEPP 44 Koala Habitat Protection**

The aims of this policy are:

- To encourage the proper conservation and management of areas of natural vegetation that provide habitat for Koalas;
- To ensure permanent free populations over their present range; and
- To reverse the current trend of population decline.

An area of the overall site, not within the application area, contains land subject to a KPOM in 2007 previously approved by DOP. A further koala study in 2008 found no core Koala habitat.

In this context, the Ecological Assessment within **Technical Paper E** recommends:

"A Koala habitat assessment in 2007 recorded a small area of core Koala habitat in the central-east of the Parklands site, outside the current Application Area (Biolink 2007 see Appendix H). A Koala Plan of Management was accordingly prepared, based on staging SITG in 2008. A subsequent koala habitat assessment in 2008 (See Appendix H) recorded significantly lower levels of koala activity and the disappearance of core Koala habitat from the Parklands site (Biolink 2008).

Given the demonstrated dynamic nature of core Koala habitat at the Parklands site, it is proposed to defer the completion of a further KPOM until a contemporary assessment of Koala habitat is undertaken in late 2010 or early 2011. Given observed fluctuations in Koala presence over this time period, it is considered that it is important to use the most up to date information to develop optimal strategies for managing Koalas at the site."

### **3.10 NSW Coastal Policy and NSW Coastal Design Guidelines**

The Parklands site is not located in land where the NSW Coastal Policy applies. However, the NSW Coastal Policy and the NSW Coastal Design Guidelines have been considered within the design and assessment of the proposal.

The Coastal Policy 1997 identifies the State's various management policies, programs and standards applying to the defined coastal zone. The Parklands proposal is consistent with the nine goals and their objectives, where applicable, of the Coastal Policy.

The Coastal Design Guidelines seek to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW.

The Guidelines identify a hierarchy of settlement types: Coastal Cities, Coastal Towns, Coastal Villages, new coastal neighbourhoods (hamlets and villages) and isolated coastal dwellings.

As well as not being prominently positioned on the coastline, the Parklands site does not conveniently fit into any of the settlement types.

The resulting built-form of the Parklands site is considered consistent with the objectives for built-form within the guidelines, where applicable:

- Ensure amenity is maintained on public land and on-site;
- Appropriate to its location within the settlement and the settlement type;
- Appropriate to its natural setting;
- Add economic, cultural and visual value to its location;
- High quality design;
- Recognise the importance of materials suitable to the coastal setting;
- Provide well designed, appropriately located and sized private open spaces which serve to minimise urban run-off;
- Provide a visual focus only where identified for a public building; and
- Maintain a high quality publicly accessible interface.

The closest appropriate building type from the Guidelines applicable to the Parklands site would be 'along the settlement edges' type. The Parklands built-form is consistent with the applicable guidelines including:

- Providing adequate building setbacks to allow for bushfire asset protection zones; and
- Ensuring buildings have well-articulated and scaled elevations.



## Section

# 4

## The Regional Level

*This section of the report looks at policy and statutory controls adopted by NSW Government at the Regional Level.*

### 4.1 Far North Coast Regional Strategy

The Far North Coast Regional Strategy 2006-2031 guides future development within the region to ensure future development caters for the housing and employment needs of the future population.

While the Strategy is directed primarily to population growth matters, objectives within the Strategy relating to employment, tourism and the environment are applicable to the site and the proposal.

Consistent with the Strategy, the cultural event usage will have positive effects on the economy with the employment of local residents and businesses as demonstrated within **Technical Paper B – Economic Impact Assessment**. The Strategy encourages diversification into new and emerging opportunities.

The Strategy identifies the opportunity to widen the tourism sector and promote products derived from the Region's natural, cultural, economic resources and attractions. The proposal for a permanent cultural event site is considered a creative and innovative example of such an opportunity.

### 4.2 North Coast Regional Environmental Plan

The North Coast Regional Environmental Plan, now a deemed SEPP, applies to all land within Byron Shire and other shires on the North Coast of NSW.

The approach adopted by the REP is to specify objectives and directions on a range of matters to be met and undertaken by Councils when preparing local environmental plans and considering development applications. Relevant provisions of the REP which apply when considering this development application on the subject site to permit the proposal include:

**Clause 6 Agricultural Resources - Objectives**  
**Clause 12 Impact on Agricultural Resources**

The proposal is considered consistent with objectives and provisions relating to agricultural resources. The site and locality does not contain agricultural enterprises that will be adversely impacted by the proposal. The site will continue to be a working farm for the majority of each year.

**Clause 13 Catchment Management - Objectives**  
**Clause 15 Wetlands or Fishery Habitats**

The proposed site usage is considered consistent with the catchment management objectives. The proposal addresses the need to maintain water quality, protect downstream wetlands and protect habitat.

**Clause 28 Natural Environment - Objectives**

The objectives in relation to the natural environment are to protect areas of natural vegetation and wildlife, provide corridors between significant areas and protect the scenic quality of the region.

The report within technical paper comprehensively assesses the ecological values of the event site and the likely impacts of the proposed usage of the site. The recommendations of this report are adopted for the site construction and ongoing usage.

**Clause 44 Environmental Hazards - Objectives**

The objective in relation to environmental hazards is to locate urban and tourism development on land that is free from; flooding, land instability, coastal erosion, bush fire risks, aircraft noise pollution and other environmental hazards. The detailed assessments undertaken for the proposal have investigated potential hazards and demonstrates that the proposed uses are located so as any environmental hazard can be adequately managed.

**Clause 49 Tall Buildings - Objectives**

The objectives in relation to the erection of tall buildings are to ensure that proposals for buildings over 14 metres are:

- (a) Subject to the opportunity for public comment, and
- (b) Assessed for their local impact and regional significance.

Heights of the proposed permanent buildings (for example, the Gatehouse, Administration Building and future Conference and Cultural Centre buildings) are less than 9 metres. Some tents

and stages, which would be erected and used temporarily and dismantled, would be in the order of 15 metres high. This application provides the opportunity for public comment by way of its public exhibition. The visual assessment within **Technical Paper A** assesses the visual impact of these temporary structures.

The tents and stages are an integral component of a regionally significant project. The height and scale of the temporary structures are appropriate to their location, the surrounding development and the environmental characteristics of the land.

