



BSC File No: PLN560065 #1087066
Contact: Matt Walker

6 May 2011

Received
by email
6 MAY 2011

North Coast

Mr Jim Clark
Department of Planning
Locked Bag 9022
GRAFTON NSW 2460

Dear Jim,

Planning Proposal for inclusion of a clause on Major events to the Byron Local Environmental Plan 1988

Council at its meeting on 21 October 2010 Resolved (10-809) to proceed with an amendment to the Byron LEP 1988 for inclusion of a clause on Major Events. The Council resolution was as follows:

10-809 Resolved that Council proceed with the amendment to Byron LEP 1988 for inclusion of a clause on Major Events as shown at Annexure 4 (#977251) with the following amendments (to ensure consistency with the adopted Event Policy):

1. Clause 1 - delete "a place of assembly" and replace with the words "an outdoor music event".
2. Change the number 3,000 to 6,000.
3. Clause 5 - delete "(b)" and add "(f) the major event will have an adverse impact on biodiversity including native flora and fauna."
4. Clause 2 - insert "biodiversity".
5. Clause 6 - add "that no adverse impact on biodiversity including native flora and fauna".

In Accordance with Section 56 of the *Environmental Planning and Assessment Act 1979*, Council submits the enclosed planning proposal.

It is intended that the planning proposal be progressed as an amendment to the *Byron Local Environmental Plan 1988*. Should you have any enquiries please contact Matt Walker on 02 6626 7068.

Yours sincerely

Ray Darney
Executive Manager
Environment and Planning

Enc: Planning Proposal – Major Events clause #1046659

PLANNING PROPOSAL

Proposed amendment to Byron Local Environmental Plan 1988:

Proposal to include a clause on major events

5 May 2011

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Introduction

Outdoor music events have been held in the Byron Shire for a number of years and have received a mixed response from the community. Two large outdoor music events in particular are associated with Byron, namely '*Bluesfest*' and '*Splendour in the Grass*'. Such festivals have a significant impact on many levels and are not universally supported across the community.

It is evident that there needs to be some limit to the numbers of such large scale festivals. While there are different views as to where the limit should be set, Council has undertaken a lengthy process of community consultation when preparing the '*Events on Public and Private land Policy*' which was adopted on 7 October 2010. Through the consultation process it was determined that two is the appropriate number of events to be held in the Shire per year.

Furthermore, these festivals have been held on both urban and rural lands and are capable of generating a wide range of social and environmental impacts. It is appropriate for Council to have development controls that are specific to this kind of activity to assist in the minimisation of their likely impacts.

Council resolved in October 2009 that a report be prepared in regard to a possible LEP amendment where large events are not permitted. Following a number of Strategic Planning meetings and Council meetings it was agreed in October 2010 that Council should proceed with an amendment to the current LEP rather than waiting until the draft Shire-wide LEP is completed.

The objective of this clause is to recognise the contribution that events make to the diverse character and culture of the Shire and to encourage event organisers to promote events that recognise and contribute to this objective. This clause will also enable Council to manage events so that they do not adversely impact on this existing character and culture.

Part 1 Objectives or Intended Outcomes

The intent of this Planning Proposal is to insert an additional clause into the Byron LEP 1988 which enables Council to define, assess and control outdoor music events. This clause will provide clear guidance to applicants seeking to hold an outdoor music event within the Shire. The proposed amendment enables music events to be held in three additional land-use zones, sets limits on the number of major outdoor music festivals per year, places time restrictions on when they can occur and assists in biodiversity conservation.

Part 2 Explanation of Provisions

This Planning Proposal seeks to amend the Byron Local Environmental Plan 1988 via the inclusion of an additional clause to the written instrument. The additional clause is proposed as follows:

