

SCHEDULE 1 – CONDITIONS OF CONSENT**Parameters of consent**

1. Development is to be in accordance with approved plans and documents
The development is to be in accordance with plans listed below:

Plan No.	Description	Prepared by	Dated:
J7101/SK001 Rev C	Market Stall and Service Points Plan	Planit Consulting Pty Ltd	16/09/2021
J7101/SK002 Rev A	Car Parking Plan	Planit Consulting Pty Ltd	22/12/2021
HMC2021.163	Waste Minimisation and Management Plan for Byron Bay Rail Corridor Market - Preliminary	HMC Environmental; Consulting P/L	October 2021

The development is also to be in accordance with any changes shown in red ink on the approved plans or conditions of consent.

The approved plans and related documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. **Numbers of Stalls**

Market Stalls are limited to a maximum of 300.

3. **Operating Days and Hours**

- Once a month and fortnightly in December and January
- Market including bump-in and bump-out operations between 5:00AM and 5:00PM
- Core Market operating hours between 8:00AM and 3:00PM

4. **Market Management Plan**

The markets are to be operated in accordance with all requirements of the Byron Bay Community Market Management Plan – Preliminary (PoM), prepared by Planit Consulting Pty Ltd, dated 22/11/21.

The PoM is to be updated to include:

- The preparation of an Emergency Management and Evacuation Plan, to the satisfaction of Council, prior to the commencement of the Markets.
- A requirement to comply with all conditions of Development Consent DA10.2021.827.1. A copy of this consent is to be appended to the PoM.
- Any specific conditions of consent that require changes or inclusions to the PoM.

The Market Management Plan may be further altered or updated from time to time to address any operational issues that may arise. Any changes must be in accordance with the conditions of this consent and approved by Council.

5. Traffic Management Plan Amendments

In the event that the Traffic Management Plan and associated Traffic Guidance Scheme are required to be amended in response to traffic issues and as a result, the event site is reduced or amended, then details are required to be submitted to, and approved by Council.

6. 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 2** of this consent.

7. Heritage Council of NSW

The development is approved subject to the Heritage Council of NSW conditions provided in the General Terms of Approval in **Schedule 3** of this consent.

The following conditions are to be complied with prior to commencement of the Markets

8. Traffic Management Plan (TMP)

Traffic Management in the road reserve must be approved by Council pursuant to Section 138 of the Roads Act 1993 prior to first event and annually thereafter and additionally following a traffic impact if directed by Council, Transport for New South Wales and/or NSW Police.

A Traffic Management Plan (TMP) and associated Traffic Guidance Scheme (TGS) in accordance with the requirements of the current version of the Transport for NSW Traffic Control at Work Sites Technical Manual for the temporary road closure of Jonson St next to Railway Park (between Marvell and Byron Streets) must be submitted to Council with the application for approval under Section 138 of the Roads Act 1993.

The TMP and associated TGS must be submitted to Local Traffic Committee (LTC) for endorsement prior to first event and annually thereafter.

The following items must be considered in developing the TMP and associated TGS: -

- Provision of Traffic Controllers at Butler Street and Lawson Street to manage pedestrians;
- Bump-in and Bump-out traffic;
- Rerouting of traffic due to the temporary road closure of a section of Jonson St;
- Provide a convenient, safe and appropriate environment for pedestrians and cyclist (safety measures at pedestrian crossing along Byron Bypass Road, Lawson St but not limited to);
- Manage and control vehicular & cyclist movements to and from the site;
- Maintain current on-street parking and bicycle parking in the vicinity of the site where practical;
- Maintain access to other properties and businesses adjacent to the Market site;
- Maintain safety for all market goers, stall owners and market staff;

- Emergency Management Plan;
- Regulatory Signage; and
- Contingency plans in the event of noncompliance and/or complaints

The TMP and associated traffic guidance scheme/s must be prepared by a suitably qualified Transport for NSW accredited person.

9. Sustainable Transport Plan

A Sustainable Transport Plan to be prepared prior to the first event and implemented to encourage patrons of the market to walk, cycle and catch public transport to the markets where possible as opposed to driving by motor vehicle. The plan to include a minimum target of 30% reduced car dependency and a monitoring regime via random sampling at a minimum of 6 markets per annum of at least 100 patrons to audit how they travelled to the markets. The plan to be promoted at the markets and on the market website and other forms of social media.