### **Clause 67 Tourism - Objectives**

The Parklands cultural event site will assist cultural tourism within the region. The site benefits from its location adjacent to the upgraded Pacific Highway, while the site design and operational measures are designed to not degrade environmental values. The Parklands proposal will assist the local economy in a meaningful manner. In this context, the proposal is considered to be consistent with the tourism objectives of the plan.

### **Clause 75 Tourism - Development Control**

The Parklands cultural event site has adequate road access, does not adversely impact on the scenic character of the locality and has satisfactory arrangements for servicing the site.

In the preparation of this application, regard has been had to principles contained in the Tourism Development Along the New South Wales Coast: Guidelines.

### **Clause 76 Tourism - Development Control**

The Parklands cultural event site is considered consistent, where applicable, with the publication - Tourism Development Near Natural Areas: Guidelines for the North Coast – especially its aims including:

- Promoting developments which enhance rather than erode the values of the adjacent natural areas, and
- Encouraging a broader awareness and understanding of the natural areas of the North Coast.

The proposal is particularly consistent with the listed elements of the Conservation issues, while the proposed buildings are consistent with the design guidelines.

### **4.3 Northern Rivers Catchment Action Plan, 2005**

The Parklands project contributes to achieving various targets, while not hindering the achievement of other targets, within the Northern Rivers Catchment Action Plan. Relevant key targets that the Parklands project contributes to are summarised as follows:

#### **• Community Theme**

Target Categories:

CCB1 - Awareness, Knowledge and Skills

CCB2 - Community Engagement

CCB3 - Community Support

The Parklands project increases community awareness in natural resource management by a variety of means including:

- The community grant fund (which will provide funds to local community organisations including environmental/landcare groups and projects);
- The environmental awareness programs (Binyabutts, recycling, Ecocops) at events which target environmental education;
- The environmental tree planting days where residents can plant native trees, monitor nestboxes (under supervision) and learn ecological processes; and
- Parklands monitoring of ecological processes and making the results available to further the research and understanding of such processes.

#### **• Land Use Planning Theme**

Target Categories:

LUP1– Aboriginal Cultural Landscapes

The Parklands project assists to achieve this target by:

- Dedicating culturally significant Aboriginal land to the national parks estate;
- Protecting all Aboriginal sites on the property and restoring native vegetation at these sites;
- Employing the Madhima Gulgan team, the indigenous rainforest restoration team; and
- Planning for a Cultural Centre which will also be a centre for the local stakeholders and a depot and training centre for the Madhima Gulgan team.

### • **Biodiversity Theme**

Target Categories:

- B1 – Secure Conservation Management
- B2 – Habitat Connectivity
- B3 – Biodiversity Threat Mitigation

The Parklands project will assist to achieve these targets by a variety of means including:

- Placing the whole site under contemporary environmental management and monitoring systems (compliant with AS/NZS ISO 14001 - Environmental Management Systems);
- Implementation of the comprehensive Parklands Vegetation Management and Biodiversity Plan;
- Significantly increasing the size and function of the Marshalls ridge wildlife corridor;
- Dedicating strategic wildlife corridor land to DECCW;
- Allocating significant portions of the site to habitat use and revegetating such areas where required; and
- Implementing pest species management and control measures across the Parklands site (for example, weeds, common mynah and wild dog control).

### • **Water Theme**

Target Categories:

- W1 – River Structure, Riparian Vegetation and Fish Passage

The Parklands project will assist to achieve this target by a variety of means including:

- Restoring riparian vegetation along a degraded segment of Yelgun Creek within the site.

### • **Soil/Land Resource Theme**

Target Categories:

- L3 – Soil Conservation/Remediation

The Parklands project will assist to achieve this target with degraded parts of the site being rehabilitated, such as previously eroded areas being planted with appropriate native tree species, weed infestations being removed, and cattle being removed from fragile sections of the site.

#### **4.4 Northern Rivers Regional Industry and Economic Plan**

The Regional Industry and Economic Plan (RIEP), and the Data Update 2009, provides a basis for determining priorities for regional economic development and identification of regional economic development planning requirements that have been incorporated into the Department of Planning's Far North Coast Strategy.

The Parklands proposal is particularly consistent with the RIEP objective of:

"Encourage economic diversity and the creation of long term employment opportunities throughout the region while protecting the region's environment and liveability."

The Data Update 2009 for Creative Industries Key Initiatives for 2006 to 2009 includes the Splendid project which is associated with the Parklands site via the Splendour in the Grass festival, which partners this project.

The Splendid project is described as:

"A national cross-art form laboratory and mentorship project based in Lismore, established through partnership with Splendour in the Grass festival, Lismore Regional Gallery, Australia Council for the Arts, NORPA and Arts NR, to mentor young artists through development and commissioning of art for Splendour festival in 2010, 2011 and 2012 (commenced 2009)."

#### **4.5 Regional Business Growth Plan – Northern Rivers Region**

The Regional Business Growth Plan – Northern Rivers Region, July 2008 (State Plan priority P6) identifies creative industries as an industry with growth prospects. A High Priority and High Impact Initiative listed in the plan are:

- Investigate a whole-of-government approach to the development of a Regional Festivals and Events facility within Bryon Shire to secure the future of music festivals in the region.

The proposed Parklands proposal will provide the necessary multi-event facility to assist in achieving this initiative.

#### **4.6 Draft Far North Coast Regional Conservation Plan**

The Regional Conservation Plan (RCP) seeks to identify regional biodiversity values and priority areas for conservation. The RCP, together with the Far North Coast Regional Strategy (FNCRS), form an integrated package that defines development and conservation outcomes for the Far North Coast Region for the next 25 years. The RCP primarily assesses the biodiversity consequences on land identified within the FNCRS.

The RCP identifies the 'Billinudgel Range (Area C)' area, containing the Parklands site, as a priority focus area for offsetting future development impacts of the FNCRS. This area includes values such as; rare escarpment to coast habitat linkage, sub-tropical rainforest (including Lowland Subtropical Rainforest on Floodplain Ecological Endangered Community (EEC)) and Aboriginal cultural heritage linkages.

The RCP recognises the need for conservation planning to incorporate a landscape ethic, encompass multiple ownership tenures and make a practical contribution to the development of strategic landscape protected area networks. The Parklands proposal increases habitat and connectivity in the context of the adjoining Nature Reserve and is considered to be a positive contribution to conservation planning.