65 Major Events

- (1) In this clause **major event** means an outdoor music event that is to be carried out over a period exceeding two days and involves more than 6,000 patrons, participants and staff per day.
- (2) The objectives of this clause are to ensure major events:
 - (a) are conceived, promoted and well managed as sustainable events that have synergy, vibrancy and diversity;
 - (b) have effective and efficient resources allocated to the event;
 - (c) reflect existing and emerging communities whilst respecting and acknowledging the local Aboriginal heritage and traditions;
 - (d) conform with Council's long term strategic land use planning objectives;
 - (e) will not result in land use conflicts, are neighbourhood friendly and have any potential adverse impacts identified and managed;
 - (f) involve the community;
 - (g) are in keeping with Council's adopted ethical and equitable standards;
 - (h) are limited in scale; and
 - (i) respect the biodiversity of the region.
- (3) Consent must not be granted to a major event except in accordance with this clause.
- (4) Development consent must not be granted for development for the purposes of a major event, if:
 - (a) the land is within Zone 2(a)(Residential Zone), 7(c)(Water Catchment Zone) or Zone 7(f2)(Urban Coastal Lands Zone);
 - (b) granting of development consent will result in more than two major events to be held in the Shire per calendar year;
 - (c) granting of development consent will result in the major event occurring at the same time as another major event to be held in the Shire;
 - (d) the major event will occur during the December/January school holiday period for NSW and Queensland;
 - (e) the major event it is to be carried out on land that would be inundated in a 1:100 year storm event; or
 - (f) the major event will have an adverse impact on biodiversity including native flora and fauna.
- (5) When determining a development application for development pursuant to this clause, the consent authority must be satisfied that:

- (a) the major event will not create significant changes to traffic flows, especially for emergency services;
- (b) the major event is to be located so that it will benefit from existing road and other servicing infrastructure;
- (c) the major event will provide opportunities for event patrons to utilise car pooling, public transport and bicycle hire to travel to the event;
- (d) the major event will include efficient and effective waste minimisation and recycling strategies;
- (e) the major event will have no significant adverse effect on the present or potential land use, including agricultural use, of the land or lands in the vicinity;
- (f) the major event will not detract from the successful existing trade patterns within Byron Shire;
- (g) the major event is in keeping with Council's adopted ethical and equitable standards; and,
- (h) there will be no adverse impact on biodiversity including native flora and fauna.

Part 3 Justification

Section A: Need for Planning Proposal

1. Is the planning proposal a result of any strategic study or report?

This proposal has resulted from the recent adoption of Council's *Events on Public and Private Land Policy* No. 10-006. The Policy was first drafted in August 2006 and has since undergone public exhibition and numerous Council workshops to assist in finalising the document. The Policy was formally adopted by Council on 7 October 2010, a copy of which is included as **Appendix A**.

During the latter stages of the Events Policy formulation, Council made a number of Resolutions dating back to 15 October 2009 in relation to drafting an LEP Amendment which would set out restrictions on major events within the Shire. Below is the history of Council Resolutions relating to preparation of the draft clause.

Council Meeting 15 October 2009:

09-858 Resolved that Council receive a report to a Strategic Planning Committee as to how to proceed immediately on the preparation of an LEP amendment that details areas in the Shire where large events (as defined by the draft Events Policy on Public and Private Land) are not permitted so as to further the objects of the EPAA particularly the following,

5 Objects

The objects of this Act are:

- (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,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) *n/a*
- (iv) *n/a*
- (v) *the provision and co-ordination of community services and facilities, and*
- (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, and*
- (vii) *ecologically sustainable development*

An external planning consultant was engaged in February 2010 to prepare the draft clause in line with the Council resolution. The draft clause and supporting information (**Appendix B**) was completed in July 2010 and presented to the Strategic Planning Committee on 23 September 2010 for discussion and recommendations. The Strategic Planning Committee recommended the following:

Strategic Planning Committee Meeting 23 September 2010

Committee Recommendation SPC 4.6.1

That Council refer this item to the Ordinary Council meeting of 21 October 2010 to allow for it to be considered following consideration by Council of the Draft Events Policy at its Ordinary Meeting of 7 October 2010.

The draft Events on Private and Public Land Policy was finalised and adopted by Council on 7 October 2010 which enabled Council to then view the draft clause on major events at the following Council meeting on 21 October. Council resolved 10-809 at this meeting:

Council Meeting 21 October 2010:

10-809 Resolved *that Council proceed with the amendment to Byron LEP 1988 for inclusion of a clause on Major Events as shown at Annexure 4 (#977251) with the following amendments (to ensure consistency with the adopted Event Policy):*

1. *Clause 1 - delete "a place of assembly" and replace with the words "an outdoor music event".*
2. *Change the number 3,000 to 6,000.*
3. *Clause 5 - delete "(b)" and add "(f) the major event will have an adverse impact on biodiversity including native flora and fauna."*
4. *Clause 2 - insert "biodiversity".*

5. *Clause 6 - add "that no adverse impact on biodiversity including native flora and fauna".*

The draft clause has since been amended in line with Resolution 10-809 as indicated in Part 2 of this proposal with some additional changes following the removal of 'place of assembly' from the definition. The proposed subclause (1) now relates to an 'outdoor music event' therefore subclause (4) (Appendix B) which referred to additional zones where *places of assembly* were prohibited has also been deleted.