10. Public safety requirements

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

11. Notification and Permits – Food Business

Food business must have a current Byron shire council temporary or mobile food stall permit

to trade. See this link for further information [Food safety - Byron Shire Council \(nsw.gov.au\)](http://www.nsw.gov.au)

The permit must be kept on display where customers and environmental health officers can clearly see it along with a current NSW Food Authority food safety supervisor certificate.

12. Trade Waste - Section 68 Part C approval required

If required, an **Approval** under Section 68 Part C of the Local Government Act 1993 to discharge trade waste into Council's sewer must be obtained in accordance with NSW Office of Water Liquid Trade Waste Regulations Guidelines 2009, Council's Liquid Trade Waste Policy and Liquid Trade Waste Guidelines.

Commercial, business, trade and industrial activities discharging or proposing to discharge to the sewer are required to notify Council and complete the Trade Waste Registration Form available at the Mullumbimby Office and from Council's website at: http://www.byron.nsw.gov.au/files/publications/liquid_trade_waste_application_form_0.pdf

Trade Waste approval must be obtained prior to gaining Section 68 Part B approval to carry out water supply work and sewerage work.

13. Waste Service Contract

Prior to commencement of the markets, provision of evidence to Council of a contractual arrangement with the waste service provider and commitment to waste bin services.

The following conditions are to be complied with at all times

14. Traffic Management Plan

The approved traffic management plan is to be implemented.

15. Market Signage

No signage to be erected on state or local roads unless separately approved by the relevant road authority. This includes the Pacific Motorway, Ewingsdale Road, Bangalow Road and Broken Head Road.

16. Garbage Bins, rubbish and litter

Bins to be maintained and serviced throughout the day by the market operators to the satisfaction of Council.

The area to be left in a clean and tidy state following each market with all rubbish and litter picked up and any temporary bins removed from the site to the satisfaction of Council

17. Compliance with the requirements of Transport for NSW.

The market operators are to comply with the requirements of Transport for NSW at all times including any applicable lease or license requirements.

The market operators, must ensure its employees, stall holders and attendees of the market do not, enter any parts of the rail land beyond what is proposed for the monthly market.

18. Recycled water

Taps identified as recycled water taps in the area must have the handles removed and a



sign and icon installed indicating the water is 'not for consumption'

The submitted Plan of Management must be updated to include a requirement that recycled water is not available for market operations

19. Waste Water

Waste water is to be removed by each operator generating waste water.

Waste water is **not** to be emptied onto lawns or gardens or council's stormwater or sewerage system.

20. Food Businesses:

The design and construction of all food business must meet the requirements of the NSW Food Authority guidelines for Mobile Food Vendors and Markets and Temporary Events.

21. Food Safety Compliance Inspections

Council environmental health officers will undertake food safety compliance inspections unannounced from time to time.

Fees associated with the inspections will be invoiced to the market operator at council's current retail food and commercial premises inspection fee rate.

22. 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.

23. Groundwater

Groundwater is not permitted to be accessed for any purpose at any time.

24. 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.

25. Enclosed public places (smoke-free environment)

Environment Act 2000 and the Smoke-Free Environment Regulation 2000 and the guidelines in the Regulation for determining what an enclosed public place is. Enquiries may be directed to the NSW Department of Health. The legislation may be viewed on: <http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>

26. Traffic Management Plan Monitoring

The applicant must prepare a monitoring program to provide a submission report to Council annually or as directed by Council, Transport for New South Wales and/or NSW Police. The monitoring program is to report on the adequacy of the mitigation measures and recommend improvements for subsequent events:

- Traffic Management Plan
- Traffic Guidance Scheme
- Pedestrian Management
- Car parking supply and utilisation
- Number of Stalls and
- Any other issue of relevance to traffic management.