## Section

# 5

## The Local Level

*This section examines statutory and policy controls adopted by Byron Shire Council in relation to aspects relevant to the subject application.*

### 5.1 Byron LEP 1988

The relevant local planning instrument for the site is the Byron Local Environmental Plan 1988, as amended.

- **Plan objectives**

The Plan objectives are as follows:

- a) To enhance individual and community (social and economic) well-being by following a path of economic development that safeguards the welfare of future generations;
- b) To provide equity within and between generations; and
- c) To protect biodiversity, and re-establish and enhance essential ecological processes and life support systems.

The proposal, on balance, enhances the social and economic well-being of the community while safeguarding the welfare of future generations and provides equity within and between generations. The EA identifies the significant positive economic impacts of the proposal and balances the wider positive social benefits against the periodic adverse impacts on some local residents.

The proposal is consistent with the plan's Guiding Principles where applicable. In terms of applicable strategies, these comprise the Byron Flora and Fauna Study, the Byron Biodiversity Conservation Strategy and the Sustainable Agriculture Strategy. These are addressed in a later section of this assessment.



- **Permissibility**

The proposed uses across the application area comprise 'roads', 'place of assembly' and certain innominate uses, with ancillary uses of camping, temporary structures, service and associated works that are only ever carried out with an event.

The Byron Local Environmental Plan, 1988, defines a 'place of assembly' as follows:

*Place of assembly* means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of worship, an institution or an educational establishment.

The 'place of assembly' use is proposed over land within the following zones of the Byron Local Environmental Plan 1988:

- Zone 1(a) (General Rural Zone)
- Zone 1 (b1) (Agricultural Protection Zone)
- Zone 9(a) (Proposed Road Zone) – LEP Clause 44

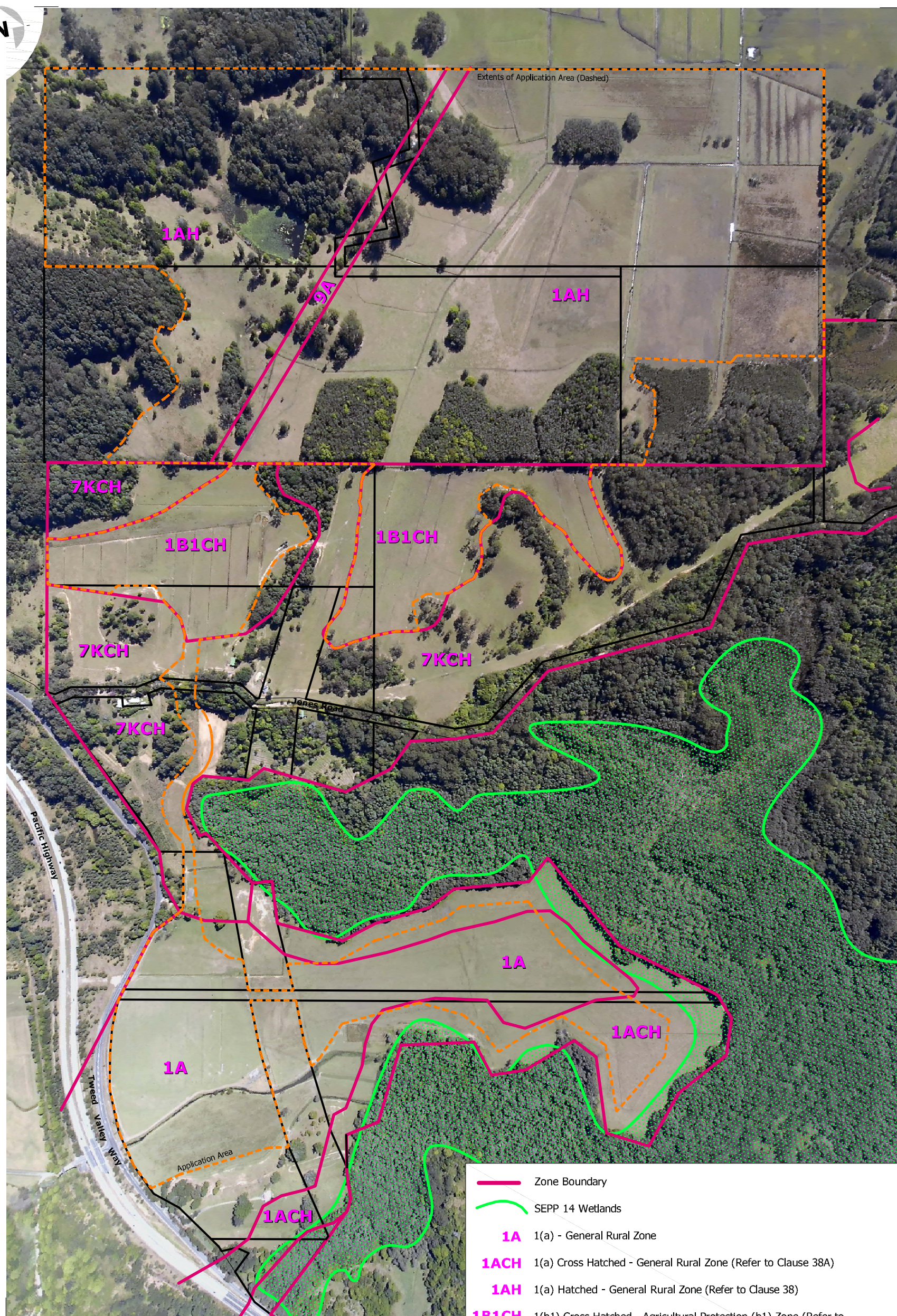
The 'place of assembly' use is a permissible use within these zones, subject to consent.

The 'roads' use corresponds with the "Spine Road" works described herein. This use is proposed over land within the following zones of the Byron Local Environmental Plan 1988:


- Zone 1(a) (General Rural Zone)
- Zone 1 (b1) (Agricultural Protection Zone)
- Zone 7(k) (Habitat Zone)
- Zone 9(a) (Proposed Road Zone) – LEP Clause 44


The 'roads' use is a permissible use within these zones, subject to consent.