Accordingly, the amended subclause 4 (a) now includes Residential 2(a) Zones in the list of zones where consent must not be granted for a major event. To compare the changes in the proposed clause please refer to Appendix B.

2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Amending the Byron Local Environmental Plan 1988 written instrument via the inclusion of an additional clause is considered the best means of achieving Council's objectives in relation to outdoor music events within the Shire. The additional clause will assist Council in limiting the number of major events held each year and help minimise potential impacts of such events on a social, physical and environmental scale within the Shire.

A clause in the LEP is much more effective than a Development Control Plan given the capacity of outdoor festivals to generate substantive environmental impacts and the greater rigor that is required for the assessment for development against LEP provisions. In as much as a clause in the LEP relates to a numerical control eg. subclause 4(b), it is capable of being the subject of a SEPP 1 objection with the attendant and appropriate rigor required of such an objection.

3. Is there a net community benefit?

Larger outdoor music events have a particular range and combination of environment impacts and costs and benefits to the community which can be at times difficult to ascertain. It follows that it is appropriate for a particular range of development controls that relate to such events to be in place.

Generally the terms of the proposed amendment relate to broad areas of likely environmental impacts. Proposed clause 4(b) is more specific in that a numerical control is proposed whereas clauses 4(c) and 4(d) are specific in regard to the timing of events.

The proposed clause 4(b) control is intended to enable the continuance of the two iconic outdoor music festivals associated with Byron Shire, namely the *Bluesfest* and *Splendour in the Grass*. Given the numerous costs and benefits to the community, it is recognised that such events cause a degree of discontent in sections of the community and this proposed clause will enable Council to control the proliferation of like events.

Subclauses 4(c) and 4(d) will ensure that the major events do not take place at the same time or during the December/ January school holiday period. These subclauses are considered necessary to ensure that additional tourists are not drawn to the Shire during this excessively busy period.

Section B Relationship to Strategic Planning Framework

1. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy?

Far North Coast Regional Strategy 2006 (FNCRS)

The FNCRS helps to guide sustainable development in the region with a commitment to protecting land with high environmental or natural resource values and directing urban development away from areas considered important for conservation. The proposed clause is considered to be in alignment with the FNCRS with a strong focus on biodiversity and sustainability.

2. Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?

Byron Shire Council is in the process of drafting the Community Strategic Plan which needs to be finalised by July 2011.

3. Is the planning proposal consistent with applicable state environmental planning policies?

The Planning Proposal has to be assessed for consistency with the applicable State Environmental Planning Policies (SEPP's). These are identified and discussed below:

SEPP (Rural Lands) 2008

The inclusion of a clause on major events will contribute to the social, economic and environmental welfare of the local rural community. The additional clause will help to minimise land use conflicts between major events and adjoining or nearby rural land which could be affected by such events.

SEPP (Temporary Structures) 2007

This SEPP aims to ensure that suitable provision is made for ensuring the safety of persons using temporary structures and 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.

Given the large scale of any temporary structure involved with a major outdoor music event it is considered that they would not fall under the exempt or complying standards of this code. Council would need to ensure the matters for consideration detailed in section 12 of this SEPP are assessed and applied accordingly to any consent which is given.

The North Coast Regional Environmental Plan 1988

The NCREP was prepared to develop regional policies that protect the natural environment, encourage an efficient and attractive built environment and guide development into a productive yet environmentally sound future. The Plan also encourages optimum economic and social benefit to the local community and visitors to the region. This planning proposal is deemed to reflect the aims and objectives of the NCREP.

SEPP No. 26 - Littoral Rainforests

The aim of this Policy is to provide a mechanism for the consideration of applications for development that is likely to damage or destroy littoral rainforest areas with a view to the preservation of those areas in their natural state.

The major events clause will ensure environmental management is a primary consideration for any applicant seeking permission to run an outdoor music event anywhere within the shire, particularly where littoral rainforest is present. Any future application will be dealt with on its merits and this SEPP will be taken into consideration.

