



## NOTICE OF MEETING

Notice is hereby given that a meeting of the

# **DEVELOPMENT CONTROL UNIT**

will be held at the Council Chambers, Breese Parade, Forster on

**5 NOVEMBER 2009 AT 2PM**

The order of the business will be as detailed below (subject to variation by Council)

1. Apologies
2. Declarations of Pecuniary & Non-Pecuniary Conflicts of Interest
3. Confirmation of the Minutes from previously held meetings:  
*DCU* 29 October 2009
4. Consideration of Officers' Reports:  
Director Planning & Environmental Services
5. Late Business
6. Close of Meeting

\* **NB** If a Councillor wants to call in any Application for determination by Full Council, they must notify the General Manager's Secretary of the Item by 12.00 noon on Tuesday 3 November 2009.

**Keith O'Leary**  
**General Manager**

# GREAT LAKES COUNCIL

## COUNCIL STRATEGIC DIRECTION

Council has adopted a Vision, Mission and five Strategic Objectives to guide the overall direction of Great Lakes Council.

### VISION

***Great Lakes.....***

*A leader in the provision of infrastructure and services which sustain and enhance the natural environment and achieve a quality lifestyle for residents and visitors.*

### MISSION

***Providing governance which is:***

- *Effective*
- *Efficient*
- *Socially Just*
- *Transparent*
- *Visionary*

### STRATEGIC OBJECTIVES

**1. *Natural and Built Environment***

To plan for future growth while ensuring a healthy well managed natural environment.

**2. *Community and Social Wellbeing***

To provide opportunities for recreation and culture for all and to foster a safe and caring community.

**3. *Economic Development***

To plan for sustainable economic and tourism development.

**4. *Infrastructure Management***

To plan and manage infrastructure and assets to meet community needs.

**5. *Corporate Governance***

To ensure Council management and practices provide effective, efficient, socially just, transparent and visionary governance. To create long term financial viability while responding to the needs and demands of the community.

The following is extracted from Council's adopted Code of Conduct. The Code applies to Councillors, members of staff and delegates of Council and also includes contractors and volunteers

## GREAT LAKES COUNCIL

### CODE OF CONDUCT PRINCIPLES AND ETHICAL DECISION MAKING

- **Integrity** – You must not place yourself under any financial or other obligation to any individual or organisation that might reasonably be thought to influence you in the performance of your duties.
- **Leadership** – You have a duty to promote and support the key principles by leadership and example and to maintain and strengthen the public's trust and confidence in the integrity of Council. *This means promoting public duty to others in the council and outside, by your own ethical behaviour.*
- **Selflessness** – You have a duty to make decisions solely in the public interest. You must not act in order to gain financial or other benefits for yourself, your family, friends or business interests. *This means making decisions because they benefit the public, not because they benefit the decision maker.*
- **Objectivity** – You must make decisions solely on merit and in accordance with your statutory obligations when carrying out public business. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits. *This means fairness to all; impartial assessment; merit selection in recruitment and in purchase and sale of council's resources; considering only relevant matters.*
- **Accountability** – You are accountable to the public for your decisions and actions and must consider issues on their merits, taking into account the views of others. *This means recording reasons for decisions; submitting to scrutiny; keeping proper records; establishing audit trails.*
- **Openness** – You have a duty to be as open as possible about your decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands. *This means recording, giving and revealing reasons for decisions; revealing other avenues available to the client or business; when authorised, offering all information; communicating clearly.*
- **Honesty** – You have a duty to act honestly. You must declare any private interests relating to your public duties and take steps to resolve any conflicts arising in such a way that protects the public interest. *This means obeying the law; following the letter and spirit of policies and procedures; observing the code of conduct; fully disclosing actual or potential conflict of interests and exercising any conferred power strictly for the purpose for which the power was conferred.*
- **Respect** – You must treat others with respect at all times. This means not using derogatory terms toward others, observing the rights of other people, treating people with courtesy and recognising the different roles others play in local government decision-making.

#### Ethical Decision Making

Consider the following points when assessing a potential action or decision.

- Is the decision or conduct legal?
- Is it consistent with Council policy, Council's objectives and Council's Code of Conduct?
- What will the outcome be for yourself, your colleagues, Council and other interested parties?
- Does it raise a conflict of interest?
- Do you stand to privately gain or lose at the public expense?
- Can the decision be justified in terms of the public interest?
- Would the decision withstand public scrutiny?

**TABLE OF CONTENTS**

**CONSIDERATION OF OFFICERS' REPORTS: ..... 1**

**DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES ..... 1**

- 1 PES - DA33/2010 - Set Up and Sell Seafood from Mobile Van - 77 Stroud Street, Bulahdelah..... 1
- 2 PES - DA32/2010 - Music Festival - Lot 33 DP 800610, 311 Upper Monkerai Road, Monkerai..... 3

**CONSIDERATION OF OFFICERS' REPORTS:**

**DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES**

**1 PES - DA33/2010 - Set Up and Sell Seafood from Mobile Van - 77 Stroud Street, Bulahdelah**

**Index: DA33/2010 & PK4168**

**Author: Senior Development Assessment Planner – Robyn Shelley**

**DCU Meeting: 5 November 2009**

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The following item was deferred from the Development Control Unit Meeting of 15 October 2009.