———— Property boundaries      - - - - - Extents of project application area (Dashed)

 Zone Boundary

 SEPP 14 Wetlands

**1A** 1(a) - General Rural Zone

**1ACH** 1(a) Cross Hatched - General Rural Zone (Refer to Clause 38A)

**1AH** 1(a) Hatched - General Rural Zone (Refer to Clause 38)

**1B1CH** 1(b1) Cross Hatched - Agricultural Protection (b1) Zone (Refer to Clause 38A and 38B)

**7KCH** 7(k) Cross Hatched - Habitat Zone (Refer to Clause 38A and 38B)

**9A** 9(a) - Proposed Road Reserve Zone



**IMPORTANT NOTE |**  
Cadastral information is subject to survey. The alignment of the aerial photograph and vectorial overlays is approximate only.

design team ink

Plan | **4.1**  
**Zoning Plan**  
**118**

North Byron Parklands | Tweed Valley Way &amp; Jones Road



**Table 5.1 LEP Provisions**

<b>LEP Requirement</b>	<b>Summary of Requirement</b>	<b>Proposed</b>	<b>Complies</b>
Meets the objectives of the 1(a) General Rural Zone	(a) To encourage and permit a range of uses creating a pattern of settlement, at a scale and character that maintains or enhances the natural, economic, cultural, social and scenic amenity of the rural environment of the Shire of Byron.	The range of uses proposed within the 1(a) General Rural Zone comprise the periodic Place of Assembly. The pattern of settlement resulting from this range of uses, on balance, is at a scale and character so as to enhance the natural, economic, cultural, social and scenic amenity of the rural environment of the Shire of Byron.	Yes
	(b) To encourage and permit a pattern of settlement that does not adversely affect the quality of life of residents and visitors and maintains the rural character.	The proposed uses within the 1(a) zone, on balance, do not adversely affect the quality of life of residents and visitors and also maintain the rural character. This view is based on the limited and periodic nature of the larger events on the site, and balances the positive impacts on a wide range of residents and visitors, with the periodic adverse impacts on some residents.	Yes
	(c) To ensure development only occurs on land which is suitable for, and economically capable of that development, so as not to create conflicting uses.	The detailed studies within the EA demonstrate the land is suitable and economically capable for the proposed uses. The larger event usage is not considered conflicting with agricultural or rural living uses as the events are periodic and will comply with applicable usage parameters.	Yes
	(d) To allow the use of land within the zone for agricultural purposes and for a range of other appropriate purposes, whilst avoiding conflict between other uses and intensive agriculture.	The site will predominantly be used for agriculture throughout the year, with events to occur periodically over parts of the site.	Yes

<b>LEP Requirement</b>	<b>Summary of Requirement</b>	<b>Proposed</b>	<b>Complies</b>
	(e) To identify land (shown hatched on the map), which in the opinion of the council, possess a limited capability for more intensive uses or development.	Allotments making up the northern area of the application area are located within the 1(a) General Rural zone (shown hatched on the map). This matter is addressed under Clause 38 of Byron LEP 1988 (see below).	Refer to comments on Clause 38 of Byron LEP 1988 below.
	(f) To restrict the establishment of inappropriate traffic-generating uses along main road frontages, other than in roadside service areas.	The proposed larger event usage requires good access to main roads and the highway. The proposal is to be considered under the provisions of the Infrastructure SEPP and, if approved, will be restricted via strict conditions in relation to traffic management.	Yes
	(g) To ensure sound management of land that has an extractive or mining industry potential, and to ensure that development does not adversely affect the potential of any existing or future extractive industry.	The proposal will not adversely affect the potential of any existing or future extractive industry.	Yes
	(h) To enable the provision of rural tourist accommodation and facilities only where such facilities are compatible with the form and density of the nature of the locality.	No tourist facilities are proposed. Camping will be provided ancillary to the use of the land as a place of assembly.	Yes
	(i) To permit the development of limited light industries which do not pose any adverse environmental impact (for example, software manufacture and film processing). (j)	No light industries are proposed.	Yes
	(k) To ensure that the development and use of land shown cross-hatched on the map (adjacent to areas of significant vegetation and wildlife	Areas of Lot 30 DP 880376 and Lot 102 DP 1001878 contain 1(a) cross-hatched lands primarily located adjacent to the Billinudgel Nature Reserve. A 30metre	Yes

<b>LEP Requirement</b>	<b>Summary of Requirement</b>	<b>Proposed</b>	<b>Complies</b>
	habitat), do not result in any degradation of that significant vegetation and wildlife habitat, and that any development conserves and protects and enhances the value of the fauna and flora.	buffer is provided to the Billinudgel NR as recommended by Council's Ecologist. Public entry will be prevented into the reserve. Use of this part of the site will be limited to a maximum of 12 days per year.	
Meets the objectives of the 1(b1) Agricultural Protection Zone	(a) To protect and enhance the long-term potential of the Shire of Byron through the preservation of the higher quality agricultural land within the zone and to restrict all forms of development within the zone, which, in the opinion of the council, might prejudice such potential.	The majority of the site will be used for agriculture for the majority of each year, thus protecting the long term potential for agriculture.	Yes
	(b) To prevent fragmentation of rural holdings and to encourage consolidation of lot sizes for the purposes of agricultural and horticultural production.	No fragmentation by subdivision is proposed.	Yes
	(c) To enable agricultural support facilities to be carried out on land within the zone in a manner, which does not significantly reduce the agricultural and horticultural production potential of land in the locality.	The road within the 1(b1) zone will be used to support agriculture within the site for the majority of each year.	Yes
	(d) To permit subdivision only where it is considered by the council, on the advice of the Department of Agriculture, to be necessary to maintain or increase agricultural production; or to allow the conduct of any use permitted in this zone other than residential buildings; or where proven demand for legitimate agricultural; or horticultural holdings of a	No subdivision is proposed.	Yes