SEPP No. 44 - Koala Habitat Protection

This SEPP aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

Before council may grant consent to an application for consent to carry out an event on land to which this Part applies, it must be satisfied whether or not the land is a potential koala habitat or if the land is a core koala habitat. Any future application to hold a major event will be dealt with on its merits and this SEPP will be taken into consideration.

4. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Environmental Planning and Assessment Act 1979 includes Section 117 Directions that must be considered with any Planning Proposal. The relevant Section 117 Directions are as follows:

Direction 1.2: Rural Zones

This planning proposal does not seek to rezone land that currently has a rural zoning and is considered consistent with this direction.

Direction 1.5: Rural Lands.

This proposal seeks to further minimise potential impacts any major event could have on rural lands within the Shire through the inclusion of various subclauses. These additional clauses will assist Council to ensure any major event will have no significant adverse effect on the present or potential land use, including agricultural use, of the land or lands in the vicinity. Accordingly the proposal is consistent with the rural planning principles listed in this direction.

Direction 2.1: Environment Protection Zones

The planning proposal does not seek to alter the existing zones that are to protect and conserve environmentally sensitive areas. The planning proposal will not alter the provisions of the Byron LEP 1988 that facilitate the protection and conservation of environmentally sensitive areas.

Through the inclusion of this additional clause it is considered that the planning proposal will further facilitate the protection and conservation of environmentally sensitive areas. Any major event must ensure that there will be no adverse impact on biodiversity including native flora and fauna within and adjoining the site. This proposal will enhance environmental protection standards which apply to land.

Direction 2.2: Coastal Protection

This planning proposal seeks to prevent major events from occurring within the 7(f2) Urban Coastal Lands Zone via an additional subclause. The proposal is therefore considered consistent with the Coastal Protection direction.

Direction 4.3: Flood Prone Land

This planning proposal seeks an inclusion to the LEP to prevent major events from taking place on land that would be inundated in a 1:100 year storm event. Sudden inundation from a 1:100 year storm event can lead to flash flooding which is a major concern at any major event and therefore is to be avoided through this proposal.

As most major events involve temporary structures they can be designed to facilitate evacuation during broader scale flooding which takes into consideration the 1:100 year flood plain. Accordingly this proposal is consistent with this direction.

Direction 4.4: Planning for Bushfire Protection

Any applications on Bushfire prone land would need to comply with this document and be referred to the Rural Fire Service prior to consent being granted.

Direction 5.1: Implementation of Regional Strategies

This planning proposal is consistent with the outcomes and actions of the FNCRS.

Direction 5.3: Farmland of State and Regional Significance on the NSW Far North Coast

This planning proposal does not seek to rezone or degrade farmland of state or regional significance. Any future development application will need to satisfy Council regarding potential land use conflicts and appropriate buffers.

Section C Environmental, Social and Economic Impact

1. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

If the land affected by any future development application contains critical habitat of any sort, it will be necessary to carry out an assessment of significance in accordance with section 5A of the EP&A Act and the "Threatened Species Assessment Guidelines" issued by the Department of Environment and Climate Change. The assessment of significance will determine whether there is any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of any proposal.

Given the inclusion within the proposed subclause prohibiting consent to be issued where an adverse impact on biodiversity is caused by a major event, the proposal is deemed to further protect critical habitats and species.

2. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

The planning proposal seeks to prevent major events from occurring where they will have an adverse environmental impact and therefore not require additional management of impacts.

3. How has the planning proposal adequately addressed any social and economic effects?

The proposed LEP amendment reflects Council's view as to the appropriate balance between the various social and economic impacts of major outdoor music events. This view is based upon Council's long and extensive preparation of the Events on Public and Private Land Policy and having dealt with the effects of holding these music events within the Shire for more than 10 years.

Section D State and Commonwealth Interests

1. Is there adequate public infrastructure for the planning proposal?

The planning proposal includes subclause 5(b) to ensure that major events are located in areas that will benefit from existing road and other servicing infrastructure. Subsequently, this will limit the need for additional public infrastructure to deal with increased loads generated by any major event.

2. What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

This section will be considered following receipt of the Gateway determination to determine what consultation with State and Commonwealth authorities is required.

Part 4 Community Consultation

Council proposes that the Planning Proposal will be exhibited in accordance with the requirements of section 57 of the Environmental Planning and Assessment Act 1979 (EP & A Act) and/or any other requirements as determined by the Gateway process.

