

SCHEDULE 1. CONDITIONS OF CONSENT

Parameters of consent

1. Approved plans and supporting documentation

Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Plan No.	Plan Title	Drawn by	Dated
Plan 2	Site Layout (Overview)	Newton Denny Chapelle	28-10-2020
Plan 3 Rev B	Site Layout (Detail)	Newton Denny Chapelle	28-10-2020

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: An inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

2. Time limited consent

In accordance with Clause 6.11(2) of Byron Local Environmental Plan 2014, this development consent ceases to be in force after **three (3) years** from the date which the consent operates.

No functions or events are permitted under this consent after the three-year consent period has expired.

3. Numbers of patrons

Patron numbers are limited to a maximum of **150 patrons** excluding the event staff and organizer.

4. Hours of operation

All events or functions must not operate before 10am or after 9pm on any day. Event attendees must vacate the site by at least 10pm. Event set-up and set-down operations must not occur before 9am or after 6pm on any day.

5. Number and frequency of functions and events

A maximum of 20 functions/events may be carried out in any 365-day period. No more than 1 function/event may be carried out per weekend.

6. Location of functions and events

All events and functions must be carried out within the black circular area marked "proposed rural function centre" on the approved Site Layout Plan (Rev D), by Newton Denny Chapelle, dated 28 September 2020.

7. Temporary structures

No temporary structures are approved under this development consent.

Any temporary structures erected as exempt development or subject to a separate approval process must be located within the event areas identified on the approved site plan, being (1) the Larger Events Location, (2) Ceremonies Location, or (3) Smaller Events Location.

Note. The erection of temporary structures for private functions, including tents, marquees, or platforms, may be permissible as exempt development subject to compliance with the relevant requirements and standards in Division 3 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. Where proposed temporary structures do not meet the requirements for exempt development, separate approval may be required.

8. Parking

The following car parking spaces must be made available at all times:

- 6 carparking spaces for guests.
- 12 carparking spaces for staff.

9. Annual reviews of this consent

The hours of operation and/or of other parameters of this Consent can be reviewed, if required by NSW Police and/or by Byron Shire Council after a review to be conducted every twelve (12) months. Those reviews will also consider any complaints made and substantiated over the period of this Consent.

10. Substantiated complaints

Chapter D9 of Byron Development Control Plan 2014 prescribes that a development consent would cease if three substantiated complaints were received in relation to functions and/ or events at the site within a twelve (12) month period.

A **substantiated complaint** means a complaint made in writing to Byron Shire Council that has been investigated by Byron Shire Council's Community Enforcement staff and formal compliance action is subsequently taken as a result of that investigation.

The twelve (12) month period referred to in this condition commences on the date of the event that triggers the complaint (not the date of the complaint or the date of formal enforcement action).

11. Transport

Event attendees are to be transported to the site via 26-seat minibus. Event staff, along with elderly or disabled persons who are unable to utilize the minibus service are permitted to arrive at the site via private vehicle.

12. Use of existing dwellings/buildings

This consent does not grant permission for any dwelling house or other building on the property to be used for the purposes of a function centre. The approval only extends to the use of outdoor areas around the heritage listed dwelling house in accordance with the approved site plan.

13. Conditions prescribed by the Regulation

This development consent is subject to the conditions prescribed by the regulations in accordance with subsection 4.17(11) of the Environmental Planning and Assessment Act 1979. Conditions are provided in **Schedule 3** of this consent.

The following conditions are to be complied with prior to commencing operations

14. Public safety requirements

The consent holder must hold public liability insurance cover for a minimum of \$20 million. Council is to be nominated as an interested party on the policy.

15. Potable water supply management plan

Prior to the commencement of operations, the proponent must prepare a private water supply Quality Assurance Program (QAP) in accordance with NSW Health Guidelines. A copy of the QAP must be provided to Council for verification.