<b>LEP Requirement</b>	<b>Summary of Requirement</b>	<b>Proposed</b>	<b>Complies</b>
	smaller size is established.		
	(e) To restrict the establishment of inappropriate traffic generating uses along main road frontages.	The 1(b1) zone land within the site does not have main road frontage. As the overall site has main road frontage, the application will be considered under the Infrastructure and, if approved, will be restricted via strict conditions in relation to traffic management.	Yes
	(f) To establish appropriate buffer zones between high quality agricultural land and other uses, particularly near the perimeter of such lands.	The site design incorporates appropriate buffers for the agricultural land and other uses.	Yes
Meets the objectives of the 7(k) Habitat Zone	(a) To identify and protect significant vegetation and wildlife habitats for conservation purposes.	Only the roadway comprising the spine road and its footpath is located within the Zone 7(k) zone area. Following identifying and protecting any significant vegetation and wildlife habitats, the roadway location was selected to avoid any such areas.	Yes
	(b) To prohibit development within the zone that is likely to have a detrimental effect on the wildlife habitats that exist.	The only development proposed within the zone is the road, which is a permissible use.	Yes
	(c) To enable the carrying out of development, which would not have a significant detrimental effect on the wildlife habitats.	The proposed road has been assessed as not creating a significant detrimental effect on the wildlife habitats.	Yes
	(d) To enable the careful control of noxious plants and weeds, by means not likely to be significantly detrimental to the native ecosystem.	Noxious plants and weeds management is proposed using recognised best practices as addressed within the Ecological Assessment.	Yes
Meets the objectives of the 9(a) Proposed	(a) The objective of this zone is to set aside land (being land that the council or a	The RTA in correspondence to BSC dated 17 August 2006 clarifies that no RTA	Yes

LEP Requirement	Summary of Requirement	Proposed	Complies
Road Zone	Government instrumentality intends to acquire) for various proposed roads.	roads are proposed within the 9(a) Zoned land within the site.	
Clause 9 – Permissible use	<b>Road</b>	The proposed “spine road” falls within the definition of a road which is a permissible use within all the applicable zones, that is; 1(a) General Rural Zone, 1(b1) Agricultural Protection Zone, 7(k) Habitat Zone and Zone 9(a) Proposed Road Zone.	Yes
	<b>Place of assembly</b> means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, music bowl or any other building of a like character used as such. Whether used for the purposes of gain or not, but does not include a place of worship, an institution or an educational establishment.	The proposed event use falls within the definition of a <i>place of assembly</i> . This use is permissible with the consent of Council within the 1(a) General Rural Zone and the 1(b1) Agricultural Protection Zone. The use is also permissible within the 9(a) Proposed Road Zone subject to the concurrence of the RTA under Clause 44 of Byron LEP 1988.	Yes
Clause 24 – Development of flood liable land	Council must be satisfied that: <ul style="list-style-type: none"> <li>– Flow characteristics of flood waters are not restricted;</li> <li>– The level of flooding is not increased;</li> <li>– Any building or work is capable of withstanding flooding;</li> <li>– The building is adequately flood proofed; and</li> <li>– Adequate arrangements are made for access to the building or work during a flood.</li> </ul>	Refer to specialist flooding assessment within <b>Technical Paper G</b> , which addresses flood impacts.	Yes
Clause 27 – Building lines along arterial roads	This clause requires that buildings are setback 55m from an arterial road unless the proposal demonstrates consistency with specified criteria.	The proposed Gatehouse building is located within the 55m setback but is a justified inconsistency, in accordance with the clause, as there is no alternative suitable site and the	Yes -Justified inconsistency

LEP Requirement	Summary of Requirement	Proposed	Complies
		amenity of the immediate environment would be adversely affected by requiring the 55m setback to be maintained.	
Clause 36 – Development adjoining wetland	This clause requires that the likely impact on wetlands, their flora and fauna and the watertable be considered.	The southern car park of the site is located near SEPP 14 wetlands. An appropriate buffer is proposed together with management measures to ensure the wetlands are not adversely impacted as detailed within <b>Technical Paper F</b> .	Yes
Clause 38 – Development within the 1(a) General Rural Zone shown hatched on the map	The council shall not consent to the carrying out of development for any purpose on land to which this clause applies unless the council has made an assessment of the susceptibility of the land and the proposed development to flooding, landslip, bushfire hazard, soil erosion and the like.	The constraints of the 1(a) General Rural Zoned land (shown hatched on the map) have been identified, assessed and considered as part of the application.	Yes
Clause 38A – Development of land shown cross-hatched within Zones 1(a), 1(b1), 1(d) and 7(k) adjacent to Environmental Protection Zones 7(a), 7(b), 7(k), 7(j) and 8(a)	Council must have regard for environmental considerations for certain development within this area.	The Ecological Assessment within <b>Technical Paper F</b> has informed the overall site and usage design of the proposal such that the proposed use is considered, on balance, to conserve, protect and enhance the value of the flora or fauna and the potential wildlife corridor concerned.	Yes
Clause 38B – Development of land at North Ocean Shores within Zones 1(b1) and 7(k)	The objective of this clause is to ensure that the use and other development of land adjacent to areas of significant vegetation or wildlife habitat (or in a potential wildlife corridor), does not result in any degradation of that significant vegetation, wildlife habitat (or potential wildlife corridor), and that any such development conserves,	The Ecological Assessment within <b>Technical Paper F</b> has informed the overall site and usage design of the proposal such that the proposed use is considered, on balance, to conserve, protect and enhance the value of the flora or fauna and the potential wildlife corridor concerned.	Yes



LEP Requirement	Summary of Requirement	Proposed	Complies
	protects and enhances the value of the flora or fauna (or the potential wildlife corridor) concerned.		
Clause 40 – Height of buildings	The clause seeks to ensure the height and scale of development is appropriate. The clause provides a limit to the height of buildings.	The height of the proposed permanent buildings, that is; the Gatehouse, Administration Building and future Conference and Cultural Centre buildings, comply with the height limits specified within Clause 40 (2)(ii). Some tents and stages, which would be erected and used temporarily and dismantled, would exceed the limit of Clause 40 (2)(ii) while being consistent with the clause objective relating to: 'ensure that the height and scale of development is appropriate to its location, the surrounding development and the environmental characteristics of the land'.	Yes - Justified inconsistency
Clause 44 – Use of land pending acquisition	Clause 44 provides that land within the 9(a) Proposed Road Zone may be developed for any purpose, with the consent of Council, and the concurrence of the RTA.	The proposal includes the use of land located within the 9(a) Proposed Road Zone. The RTA previously granted concurrence to the use of the land for event use. The RTA have advised that the land was an old RTA corridor and that the RTA has no requirement for this corridor and have requested Council remove the 9(a) zoning from this land.	Yes
Clause 45 – Provision of Services	Prior adequate arrangements must be made for provision of sewerage, drainage and water services to the land.	<i>Sewerage:</i> In the short-term waste will be trucked to an approved STP. In the long-term the application proposes an on-site facility for waste	Yes