This is considered a 'medium impact planning proposal' requiring an exhibition period of 28 days. Public notification of the exhibition will include a notice in the local newspaper and a notice on Council's website.

Given the wide spread nature of the planning proposal, it is not intended to directly notify any business or land owner other than through required media channels. During the exhibition period, the planning proposal, gateway determination and other relevant documentation will be available on Council's website and hard copies will be available at Council's Administration Building.



BYRON SHIRE COUNCIL

POLICY NO. 10/006

EVENTS ON PUBLIC AND PRIVATE LAND

**INFORMATION ABOUT THIS DOCUMENT
(INTERNAL USE ONLY)**

Date Adopted by Council	7 October 2010	Resolution No.	10-774
Policy Responsibility	Corporate Management – Environmental Health		
Review Timeframe	Every two years		
Last Review Date:		Next Scheduled Review Date	7 October 2012

Document History

Doc No.	Date Amended	Details Comments e.g. Resolution No.
#634874	12 December 2006	06-796 – Refer back to staff
Res 08 - 592	14 October 2008	08-592 - Resolved that the Draft Policy Events on Public and Private Land and event guidelines be deferred for a Councillor workshop as a matter of urgency.
Res 08 - 696	20 November 2008	08-696 - LEP amendment for the proposed regional cultural event facilities in Ocean Shores/Wooyung be deferred pending the acceptance of the proposed festival and events policy.
Res 09 - 856	15 October 2009	09-856 – Resolved that council defer placing the draft Policy 'Events on Public and Private Land' on exhibition to allow for consultation with the industry to be coordinated by ArtsNR in their role as convener of the Events Northern Rivers coordinating group and to be reported back to the November Ordinary Meeting.
Res 09 – 1001	3 December 2009	09-1001 – Resolved 1. That Council place the Draft Policy on 'Events on Public and Private land' on public exhibition for a period of not less than 60 days to seek public comment. 2. That a report incorporating a review in response to the submissions be brought back to Council after the completion of the exhibition so that a final Policy can be considered by Council. 3. That community and industry consultation meetings occur during the exhibition period and the submission from ArtsNR regarding the draft policy be considered in the review of the policy after the completion of the exhibition. 4. That the draft 'Byron Shire Events Guidelines' be developed as part of the community and industry consultation process. 5. That the policy include a reference, under a heading "Relevant Council Plans" to the Cultural Plan and the Tourism Management Plan.
	15 January – 19 March 2010	Public exhibition of the draft policy held.
Res 10-774	7 October 2010	1. That Council adopt the policy subject to amendments and any further amendments that Council resolves to make. A. Clauses 1 and 2 of the draft policy as publicly exhibited be deleted and replaced. B. Part 5 of the Policy Other Relevant Council Policies include Policy 5.58 Social Impact Assessment Policy; and Part 6 Relevant Council Plans include Social Impact Assessment DCP. 2. That the proposed BLEP (1988) amendments on Events be brought back to Council at the next Ordinary Meeting of Council.

Further Document Information and Relationships

Related Legislation	Various
Related Policies	Various
Related Procedures/ Protocols, Documents	Byron Shire Events Guidelines

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POLICY TITLE **EVENTS ON PUBLIC AND PRIVATE LAND**

FILE REFERENCE **BLD050500**

1. OBJECTIVE

The objective of this policy is to recognise the contribution that events make to the diverse character and culture of the Shire, and to encourage event organisers to promote events that recognise and contribute to the evolution of this character and culture, and to manage events so that they do not adversely impact on this existing on character and culture.

2. POLICY STATEMENT

2.1. Events in Byron Shire should:

2.1.1. Be inclusive of the broad community and contribute to the cultural vibrancy and diversity of the Byron Shire community.

2.1.2. Respect and publicly acknowledge the local indigenous heritage and traditions.

2.1.3. Be sensitive to the interest of local residents.

2.1.4. Encourage the engagement of local artists and local employment generally and the use of local resources.

2.2. In order to limit impacts on community infrastructure and amenity, persons intending to organise an event, and Council in its role as an approvals authority, should take the timing of other events and their impacts on community infrastructure and amenity into account when considering the appropriate time and location of a proposed event.

2.3. Event organisers should advise Council at least six months in advance of an intention to hold a large and/or high impact event.