SCHEDULE 2 -PRESCRIBED CONDITIONS

The prescribed conditions in accordance with 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 98E Condition relating to shoring and adequacy of adjoining property

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

SCHEDULE 3 - INTEGRATED DEVELOPMENT GENERAL TERMS OF APPROVAL



Heritage NSW

HMS Application ID: 731
Your ref: CNR-33511 DA:10.2021.827.1

Kellie Shapland
Council Officer
Byron Shire Council
PO BOX 219
MULLUMBIMBY NSW 2482

By email: kshapland@byron.nsw.gov.au

Dear Ms Shapland

HERITAGE COUNCIL OF NSW – GENERAL TERMS OF APPROVAL INTEGRATED DEVELOPMENT APPLICATION

Address: Byron Bay Railway Corridor, Lawson Street carpark, Railway Park and Jonson Street BYRON BAY NSW 2481

SHR item: Byron Bay Railway Station and yard group, SHR no. 01107

Proposal: Byron Bay community market to be held monthly, with the option for twice a month in December and January, with up to 300 stalls

IDA application no: HMS ID 731, received 12 January 2022

As delegate of the Heritage Council of NSW (the Heritage Council), I have considered the above integrated development application. In accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the following general terms of approval are granted:

APPROVED DEVELOPMENT

1. Development must be in accordance with:
 - a) Architectural drawings, prepared by Planit Consulting, as listed below:

Dwg No	Dwg Title	Date	Rev
Project Name: Byron Bay Rail Corridor Markets			
SK001	Market stall & service points plan	16/09/21	C

- b) Waste management drawings, prepared by HMC Environmental Consulting, as listed below:

Dwg No	Dwg Title	Date	Rev
Project Name: Byron Bay Rail Corridor Markets			
2021.163	Waste storage areas + toilet facilities site plan (pages 1-3)	13/10/21	-

- c) *Statement of Environmental Effects for Byron Bay Community Market*, including Appendix A – Statement of Heritage Impact, prepared by Planit Consulting, dated 1 November 2021.

Level 6, 10 Valentine Ave Parramatta NSW 2150 ■ Locked Bag 5020 Parramatta NSW 2124
P: 02 9873 8500 ■ E: heritagemailbox@environment.nsw.gov.au

EXCEPT AS AMENDED by the following general terms of approval:

SITE PROTECTION

2. Significant built and landscape elements are to be protected from potential damage during market events. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.
3. Market stalls, associated waste bins, toilets and ancillary items shall not be placed over, or affixed to, the interpretive rail tracks, historic rail buildings, and other remnant rail fabric.

Reason: To ensure significant heritage fabric including vegetation is protected. To enable full public appreciation of interpretive elements in this historic precinct.

COMPLIANCE

4. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed development is complied with.

SECTION 60 APPLICATION

5. An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to the commencement of the first community market.

Reason: To meet legislative requirements.

Advice

Section 148 of the *Heritage Act 1977* (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

Right of Appeal

If you are dissatisfied with this determination, section 70A of the Act gives you the right of appeal to the Land and Environment Court.

If you have any questions about this correspondence, please contact Lily Chu, Senior Heritage Assessment Officer, at Heritage NSW on 9873 8595 or Lily.Chu@environment.nsw.gov.au.

Yours sincerely

Michael Ellis.

Michael Ellis
Manager Assessments
Heritage NSW
Department of Premier & Cabinet
As Delegate of the Heritage Council of NSW
18/02/2022

SCHEDULE 5 - REASONS FOR DECISION, HOW COMMUNITY VIEWS WERE ADDRESSED

Note: From July 1 2018, Council's 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

1988.
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 relevant provisions of Development Control Plan 2010
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 6 – NOTES

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.

Enclosed public places (smoke-free environment)

Environment Act 2000 and the Smoke-Free Environment Regulation 2000 and the guidelines in the Regulation for determining what an enclosed public place is. Enquiries may be directed to the NSW Department of Health. The legislation may be viewed on:

<http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>

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.

Prevention of water pollution

Only clean and unpolluted water is to be discharged to Council's stormwater drainage system or any watercourse to ensure compliance with the Protection of Environment Operations Act.

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).

Essential Electricity Advice

1. Access by Essential Energy to its existing infrastructure must be available 24 hours a day / 7 days a week. Therefore, a minimum clearance of 5.0 metres must be maintained at all times around existing overhead power poles and underground infrastructure.
2. If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
3. Any existing encumbrances/easements in favour of Essential Energy (or its predecessors) noted on the title of the above properties should be complied with.
4. In addition, Essential Energy's records indicate there is electricity infrastructure located within the properties and within close proximity of the properties. Any activities within these locations must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the properties encroach on the electricity infrastructure.
5. Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).
6. Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice – Work near Overhead Power Lines and Code of Practice – Work near Underground Assets.