

Council Reference: DA16/0707 LN34205
Your Reference:



9 February 2017

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Please address all communications
to the General Manager

ABN: 90 178 732 496

ATTENTION: MITCHELL ALWARD

Dear Sir

**Development Application DA16/0707 - Markets – Jack Bayliss
Park and Lions Park Kingscliff at RES 1001008; Marine
Parade, KINGSCLIFF**

Reference is made to your Development Application regarding the above. Please find enclosed Development Consent No. DA16/0707.

For further information regarding this matter please contact Joanne Kay on (02) 6670 2757.

Yours faithfully

David O'Connell
Acting Team Leader Development Assessment

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NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

To: Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

Pursuant to Section 81(1)(a) of the Environmental Planning and Assessment Act 1979, notice is hereby given of the determination by the Tweed Shire Council of Development Application No. **DA16/0707** relating to land described as:

RES 1001008; Marine Parade KINGSCLIFF

to be developed in accordance with plans and details submitted for the purpose of –

MARKETS – JACK BAYLISS PARK AND LIONS PARK KINGSCLIFF

The Development Application has been determined by the granting of consent subject to the conditions described below:

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects (SEE) prepared by Tweed Shire Council undated, except where varied by the conditions of this consent.
[GEN0005]
2. The use of the subject site for the purpose of temporary markets will cease if the land becomes unsuitable due to coastal processes or coastal hazards.
[GENNS01]
3. Prior to the commencement of use an Approval to engage in a trade or business on community land under Section 68 of the Local Government Act 1993 shall be obtained from Council.
4. An evacuation management plan shall be developed and approved by the General Manager or delegate prior to issue of the Section 68 approval for the Market activity. This plan must incorporate the bushfire protection plan reviewed by the Rural Fire Service dated December 2016.
5. The markets shall be conducted strictly in accordance with the Local Government Act Section 68 approval to operate conditions and the adopted/approved Market Management Plan to the satisfaction of the General Manager or his delegate.
[POCNS01]
6. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.
[USE0125]

7. Hours of operation of the business are restricted to the following hours:

Day Markets

- 26 bi-weekly events, second and fourth Saturday of the month, 8am to 5pm operating hours;
- Not prior to 7am setup and departure no later than 6.30pm,

Night Markets

- 12 monthly night events, first Friday of the month, 5pm to 9pm operating hours;
- Not prior to 4pm setup and departure no later than 10.30pm,

To the satisfaction of the General Manager or his delegate, unless otherwise stated in the approved market management plan.

[USE0185]

8. Any premises used for the storage, preparation or sale of food are to comply with the *Food Act 2003* and other requirements of Councils Environmental Health Officer included in this approval.

[USE0835]

9. Current public liability insurance shall be maintained by the market operator at all times that a market is conducted.

10. The market operator or their employee shall be present to supervise the site at all times during the market operations.

11. The market shall be subject to periodic inspection by Council's Authorised Officer.

12. The sale of food is permissible subject to compliance with the NSW Food Authority's Food Handling Guidelines for Temporary Events and the NSW Food Act 2003 to the satisfaction of the General Manager or his delegate. All food businesses and vendors shall be registered with Council to the satisfaction of the General Manager or his delegate.

[USENS01]

13. The area utilised for markets shall be maintained in a clean and tidy manner. All waste materials and miscellaneous items shall be removed from the Park after the completion of market operation to the satisfaction of the General Manager or his delegate.

14. Amplified music such as a musician or band is permissible at the 'night market' only. Amplified music shall be performed in accordance with the acoustic report Proposed Lantern Markets, Lot 2 DP 1122062, Marine Parade, Kingscliff - Acoustic Report, Acoustic Works 19/12/2012. Amplified music shall be modified in accordance with any instruction by Council's Authorised Officer.

[USENS02]

15. All vegetation shall be retained and afforded adequate protection during operation of all approved events

16. The applicant shall incorporate a fauna management component of a Market Management Plan (MMP) to address the management and protection of the threatened Bush Stone-curlew (*Burhinus grallarius*) known to occur on the subject site. The component of the MMP shall be prepared by a suitably qualified consultant to include the following details:

- Inspection and reporting protocol to be undertaken within a buffer area of 200m from the event site prior to each event to determine presence/absence of Bush-stone Curlew
 - Site specific management protocol to be implemented where Bush-stone Curlew are present within the event site or the 200m buffer zone. Management measures to be prescribed are to include (but not be limited to):
 - Installation of temporary awareness signage at strategic locations around the event site reinforcing:
 - The importance/significance of Bush Stone-curlew
 - The requirement for all domestic animals to be appropriately controlled and 'on-leash'
 - Driver awareness around car-parking areas
 - In the event where birds are reported nesting, the provision for adequate buffers (as determined by Council's General Manager or delegate) around the area where birds are nesting shall be provided. Buffers shall be appropriately fenced, signposted to exclude all infrastructure/activity associated with the event.
 - Post event reporting requirements.
17. All operations must comply with the fauna management component of the approved Market Management Plan.
18. This consent restricts the day time markets to 124 stalls within the mapped area and 50 stalls for the night time markets within the mapped area.

[USENS03]

The reasons for the imposition of conditions are to minimise any adverse impact the development may cause and to give effect to the objectives of the Environmental Planning and Assessment Act, 1979.

The application was determined on: **2 February 2017**
The consent to operate from: **9 February 2017**
The consent to lapse on 9 February 2022 unless commenced prior to that date.

RIGHT OF APPEAL

If you are dissatisfied with this decision Section 97 of the Environmental Planning and Assessment Act, 1979 gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.

Signed on behalf of the Tweed Shire Council

David O'Connell, Acting Team Leader Development Assessment
9 February 2017

