

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:
2.1	The Site Plan	Planners North	1/9/2022
3.1	The Proposal (Dome) Plan	Planners North	25/3/2019

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. Consent Limited

Pursuant to Section 4.17(1)(d) of the EPA Act 1979, this consent will cease following the third event held on the subject site in 2024.

3. Patron Number

Patron numbers are limited to a maximum of 60 people.

4. Operating Days and Hours

The first event in 2022 is approved to operate for three consecutive days from Friday 28th to Sunday 30th October 2022.

The hours of operation are to be limited to 10 am to 11 pm. Bump in can occur two days prior to the event and bump out the day after the event.

In the event of wet weather/cancellation of the 2022 approved event, the event days can be moved to a new date in 2022 with the written approval of Council.

The event has approval to operate again in 2023 and 2024 for three consecutive days with Bump in and Bump out as stated above. A minimum of three months notice is to be provided to Council of future events with hours of operation to be no greater than 10 am to 11pm, unless further restricted by Council.

5. Location of Structures

The dome, tents and other temporary structures are not to be erected on or over the railway lines. No vegetation is to be lopped or removed unless separate approval has been sought and granted by Council.

6. Temporary Structures and Building Code of Australia

This consent includes approval for temporary structures but will not operate until an Occupation Certificate has been issued for all temporary structures prior to the commencement of each event. The development must be carried out in accordance with the requirements of the Building Code of Australia as applicable.

7. Smaller Tents, Marquees and tipis

The smaller tents and marquees/tipis to comply with the exempt provisions under Division 3 - Temporary Uses and Structures Exempt Development Codes of State environmental planning Policy (Exempt and Complying Development Codes) 2008.

8. 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.

9. Complaint Management

The operators of the event are responsible for complaint management. This is to be done through the establishment of at least two mechanisms for lodging and responding to complaints. This can be done by way of phone and in written form electronically by way of email or social media. Relevant contact details for the public are to be posted on relevant websites and social media.

10. Concurrent Approvals

The following approvals are provided under Section 4.12 of Environmental Planning and Assessment Act, subject to the conditions contained in this Notice of Determination.

Concurrent Approvals under Section 68 of the Local Government Act 1993:

Part D Community Land

- 2** Direct or procure a theatrical, musical or other entertainment for the public.
- 3** Construct a temporary enclosure for the purpose of entertainment.
- 5** Set up, operate or use a loudspeaker or sound amplifying device.

The above listed approvals must be carried out to the satisfaction of Byron Shire Council and cannot be assessed for the purpose of compliance, or otherwise deemed acceptable by a private certifier.

The following conditions are to be complied with prior to the issue of Occupation Certificate

11. Works to be completed prior to issue of a Final Occupation Certificate

All of the works indicated on the plans and approved by this consent, including any other consents/approvals that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of a Final Occupation Certificate.

Any Security bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Council's Road/footpath reserve.

12. Portable fire extinguishers

Portable fire extinguishers of an approved type having at least the protection effectiveness of a 4.5kg carbon dioxide type extinguisher shall be provided to locations in accordance with Council's requirements.

13. Final Fire Safety Certificate

Prior to issue of any Occupation Certificate for the use approved under this development consent the Registered Certifier is to be furnished with a final fire safety certificate signed by the event operators. The certificate is to indicate that all fire safety measures required to be installed in the temporary structure and meet relevant Australian Standards for design & installation. Forms are available on Council's website. Minor changes to the schedule may be undertaken as part of the certification process without the issue of any amendment under Section 4.55 of the Act.

14. Temporary Structures Used for Filming/Film Screening

The following measures must be implemented to temporary structures used for filming/film screening:

- a) When a film is being screened there must be at least 1 person in attendance who is trained in—
 - (i) the operation of the projectors being used, and
 - (ii) the use of the firefighting equipment in the room in which the projectors are installed (the *projection room*).
- b) No Screening of nitrate film.
- c) A fire safety officer appointed to be present during a performance must have appropriate training in evacuating persons from the building if there is a fire or other emergency.

15. Fencing

Any temporary fencing to be installed on the site as identified on the approved site plan to be to the satisfaction of Council and have a maximum height not exceeding 2.4 metres.

16. 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.**

The following conditions are to be complied with at all times

17. Event Debriefing Report

Following each Event, a report is to be prepared and submitted to Council addressing:

- How the event satisfied the conditions of consent;
- How many complaints were received.
- How such complaints were responded to;
- Any unexpected issues that arose during the event including bump in and bump out, including matters raised by Council, NSW Police or other Government Agencies;
- Any additional mitigation measures proposed/necessary for future events.

The report is to be submitted to Council within 6 weeks of the event concluding. A follow up meeting will be arranged with event organisers if deemed necessary by Council.

18. Signage

Signage on Lawson Street is limited to a maximum of three banners with a combined area no greater than 6 m². The banner(s) is not to be illuminated and can be erected no more than 7 days before the event and must be removed the following day after the event.

The content/image(s) on the signage is to relate directly to the Byron Film Festival and not be for third party or non-associated uses or products.

No other 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.

19. Garbage Bins, Rubbish and Litter

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

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

20. Turf/ Lawn Reinstatement

Following each event any turf or lawn or garden beds damaged from the event to be reinstated to the satisfaction of Council.

21. Notification

The immediate neighbour (Byron Motor Lodge/ Motel) to the west of the site to be notified a minimum of 7 days prior to each event occurring.

22. Food and Alcohol

No food or alcohol is to be sold at any time as part of the event.

23. Noise

The development to operate such that noise is managed as follows:

- The sound generated by the event shall be controlled and activity must not result in the transmission of 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 [at the nearest affected receiver].
- If, during the event, substantiated complaints or breaches of noise conditions occur, the event organiser must immediately reduce the noise to ensure the event complies with the noise levels specified in the noise conditions above

24. Security

The operators are responsible for the security of the site at all times.

25. First Aid

The operators are responsible for the provision of First Aid if required to any patron or staff member on the site. As a minimum a qualified person with St Johns Ambulance First Aid Certificate is to be available via on call at all times.

26. 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, lighting 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 any toilet facilities shall be serviced and maintained to ensure that all relevant environment protection standards are satisfied.
- e) Deliveries shall be restricted to daytime operating hours.

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](http://www.legislation.nsw.gov.au). This can be accessed at <http://www.legislation.nsw.gov.au>.

SCHEDULE 3 - 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.
No Submissions were received.

SCHEDULE 4 – 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).

Electricity Advice

1. 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).
2. 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.