2.4. Event organisers are encouraged to investigate the availability and suitability of the Byron Regional Sport and Cultural complex site for the proposed event.

2.5. All events should be conducted to ensure that minimal environmental harm is caused during the course of setting up, holding and cleaning up after an event.

2.6. Council is to develop Event Guidelines that provide comprehensive assistance and guidance to event organisers.

2.7. There be a restriction of no more than two major music events to be held within the Byron Shire in any calendar year. In this clause, major event means any outdoor music event of any duration that exceeds 6,000 patrons, participants and staff per day.

3. APPLICATION OF THE POLICY

3.1. For the purpose of this policy;

Events are defined as organised activities open to attendance by members of the general public (whether by payment or not) on private or public land (or a combination of the two). Events include cultural celebration, public rally, street parade, street march, fun run, cycling race, community festival, music festival, sporting event, open air theatre, concert, charitable ball, dance party, carnival, circus, or memorial service

3.2. A review of the performance of events and this policy is to be undertaken every two years.

4. GETTING MORE INFORMATION ON EVENTS

4.1. Council has its own guide to help event organisers with understanding the legislation and technical requirements of organising an event. This is available by request and is also available at Council's web site www.byron.nsw.gov.au

4.2. The Office of Protocol and Special Events in the NSW Premiers office has produced an "Event Starter Guide" which is essential reading for anyone undertaking an event for the first time. It is available at www.events.gov.au

4.3. The NSW Police have produced a "Safe Party Pack – Safe Party Tips Checklist and Safe Party Notification Form" which is available at www.police.nsw.gov.au

4.4. Creative ways to use and encourage the use of public transport for events is available at www.travelsmart.gov.au

4.5. Steps to a waste wise event can be found at the Resource NSW website at www.wastewiseevents.resource.nsw.gov.au

4.6. The Federal Attorney Generals Department have produced a document entitled "Planning a Safe Public Event: Practical Guidelines" (November 2004) that is available at www.crimeprevention.gov.au

4.7. Council fees and charges are set by the annual 'Management Plan Fees and Charges'. Additional bonds and charges may also be levied as part of any license or approval issued by council. No automatic exemptions, except those specifically identified in the annual 'Management Plan Fees and Charges' for fees or charges can be given by council. The only option available for the refunding of fees and charges are by way of an application under Draft Policy 3.13.

5. OTHER RELEVANT COUNCIL POLICIES

Policy 3.13	"Donations to Community Organisations, Other Groups and Persons" (#592806)
Policy 3.41	"Filming on Council owned and Controlled Land in Byron Shire" (#360841)
Policy 3.42	"Cultural Policy" (#801769)
Policy 4.15	"Assistance for Festivals and Community Functions" (#631978)

Policy 5.2	"Waiving fees for Building and Development Applications" (#633975)
Policy 5.46	"Temporary Use of land" (#657544)
Policy 5.51	"Markets within Byron Shire" (#826617)
Policy 5.52	"Commercial Activities on Coastal and Riparian Crown Reserves" (#456736)
Policy 5.55	"Circuses, which include the use or display of exotic, wild or native Australian animals within Byron Shire"
Policy 5.57	"Busking" (#409214)
Policy 5.58	"Social Impact Assessment: Policy" (#906183)

6. RELEVANT COUNCIL PLANS

1. Byron Shire Council 2008-2013 'Cultural Plan' ([#790600](#))
2. 2008-2018 Tourism Management Plan ([#852249](#))
3. Social Impact Assessment DCP. ([#658016](#))

APPENDIX B: Major Events draft clause

Report prepared by Chris Pratt and edited by Council following Council Resolution 09-858:

A preliminary draft LEP Clause on major events has been prepared by an external consultant in accordance with Council Resolution 09-858. The proposed clause is as follows:

Draft LEP Clause on Major Events:

- (1) In this clause **major event** means a *Place of Assembly* that is to be carried out over a period exceeding two days and involves more than 3,000 patrons, participants and staff per day.
- (2) The objectives of this clause are to ensure major events:
 - (a) are conceived, promoted and well managed as sustainable events that have synergy, vibrancy and diversity;
 - (b) have effective and efficient resources allocated to the event;
 - (c) reflect existing and emerging communities whilst respecting and acknowledging the local Aboriginal heritage and traditions;
 - (d) conform with Council's long term strategic land use planning objectives;
 - (e) will not result in land use conflicts, are neighbourhood friendly and have any potential adverse impacts identified and managed;
 - (f) involve the community;
 - (g) are in keeping with Council's adopted ethical and equitable standards; and
 - (h) are limited in scale.
- (3) Consent must not be granted to a major event except in accordance with this clause.
- (4) Notwithstanding any other provision of this Plan consent may be granted to a major event on land within Zone 1(d)(Investigation Zone), Zone 6(a)(Open Space Zone) and Zone 6(b)(Private Open Space Zone).
- (5) Development consent must not be granted for development for the purposes of a major event, if:
 - (a) the land is within Zone 7(c)(Water Catchment Zone) or Zone 7(f2)(Urban Coastal Lands Zone);
 - (b) the number of patrons, participants and staff will exceed 16,500 such persons per day at the major event;
 - (c) granting of development consent will result in more than two major events to be held in the Shire per calendar year;

- (d) granting of development consent will result in the major event occurring at the same time as another major event to be held in the Shire;
 - (e) the major event will occur during the December/January school holiday period for NSW and Queensland; or
 - (f) the major event it is to be carried out on land that would be inundated in a 1:100 year storm event;
- (6) When determining a development application for development pursuant to this clause, the consent authority must be satisfied that:
- (a) the major event will not create significant changes to traffic flows, especially for emergency services;
 - (b) the major event is to be located so that it will benefit from existing road and other servicing infrastructure;
 - (c) the major event will provide opportunities for event patrons to utilise car pooling, public transport and bicycle hire to travel to the event;
 - (d) the major event will include efficient and effective waste minimisation and recycling strategies;
 - (e) the major event will have no significant adverse effect on the present or potential land use, including agricultural use, of the land or lands in the vicinity;
 - (f) will not detract from the successful existing trade patterns within Byron Shire; and;
 - (g) the major event is in keeping with Council's adopted ethical and equitable standards.

In regard to this preliminary draft the following commentary is provide on each of the sub-clauses:

Subclause (1):

The term Major Event has been used rather than large (as per the policy) as this is consistent with the terms used in the Shire Wide draft LEP e.g. *recreation facility (major)*. The term also better describes the events as the *key/main/most important* in the Shire rather than been extensive in area. The majority of the major events in the Shire are approved as Places of Assembly. Under the Draft Shire Wide LEP there are two land use terms that will apply; those are *Entertainment Facility and Function Centre*.

In the definition contained in the draft Event Guidelines it was indicated that a major event was an event lasting several days with between 3000 and 16,500 participants. Two days was chosen in the definition to separate local community weekend events so that they are not subjected to the proposed controls in this clause. Only the trigger of the number of participants is included in the definition so as to separate Major Events from other Places of Assembly. Council's requested upper limit of 16,500 participants (Council Resolution 09-204) is not included in the definition as this would leave open an interruption of a very large Place of Assembly (i.e. over 16,500 participants) not been captured by the new clause. This limitation is included in a subclause. It is noted that Council has agreed to 17,500 participants in the approval of the Blues Festival at the Tyagarah site.

Subclause (2):

These objectives for the clause are extracted from the draft Events Policy and Guidelines and are seen as Council's key desired outcomes from controlling major events.

Subclause (3):

This is a "belts and braces" subclause to ensure there is no doubt that Major Events cannot be assessed other than via this clause.

Subclause (4):

Places of Assembly are a permitted use in the following zones:

- Zone No. 1(a) - (General Rural Zone)
- Zone No. 1(b1) - (Agricultural Protection Zone)
- Zone No. 1(b2) - (Agricultural Protection Zone)
- Zone No. 1(c1) - (Small Holdings Zone)
- Zone No. 1(c2) - (Small Holdings Zone)
- Zone No. 2(a) - (Residential Zone)
- Zone No. 2(t) - (Tourist Area Zone)
- Zone No. 2(v) - (Village Zone)
- Zone No. 3(a) - (Business Zone)
- Zone No. 4(a) - (Industrial Zone)
- Zone No. 7(c) - (Water Catchment Zone)
- Zone No. 7(f2) - (Urban Coastal Lands Zone)

It would also be appropriate to permit major events within the following zones: Zone 1(d)(Investigation Zone), Zone 6(a)(Open Space Zone) and Zone 6 (b)(Private Open Space Zone). The 1(d) Investigation lands are generally on the edge of urban areas and are suitable for such temporary development. Recreation ovals have also proven to be suitable event sites in the past. This clause provides the opportunity for Major Events in these zones with the consent of Council.