For further information refer to the NSW Health Website:

<http://www.health.nsw.gov.au/environment/water/Publications/private-water-supply-guidelines.pdf>

16. Road Safety Audit

Prior to the commencement of any functions or events, a road safety audit must be undertaken by a registered Level 3 Road Safety Auditor from the intersection of Hinterland Way and Pioneer Crescent and along Pioneer Crescent leading into the development access in accordance with RMS and Austroads requirements.

Provision must be made to design and construct mitigation measures to all safety issues listed in the Road Safety Audit Report. The mitigation measures must be prepared by a suitably qualified engineer.

Any mitigation measures requiring works on the road will require consent granted under the Roads Act 1993.

17. Pre-event dilapidation report

A pre-event Dilapidation Report is to be submitted to Council detailing the current condition of the roads from the intersection of Hinterland Way and Pioneer Crescent and along Pioneer Crescent leading into the development access every year starting from the first event of the year. The report must include photographic evidence of the pre-festival stage.

18. Post-event dilapidation report

The submission of a certified report from suitably qualified and practicing engineer, certifying any structural damage that has occurred to infrastructure or roads. The report is to also address what measures are to be implemented, and in what time frame, to rectify any such identified defects. The engineer is to be Corporate Members of the Institution of Engineers Australia.

19. Bond required to guarantee against damage to public land

A bond of \$10,000 is to be paid to Council as guarantee against damage to surrounding public land and infrastructure during the event as recorded in the Dilapidation Report. The consent holder will be held responsible for the repair of any damage to roads from the intersection of Hinterland Way and Pioneer Cres and along Pioneer Cres leading into the development access.

Such bond will be held until Council is satisfied that of all roads from the intersection of Hinterland Way and Pioneer Cres and along Pioneer Cres leading into the development access is maintained/repared to pre-festival conditions and that no further work is to be carried out that may result in damage to Council's infrastructures.

20. Traffic Management Plan

Consent from Council must be obtained for a Traffic Management Plan pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic during each event from the intersection of Hinterland Way and Pioneer Crescent and along Pioneer Crescent leading into the development access. The traffic management plan is to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, Traffic Control at Work Sites Version 2, and the current Australian Standards, Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'.

The report must incorporate measures to ensure that motorists using road adjacent to the development, residents, and pedestrians in the vicinity of the development are subjected to minimal time delays due to the event.

The Traffic Management Plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

21. Installation of amenities

Prior to the commencement of any event, the proponent shall ensure that chemical toilets (i.e., port-a-loos) sufficient to cater for the number of persons attending each event have been installed.

22. Minibus

A signed contract from a mini-bus operator must be submitted to Council prior to the commencement of the first event.

The minibus must:

- be able to accommodate a maximum of twenty-six (26) adult guest excluding the driver.
- be suitable for use on sealed and unsealed roads.
- be registered and appropriately comprehensively insured for guest use including public liability.
- Have a contract duration for 3 years.

23. Event Management Plan (EMP)

An Event Management Plan is to be submitted to Council for assessment and approval.

The EMP to include, but not be limited to the following:

- Hinterland house is to provide all sound equipment required for functions held at the premises and forbid the use of external sound equipment. Noise limiting devices are to be installed on the sound equipment, to ensure that the guidelines and assumptions of the approved Noise Impact Assessment are met.
- The event management plan is to include a full list of contact persons and accompanying phone numbers.
- Is to include a detailed risk management assessment that identifies all likely sources of harm associated with the proposed activities, assigns relative risk categories to each hazard including but not limited to flood /fire and evacuation planning, and nominates appropriate actions to eliminate, isolate or mitigate each hazard, so as to protect individuals and the community.
- Nominate hours of operation, and timing of waste management procedures and clean-up, and after event bump out inspection requirements.
- Details of the number and location of rubbish receptacles together with the proposed means of bulk removal from the site.
- Details including the name of the nominated Manager must be incorporated in the Plan as well as a complaints management process. The complaints management process must be a user-friendly procedure for recording and remedying complaints made by members of the public in a register, and provide a method of remedying a legitimate complaint during the current event. The register is to be made available to Council if requested.
- Procedures for the notification of the surrounding neighbours of an event occurring, within twenty eight days of the event. The notification is to include clear information on how to lodge a complaint, and correct contact information.
- The EMP must require patrons to remain within the vicinity of the approved development site to avoid illegal trespass and any potential biosecurity incursions. Signage on boundary fencing will be required as part of any such procedure.
- The EMP must contain a copy of this development consent and require that all events operate in compliance with all conditions of consent. Provisions that require each event to comply with the conditions of consent must be detailed in the contract for each event including notification of NSW Police, Council, and neighbours.
- The EMP is to include management procedures to be implemented having regards to access to the site via the neighbouring Bangalow Cemetery. Such procedures to include measures to respect those that may be attending the cemetery for a funeral service and or burial/ internment of ashes, and others that may be grieving or visiting the cemetery.
- The EMP is to include management procedures to be implemented in the event of impacts from the neighbouring farming activities (noise, dust, spray drift). These procedures are to be designed so that the farming activities are not negatively impacted in anyway. It is recommended that these procedures are formulated in collaboration with the neighbouring farms.
- The EMP and event contracts are to clearly state that the function centre borders an active macadamia plantation and that it can have an impact on events from noise, chemical spray drift, dust, and odour.
- The proponent must provide Council (as Manager of the Cemetery) and Local Police District Commander with written notice of any event/function at least twenty eight (28) days prior. This notice must specify event/function type, date, trading hours, the event organisers contact details and expected patron numbers.

- Provision of a sign located so that it can be viewed from a public space outside of the property notifying the name and contact phone number of the nominated manager is to be installed prior to and during each event.
- The use of fireworks, helicopters and/or other comparable activities is prohibited to occur on this site.
- Under no circumstances are patrons to enter another property. The Event Management Plan must include arrangements to ensure patrons remain on the site to avoid illegal trespass and any potential biosecurity incursions.
- The written contract for each event is to include a provision to ensure the event manager is briefed on the importance of biosecurity in rural settings even if there is no obvious farming activity nearby.
- A requirement that food caterers must be registered to trade in the Byron Shire, hold a temporary food premises licence and have a certified Food Safety Officer.
- Acknowledgement that food safety inspections may be conducted without prior notice by council.
- Kitchens within existing fixed structures are not to be used for food preparation or food and equipment storage in association with functions (food includes drinks and liquor).

24. Noise Impact Assessment (NIA)

A Noise Impact Assessment is to be submitted to Council for assessment and approval, which demonstrates how the Function Centre is to operate, without adversely disturbing the surrounding acoustic environment. And how it is to operate so that it may meet the relevant acoustic criteria.

The NIA should include, but not be limited to the following:

- In order to have control over noise associated with events, Hinterland house is to provide all sound equipment required for functions held at the premises and forbid the use of external equipment.
- Noise limiting devices are to be installed on the sound equipment, to ensure that the guidelines and assumptions of the approved Noise Impact Assessment are met. This requirement or a mutually acceptable alternative solution is to be incorporated into the Event Management Plan and the amended Noise Impact Assessment.
- Suggested crowd sizes and operating hours which will ensure compliance with the relevant acoustic criteria.
- Details of the recommended sound equipment to be utilised in order to maintain approved sound volumes and operating parameters.
- Modelled assessment of the noise impact from the proposed crowd numbers, music volumes and other relevant noise sources.

The following conditions are to be complied with for each function/event

25. Traffic Management Plan

An approved traffic management plan must be implemented and maintained throughout each event.

26. Parking, drop-off & pick-up

All parking and vehicular drop-off including mini-bus, taxi, Uber & other mode of transportation to for the event shall be conducted within the development site only. No drop-off & pick-up permitted outside the development site. All vehicles must enter and exit the development access in a forward direction.

27. Event Management Plan to be implemented

The approved Event Management Plan must be implemented and adhered to at all times during each function or event.