LEP Requirement	Summary of Requirement	Proposed	Complies
		treatment.	
		<p><i>Potable Water:</i> In the short-term potable water is to be sourced from reticulated water supplies that comply with the Australian Drinking Water Guidelines (NHMRC/ARMCANZ, 2004) and transported to the site via water carters in the initial years prior to provision of an on-site system.</p>	Yes
		<p><i>Wastewater:</i> Wastewater generated on-site will be appropriately collected and stored on-site until such time that it can be transported to an appropriate wastewater treatment facility (that is; sewage treatment or trade waste treatment plant) in the initial years prior to provision of an on-site system. Suitable management provisions have been recommended to ensure that wastewater is managed in a manner that protects the environment and public health.</p>	Yes
		<p><i>Drainage:</i> It is proposed to direct surface runoff away from proposed event areas via the existing open drains and new diversion drains and to fill existing shallow grassed drains in the event areas. A new open drain is proposed in the eastern part of the site to replace an existing vegetated open drain.</p>	Yes
Clause 63 –	A preliminary assessment is	<b>Technical Paper M</b>	Yes

LEP Requirement	Summary of Requirement	Proposed	Complies
Potential Acid Sulfate Soils	required of the proposed works in accordance with the <i>Acid Sulfate Soils Assessment Guidelines</i> .	provides an Acid Sulfate Soils Assessment while <b>Technical Paper R</b> provides an Acid Sulfate Management Plan.	
Clause 64 – Signage	Clause 64 provides that generally signage requires the consent of Council.	Entry signage for the site requires consent. Any sign displayed to advertise community or civic projects or other special events are permissible without the consent of Council under DCP No. 16 – Exempt and Complying Development.	Yes

**5.2 Byron DCP 2002** The Provisions of Byron Shire DCP 2002 apply in relation to the subject site particularly in respect to parts G, K, L and N.

**Table 5.2 Development Control Plan 2002**

DCP	Requirement	Proposed	Complies
Part G – Vehicle Circulation and Parking	Ensure adequate provision is made for off-street parking and vehicle access.	Refer to specialist traffic assessment within <b>Technical Paper C</b> , which addresses car parking and preservation of the safety and efficiency of the arterial road system. All car parking is provided off-street.	Yes
	Preserve the safety and efficiency of the arterial road system.		
Part K – Flood Liable Lands	Consideration of flood impacts.	Refer to specialist flooding assessment within <b>Technical Paper G</b> , which addresses flood impacts.	Yes
Part L – Signs	To enable occupiers of land to identify themselves and their businesses clearly while ensuring signage does not detract from the visual character.	An entry sign is proposed at the Gate A main access at Tweed Valley Way. Consent is sought for this sign as depicted within the plan set.	Yes
Part N - Stormwater Management	Stormwater Management details need to demonstrate that the proposed stormwater management is feasible.	<b>Technical Paper Q</b> provides a stormwater management plan. It is proposed to direct surface runoff away from proposed	Yes

DCP	Requirement	Proposed	Complies
		event areas via the existing open drains and new diversion drains and to rationalise existing shallow grassed drains in the event areas. A new open drain is proposed in the eastern part of the site to replace an existing vegetated open drain. An Erosion and sediment control are addressed within <b>Technical Paper P</b> .	

### 5.3 Byron DCP 21

DCP 21 is also a relevant Byron DCP, which is applicable in the subject circumstances.

**Table 5.3 Other Development Control Plans**

DCP	Requirement	Proposed	Complies
DCP 21 – Social Impact Assessment	Assess social impact and seek to achieve maximum social benefit for the community from particular development activity and to mitigate the negative social impacts.	<b>Technical Paper I</b> provides a Social Impact Assessment that identifies potential social changes, determines the extent and magnitude of any social changes, evaluates their significance to individuals and society, and identifies ways of lessening potential impacts. The SIA recommends measures to maximise social benefit from the proposal.	Yes

### 5.4 Byron Council Management Plan 2009 -2012

Council's Management Plan encompasses Council's strategic planning and delivery of services and programs, the provision of information, and Council's assessment, monitoring and reporting cycles. The Management Plan encompasses a range of medium-term plans and strategies with a 5-15 year timeframe that guide Council's operational plans and programs.

The Parklands proposal is particularly consistent with the following 'Our Sustainable Shire Themes':

- **Ecology: Caring for the Environment**

Consistent with this theme, the Parklands proposal incorporates restoration of ecosystem functioning, repairing damage and reducing impacts together with promoting environmental awareness and education.

• **Economy: Prosperous Community and Business**

Council recognises a growing number of prominent and world-class festivals and exhibitions in music, literature, theatre, film, fashion and other arts within the Shire. Parklands will provide the needed multi event facility to host such events.

The operational aspects of the plan include Council facilitating creative industries.

**5.5 Byron Cultural Plan**

Section 4 of The Byron Shire Cultural Plan 2008-2013 provides the Cultural action plan adopted by Byron Shire Council.

The plan provides Guiding Principles, Themes, Strategic Actions and Priorities to achieve the goals of the plan. The following provides a brief overview of how the use of the Parklands cultural event site would assist to achieve such goals at no public cost.

This analysis is considered a relevant measure of the positive social impact of the Parklands proposal.