Subclause (5):

To effectively control the location of Major Events it is essential that the format of these events be controlled at the same time. This subclause provides the main mechanism by which Council can control the location and format of major events.

Council's resolution 09-858 sought an LEP clause to control areas in the Shire where large events are not permitted. This could be achieved either via a mapping exclusion exercise or via a set of exclusion criteria. The exclusion via mapping would be a major exercise and also provides a very inflexible form of control. This proposed clause (Annexure 6) provides a similar locational model to that used for Rural Tourist Facilities in the Shire. The matters listed in the proposed subclause are seen as the key locational and format controls for major events.

- (a) Major events are not appropriate in Zone 7(c)(Water Catchment Zone) or Zone 7(f2) (Urban Coastal Lands Zone) given the potential for damage to these sensitive environments. Places of assembly are not permitted in any of the other

environmental zones. Minor Places of Assembly would remain a permissible use in Zone 7(c) and 7(f2).

- (b) This provides an upper limit of 16,500 participants for major events in the Shire as indicated by Council Resolution 09-204. If an applicant was seeking a exception to this clause then a SEPP 1 Objection would be required at the DA stage.
- (c) This limitation of two major events per year is consistent with the draft Policy Events on Public and Private Land. Submissions received during the public exhibition of the Policy indicated that this may be too restrictive as the 3000 threshold may also capture events such as the Old and Gold Festival. As stated above, the classification of 3000 people over more than two days should avoid having these community based festivals classified as Major Events.

Other events such as the Fish and Chips Festival in Brunswick Heads which runs over 4 days may attract more than 3000 people and therefore be classified as a Major Event. Council could either drop the 3000 restriction or increase the threshold to say 6000 participants. It is recommended that the limitation of two events per year be deleted as a requirement and the threshold for the clause remain at 3000 participants.

- (d) This limitation of a separation of major events is referred to in the draft Events on Public and Private Land.
- (e) This limitation of no Major Events during the Summer school holidays is referred to in the draft Events on Public and Private Land. Submissions received on the draft Events Policy suggest this may be too restrictive. This limitation is reasonable if the threshold number of attendees is lifted so the clause doesn't apply to smaller festivals such as the Fish and Chips Festival.
- (f) Flooding of a site from broader scale flooding (i.e 1:100 year flood plain) is not so critical to the location of movable events as they can be designed so that there is time to evacuate. Of greater concern is the sudden inundation from a storm event (flash flooding). Therefore major events should be excluded from areas that are subject to 1:100 year storm events.

Subclause (6):

In feedback from the Department of Planning to the Draft Shire Wide LEP the Department indicated that Section 79C consideration matters should not be included in LEP clauses. The matters of consideration listed in this subclause are not broad/generalist in nature but are unique and spell out the special requirements that Council wishes to apply to Major Events that may not be applicable for other communities.

- (a) Traffic is the major external impact from the likes of the Blues Festival and Splendour in the Grass. While traffic is a standard matter of consideration, this clause specifically states that significant changes to traffic flows are not acceptable.
- (b) This requirement is indicating that Major Events must be located where access is available from existing roads (Pacific Highway and main arterial roads) and other

infrastructure. For example a major event at Federal would not be acceptable given the narrow roads and lack of supporting infrastructure.

- (c) Encouraging sustainable transport is an important value held by the community of Byron Shire and therefore any event should be required to implement such sustainable transport options.
- (d) Recycling and control of waste is an important value held by the community of Byron Shire and therefore emphasis should be given to such requirements.
- (e) This provision not only requires the usual consideration of land use conflict but also requires that consideration be given to potential impact on planned future use of the site and surrounding land. For example, Council may limit the approval of an event to one year if it is likely that the adjoining land use will change in accordance with one of Council's adopted strategic land use plans.
- (f) The specification that major events should not detract from the successful existing trade patterns within Byron Shire is part of the requirements of the draft Events Policy.
- (g) Ensuring that Major Events are in keeping with Council's adopted ethical and equitable standards is part of the requirements of the draft Events Policy. This would include consideration of Council's equity of access policies and policy regarding circuses in the Shire.