28. Noise Impact Assessment to be implemented

All noise testing and noise mitigation measures specified in the approved Noise Impact Assessment report must be implemented and adhered to at all times during each function or event.

29. Neighbours to be notified

Neighbours to be notified a minimum of 28 days prior to any event/ function in accordance with the Event Management Plan and provided with details on how to make complaints about the event.

The following conditions are to be complied with following the completion of each event/function

30. Traffic Management Plan Monitoring

The applicant shall implement a monitoring program in order to provide a submission report to Council after every event starting the first event. The monitoring program is to report on the adequacy of the following and recommend improvements for subsequent events:

- Traffic Management.
- Traffic Control Plan.
- Car parking arrangements.
- Mini bus pick-up and drop off arrangements.
- Patron Numbers; and
- Any other issue of relevance to event traffic management.

The following conditions are to be complied with at all times

31. Approved temporary use

The approved temporary use must be in accordance with Byron Local Environmental Plan 2014 Clause 6.11 Temporary use of land in Zone RU2 for purpose of function centre.

In this consent, **function centre** means a place used for the holding of events, functions, and the like but is not approved for the purpose of a convention centre, exhibition centre entertainment facility or for music festivals.

32. Complaints Register

The complaints register to be maintained at all times and made available to Council if requested.

33. Dilapidation Reports required.

A second Dilapidation Report must be submitted to Council, prior to the start of the first event of the second year, to ascertain if any structural damage has occurred to any infrastructure or roads.

A third Dilapidation Report must be submitted to Council, prior to the start of the first event of the third year, to ascertain if any structural damage has occurred to any infrastructure or roads.

34. Signage

Signage must be installed at the following locations to assist staff and event attendees:

- A Business Identification Sign at the corner of the driveway entrance and Pioneers Crescent clearly indicating the direction for vehicles entering the approved function centre.
- A Warning Sign at the south-western corner of property near the adjoining property at 20 Pioneers Crescent, advising that access to the adjoining property is not permitted.
- Clear and obvious signage is to be installed along the access road raising awareness of the potential presence of koalas and other native fauna.

Signage must not be more than 2.5m² in area and no more than 3m above existing ground level.

35. Consent Granted under the Roads Act 1993

Any measures requiring works on the road reserve will require consent granted under the Roads Act 1993.

36. Access and facilities for persons with disabilities

Access and facilities for persons with disabilities are to be provided for the function centre in accordance with the Building Code of Australia and AS 1428–Design for Access and Mobility.

37. No vehicular access off Hinterland Way

No vehicles can enter or leave the property from Hinterland Way during the operation or set-up/set-down of any events or functions.

38. Road Safety Audit mitigation measures

All road safety mitigation measures identified in the Road Safety Audit (refer to Condition 8) are to be implemented and maintained at all times.

39. Rainwater supply

All rainwater supply tanks must be fitted with a first-flush device incorporating an automatic resetting valve that causes initial run-off rainwater to bypass the tank.

40. Potable Water Supply testing and reporting

The potable water supply must be maintained in accordance with the requirements of NSW Health's Private Water Supply Guidelines (2016) including annual water quality testing by a NATA accredited laboratory. Results must be kept on site and provided to Council on request.

41. Food catering

Any food caterers operating in association with the function centre must be registered to trade in the Byron Shire, hold a temporary food premises license, and have a certified Food Safety Officer.

Please note food safety inspections may occur without prior notice by Council.

42. Kitchens and food catering

Kitchens within Hinterland House (or any other existing buildings or fixed structures) are not to be used for food preparation or food and equipment storage in association with functions or events (food includes drinks and liquor).

43. Site Waste Minimisation and Management

All works must comply with the objectives of waste minimisation and waste management of Part B8.1.2 of DCP 2014.