**1. Identity and Sense of Place**

**Cultural identity is a mixture of unique natural environment and social diversity. Places have cultural meanings that are created and enhanced by the Shire’s distinctiveness and liveability.**

<b>Table 5.4 Themes</b>	<b>Identity Considerations Strategic Actions</b>	<b>Parklands Outcome</b>
1.1 Values	Continue to celebrate cultural heritage, for example, Aboriginal Heritage, European Heritage and Ecology.  Support artistic and cultural processes and outcomes that contribute to and reflect a sense of place and local	The provision of the Cultural Centre for Aboriginal Heritage and European Heritage will provide a purpose-built facility to achieve this strategic action for local residents and Indigenous stakeholders.  The provision of a dedicated event site will provide a suitable venue to contribute to and reflect a sense of place and local

Themes	Strategic Actions	Parklands Outcome
1.3 Cultural Assets	identity. Preserve and protect items and places of heritage.	identity. The proposal protects all Aboriginal heritage sites on the Parklands site

**2. Access and Opportunities Engagement in Cultural and Community activities rely on inclusiveness and access.**

**Table 5.5 Access Considerations**

Themes	Strategic Actions	Parklands Outcome
2.1 Transport	Ensure a Shire-wide integrated transport strategy, within a Regional context, that addresses access to Cultural Facilities and places.	Large events provide a comprehensive public transport network between the site and the Shire's towns.
2.3 Population Groups	Enhance youth facilities and activities in the Shire, such as support training and mentorship for young people.	The Parklands site will provide a venue suitable for youth events.  With a permanent venue, events can undertake programs for youth training and mentorship.
	Support lifestyle cultural festivals that: i. Retain family-friendly environment such as at New Years Eve; ii. represent all population groups; iii. Inclusive and open to people from culturally and linguistically diverse backgrounds; iv. Eco-friendly and promote environmental values; and v. Reflect health, well-being, agriculture, cuisine or other key regional drivers.	The Parklands site provides a purpose-built venue for events for all population groups.  The Parklands site will promote sustainable and eco-friendly approaches to site management and event usage.
	Ensure access to cultural venues and activities for older people and people with disabilities.	The Parklands site will ensure suitable access for people with disabilities.

### 3. Cooperation and Integration

**Cultural development will take place in a collaborative environment where Council, the community and the private sector share aspirations.**

**Table 5.6 Cooperation Considerations**

Themes	Strategic Actions	Parklands Outcome
3.1 Partnerships	Foster community partnerships with a view to encourage the development of cultural projects with public outcomes.	Parklands is committed to fostering a range of community partnerships and outcomes.
	Foster private sector and philanthropic support for the arts and cultural sector.	The Parklands Community Grants Fund will support the arts and cultural sector.

### 4. Creativity, Innovation and Education

**Creativity, innovation and education are the foundation of the Shire's social, economic, natural and cultural capital.**

**Table 5.7 Creativity Consideration**

Themes	Strategic Actions	Parklands Outcome
4.2 Public Art & Design	Promote public art.	The Splendid art project is proposed to be at the Parklands site for 2011 and 2012. Associated with Parklands, the Splendid project is described as 'a national cross-art form laboratory and mentorship project based in Lismore, established through partnership with Splendour in the Grass festival, Lismore Regional Gallery, Australia Council for the Arts, Norpa and Arts NR, to mentor young artists through development and commissioning of art for Splendour festivals in 2010, 2011 and 2012.
4.3 Tourism	Support community-based cultural tourism: i. Aboriginal Heritage ii. Nature iii. Arts iv. Festivals v. Food/Agriculture	The Parklands proposal provides a purpose built venue to allow for cultural tourism to further assist the listed cultural tourism types.  Parklands can assist Visitors Information Centres disseminate

	vi. Education vii. Multicultural Diversity viii. Installation of interpretive signage to educate visitors about the Shire's cultural heritage and diversity (in partnership with government agencies) ix. Assist Visitors Information Centres disseminate information about the variety of cultural events and activities, experiences and opportunities.	information about the variety of cultural events.
	Encourage and support cultural events that showcase local talent.	Parklands will provide opportunities to showcase local talent.

## 5. Conservation and Sustainability

**A sustainable future requires balance between ecological preservation and the need to develop according to current economic and social trends. Today's decisions should not impact adversely on future generations.**

**Table 5.8 Conservation Considerations**

Themes	Strategic Actions	Parklands Outcome
5.1 Environment	Protect and enhance the natural environment and biodiversity including: i. Corridor and riparian protection ii. Tree planting iii. Integrate public art with environmental conservation.	Parklands has a commitment to comprehensively protect and enhance the natural environment and biodiversity as detailed within accompanying reports.
	Promote sustainable living such as energy efficiency, renewable technology and community education.	Parklands provides a purpose-built venue to cater for sustainable living expos and field days.
	Support community groups involved in conservation enhancement.	The Community Grant Fund provides a suitable means to support community groups involved in conservation enhancement.



## 6. Acceptance and Diversity

**Cultural diversity includes Aboriginal, racial, religious, spiritual, traditional and alternative interests and pursuits.**

**Table 5.9 Diversity Considerations**

Themes	Strategic Actions	Parklands Outcome
6.1 Respect Aboriginal Culture	Support the Aboriginal community in: i. Planning for and developing a Cultural Centre; ii. Developing and implementing community cultural projects for Aboriginal people; iii. Marketing the work of Aboriginal artists; and iv. Developing and promoting local Aboriginal resources with tourism potential.	Parklands has consulted with all Indigenous stakeholders and designed the proposal to protect cultural heritage values.  The Cultural Centre will provide opportunities for the wider community to learn more about Indigenous culture. The proposal also: - Dedicates culturally significant Aboriginal land to DECC; - Protects all Aboriginal sites on the property, and the restoration of native vegetation at these sites; and - Continues to employ the Madhima Gulgan team, the Indigenous rainforest restoration team.
6.2 Education & Empowerment	Recognise and support events of diverse cultural significance.	Parklands will provide a suitable venue for events with diverse cultural significance to occur.

## 7. Recreation Health and Wellbeing

**The climate and natural environment is conducive to community wellbeing through a healthy and active lifestyle.**

**Table 5.10 Recreation Considerations**

Themes	Strategic Actions	Parklands Outcome
7.2 Health, Wellbeing and Spirituality	Support and promote healing, wellbeing and sustainable lifestyle industries.	Parklands will provide a suitable venue for healing, wellbeing and sustainable lifestyle industries to be showcased.

**5.6 Byron Sustainable Agricultural Strategy**

The proposal is considered to be consistent with the Sustainable Agricultural Strategy (SAS), and in particular, provides a venue for sustainable agriculture expos or the like. The site remains a working farm for the majority of the year and proposes to implement sustainable agricultural practices as proposed in the strategy.

**5.7 Byron Biodiversity Strategy**

The Biodiversity Conservation Strategy (BBS) outlines how Council and the broader community can improve biodiversity conservation across the Shire by developing a range of actions that address a wide range of issues impacting on biodiversity.

The site design and usage pattern for the Parklands site is considered consistent with Key Priorities & Principles For Biodiversity Conservation within the strategy, including; collective responsibility and human involvement, in-situ conservation, understanding threatening processes, sustainability, improvement of knowledge and education, connectivity and restoration, identification and protection of areas of regional conservation significance, Foster Byron's 'green' identity and implementing a landscape approach.

The proposed development complies with the Byron biodiversity strategy. The proposal incorporates the enhancement of existing and potential wildlife corridors traversing the site.

**5.8 Community Economic Development Policy**

This policy seeks to promote prosperous community and business with principles such as:

- a) Council supports appropriate economic activity, investment, work and employment opportunities, in harmony with its ecological and social goals.
- b) Council encourages a broader based economy building on the success of the Shire's existing business activity and attracting prospective businesses in compatible economic markets or industries.
- c) Council supports meaningful work, training and employment for its population, and in so doing will promote the retention of young people within the Shire, and will work towards solutions for barriers to employment creation.
- d) Council preserves, enhances and promotes the unique attributes and diversity of the Shire's towns and villages. Local community economic development initiatives within each town and village are supported to the extent possible.

The policy documents Council's facilitation of commercial and economic activity:

a) Council will endeavour to facilitate increased commercial and economic activity through:

- The provision of timely decision-making to give certainty of direction;
- The provision of infrastructure, subject to budget requirements;
- The establishment and development of an ongoing research capability to assist all industry sectors; and
- The facilitation of an effective lobbying and networking capability.

b) Council acknowledges that the private sector is best placed to make decisions concerning its own viability and that Council as trustee of public funds has limited scope to provide direct finance for economic development.

The draft policy identifies focus areas as industry sectors and activities which foster the prosperity of the Shire through sustainable job creation, while in keeping with Council's environmental and cultural ethos, including:

- Agriculture and food
- Building and construction
- Creative industries
- Education
- Green industry
- Eco-forestry
- Health and natural therapies
- Tourism.

The Parklands proposal is considered to be consistent with this policy and able to advance its aims in a significant manner.

The Economic Impact Assessment within **Technical Paper B** of the EA identifies the proposal will generate some 210 jobs (EFT's\*) and \$192m of total economic multiplier effects when fully operational.

## 5.9 Marshalls Creek Floodplain Management Plan

Both catchments within the site are subject to the provisions of the Marshalls Creek Floodplain Management Plan. The plan recommends that prior to the preparation of an effective floodplain management plan, in conjunction with Tweed Shire Council, that widespread filling of the floodplain should be avoided. The proposal does not involve filling of the floodplain.

Both Councils, by means of the adoption of the Tweed Byron Coastal Creeks Flood Study 2009, have completed the first stage of a new flood plain management plan.

The proposal provides for appropriate flood management and evacuation strategies as outlined within **Technical Paper G**.

## Section

# 6

## Associated Legislation

*This section identifies associated legislation relevant to the subject application.*

### 6.1 Local Government Act 1993

Section 68 the local Government Act 1993 sets out a number of activities that specifically require council approval. However, as the proposal relates to a *Place of Assembly* land use and activity section 68 approval is not required for:

#### **Part A: Structures or places of public entertainment**

Install a manufactured home, moveable dwelling or associated structure on land.

#### **Part F: Other activities**

- Operate a public car park.
- Operate a caravan park or camping ground.

### 6.2 Roads Act 1993

Byron Shire Council is the designated Roads Authority and any work or changes to road movements requires the approval of council and with respect to Pacific Highway requires the concurrence of the RTA. **Technical Paper C** and the management manual provide for the submission of traffic management plans in relation to the management of traffic associated with proposed events.

In addition, this application seeks approval for the grant of an underpass under Jones Road.

### 6.3 Food Act 2003

The sale of food is regulated under this Act and associated regulation 2004. This statutory regime applies to all food outlets at an event carried out at the Parklands Site.

### 6.4 Liquor Act 2007

The Liquor Act provides the framework for the sale of Alcohol. Liquor application matters are handled by the Department of Liquor, Gaming and Racing.

**6.5 Occupational Health and Safety Act 2000**

The Occupational Health and Safety Act 2000 requires a duty of care of the event organiser to ensure the safety and well-being of all members of the public and staff involved with the event.

**6.6 Protection of the Environment Operations Act 1997**

The Protection of the Environment Operations Act 1997 provides for pollution control in relation to land, water, air and noise. Some activities proposed may fall within the classification of scheduled activities under the act and require licensing.

# Section 7 Conclusions

*Section 7 sets out the writer's conclusion in relation to the level of compliance attained by the subject project in relation to the various laws and policy annunciations.*

This assessment has identified the various levels of statutory and policy provisions applying to the Parklands proposal.

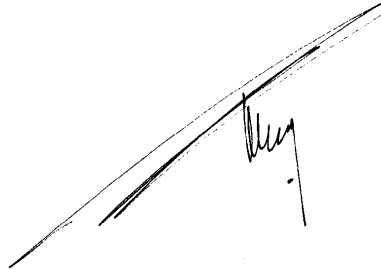
In terms of policy matters, such as those within strategies and plans, the Parklands proposal is highly consistent with the aspirations of such strategies. This is particularly the case in terms of local economic, employment, cultural, social and biodiversity matters within the following:

- NSW State Plan
- Far North Coast Regional Strategy
- North Coast Regional Environmental Plan
- Northern Rivers Catchment Action Plan, 2005
- Northern Rivers Regional Industry and Economic Plan
- Regional Business Growth Plan – Northern Rivers Region
- Draft Far North Coast Regional Conservation Plan
- Byron Council Management Plan 2009 -2012
- Byron Cultural Plan
- Byron Biodiversity Strategy
- Draft Byron Economic Development Policy.

Key statutory documents assessed within the statutory appraisal include:

- Applicable State Environmental Planning Policies (including the North Coast REP, now a deemed SEPP)
- Byron LEP 1988
- Applicable Byron DCP's.

In terms of statutory planning provisions, the assessment has concluded that the proposal is generally consistent with applicable statutory provisions, other than a justified inconsistency with 2 numerical standards in the Byron LEP.



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