44. Must not interfere with the amenity of the neighbourhood

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

- a) Any complaints to Council about 'offensive' noise will be dealt with under the provisions of the Protection of the Environment Operations Act 1997.
- b) Only clean and unpolluted water is permitted to be discharged to Councils' stormwater drainage system or any waters.
- c) All wastes shall be contained within appropriate containers fitted with a tight-fitting vermin-proof lid.
- d) All waste storage and sewage facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- e) Goods deliveries shall be restricted to daytime operating hours.

45. Waste management plan

The applicant is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and the following requirements before it is provided to and approved by the certifier:

- a. Council's Waste Management Development Control Plan

OR

- b. details the following:
 - the contact details of the person(s) removing the waste.
 - an estimate of the waste (type and quantity) and whether the waste is expected to be reused, recycled or go to landfill
 - the address of the disposal location(s) where the waste is to be taken.

The applicant must ensure the waste management plan is referred to in the construction site management plan and kept on-site at all times during construction.

SCHEDULE 2. PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Part 6 Division 8A of the Environmental Planning and Assessment Regulation as at the date of this development consent as are of relevance to this development must be complied with:

- Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989
- Clause 98A Erection of signs
- Clause 98B Notification of Home Building Act 1989 requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Condition relating to maximum capacity signage
- Clause 98E Condition relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Part 6 Division 8A of the [Environmental Planning and Assessment Regulation 2000](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 3. NSW RURAL FIRE SERVICE CONDITIONS

Where the RFS specify an action to be undertaken prior to issue of a construction certificate, in these particular circumstances, this is to occur prior to the first event being undertaken on the site.

SCHEDULE 4. REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

Note: From July 1, 2018, Councils are required to give and publicly notify reasons for a range of planning decisions where they are deciding if development should proceed to help community members to see how their views have been taken into account and improve accountability to stakeholders. A statement of reasons for the determination of this application is provided below.

Statement of Reasons

The proposed development complies with the provisions of Byron Local Environmental Plan 2014.

The proposed development complies with relevant State Environmental Planning Policies

The proposed development complies with relevant provisions of Development Control Plan 2014

The proposed development complies with Environmental Planning & Assessment Regulation 2000 considerations.

The proposed development will not have significant adverse impact on the natural, built or social environment or economic impacts on the locality.

The proposed development is considered suitable for the proposed site.

The development application was notified/advertised in accordance with Council's Community Participation Plan. Issues raised in the submissions have been addressed during assessment of the application.

The proposed development is unlikely to prejudice or compromise the public interest.

How community views were addressed

The DA was advertised in accordance with Council's Community Participation Plan. The submissions received were considered on merit and addressed during assessment of the application.

To view the considerations, please contact Council to view a copy of the assessment report relating to this DA.

SCHEDULE 5. NOTES

Principal Certifying Authority:

Work must not commence until the applicant has:-

- a. appointed a Principal Certifying Authority (if the Council is not the PCA); and
- b. given Council at least two days notice of the intention to commence the erection of the building. Notice must be given by using the prescribed 'Form 7'.
- c. notified the Principal Certifying Authority of the Compliance with Part 6 of the Home Building Act 1989.

Protection of the Environment Operations Act 1997:

It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ("on-the-spot fine") or prosecution.

Penalties apply for failure to comply with development consents

Failure to comply with conditions of development consent may lead to an on the spot fine being issued pursuant to section 4.2(1) of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 9.50 of the Environmental Planning & Assessment Act 1979

Relics Provisions- Advice

Attention is directed to the NSW Heritage Act 1977 and the provisions of the Act in relation to the exposure of relics. The Act requires that if:

- a) a relic is suspected, or there are reasonable grounds to suspect a relic in ground, that is likely to be disturbed damaged or destroyed by excavation; and/or
- b) any relic is discovered in the course of excavation that will be disturbed, damaged or destroyed by further excavation;

Those responsible for the discovery must notify nominated management personnel who will in turn notify the Heritage Council of New South Wales or its delegate, the Office of Environment and Heritage, NSW Heritage Branch, and suspend work that might have the effect of

disturbing, damaging or destroying such relic until the requirements of the NSW Heritage Council have been satisfied (ss139, 146).