The report is now presented for consideration.

**DETAILS:**

Date Received: 20 July 2009

Applicant: R H Foley

Owner: Bulah Hotel Pty Ltd

Land: Lot 7 DP 659965, 77 Stroud Street, Bulahdelah

Area: 5846m<sup>2</sup>

Property Key: 4168

Zoning: 2 Village, GLLEP 1996, GLLEP 1996

**SUMMARY OF REPORT:**

Report submitted to DCU Meeting held on 15 October 2009 with a recommendation for refusal. The DCU resolved to defer the matter with a further report to be submitted to the DCU with recommended conditions for approval.

**SUMMARY OF RECOMMENDATION:**

That Development Application No. 33/2010 seeking consent to set up and sell seafood from a Mobile van be approved subject to the conditions attached to this report.

**FINANCIAL/RESOURCE IMPLICATIONS:**

Nil

**POLICY IMPLICATIONS:**

Nil

**LEGAL IMPLICATIONS:**

Nil

**LIST OF ANNEXURES:**

A: Copy of report submitted to DCU Meeting held on 15 October 2009.

**LIST OF ATTACHMENTS:**

Nil

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**BACKGROUND:**

A report was submitted to the Development Control Unit meeting held on 15 October, 2009. The report recommended refusal of the application.

The Development Control Unit resolved as follows:

*"That the matter be deferred and that a further report be submitted to the Development Control Unit with recommended conditions for approval."*

A copy of the report is contained in Annexure "A" to this report.

**RECOMMENDATION:**

Development Application No. 33/2010 seeking consent to set up and sell seafood from a Mobile van on Lot 7 DP 659965, 77 Stroud Street, Bulahdelah be approved subject to the following conditions:

**The following condition/s have been applied to ensure that the development complies with the provisions of the Environmental Planning and Assessment Act and Regulations and Policies of Council:**

1. The development being carried out in accordance with the details set out in the Development Application unless otherwise amended by these conditions of consent.
2. Consent is limited to the use of the site on Friday afternoons.
3. All carparking and vehicular manoeuvring areas being sealed with concrete or equivalent and linemarked to Council's satisfaction.

**2 PES - DA32/2010 - Music Festival - Lot 33 DP 800610, 311 Upper Monkerai Road, Monkerai**

**Index: DA 32/2010, PK 34235 & PK 31947**  
**Author: Development Assessment Planner - David Koppers**  
**DCU Meeting: 5 November 2009**

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**DETAILS:**

Date Received: 21 August 2009  
Applicant: Subsonic Music  
Owner: Riverwood Downs Holdings Pty Ltd and P A & R J Carroll  
Land: Lot 32 & 33 DP 800610, 311 Upper Monkerai Road, Monkerai  
Area: 89.03 Ha  
Property Key: 34235 & 31947  
Zoning: Zone 1(a) Rural, GLLEP 1996

**SUMMARY OF REPORT:**

- Development Application lodged seeking development consent for a three (3) day and night music festival from 4 - 6 December 2009 at the Riverwood Downs Mountain Valley Resort.
- There is an anticipated attendance of approximately 800 patrons and 100 staff. The accommodation capacity of the site can cater for 1287 people. It is anticipated that the majority of guests from outside the local area will stay onsite for the duration of the event.
- Application notified to adjoining and adjacent property owners as per Council Policy – Notification Policy for Planning Matters. Two (2) submissions were received.

**SUMMARY OF RECOMMENDATION:**

- That the Development Application be approved subject to conditions.

**FINANCIAL/RESOURCE IMPLICATIONS:**

- Cost of defending any appeal against Council's decision.

**POLICY IMPLICATIONS:**

- Compliance with Council Policies

**LEGAL IMPLICATIONS:**

- The applicant has the right to appeal against Council's decision.

**LIST OF ANNEXURES:**

A: Plans of the proposed development

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## **PROPOSAL:**

The applicant is seeking development consent for a three (3) day and night music festival within the Riverwood Downs Mountain Valley Resort. The festival will also involve overnight camping as part of the development for patrons of the festival. Cabin/bunkhouse and motel style accommodation is also available for patrons. There will be no clearing of any native vegetation.

The applicant has estimated a potential participation level of approximately 800 patrons and 100 staff. The site has an overnight patron capacity of 1287 people.

The development will also involve the erection of two (2) stages. The proposal is to have DJs playing pre-recorded music throughout daylight hours. During this period they will be playing to a more localised crowd within the separate stage areas.

The main music period will incorporate both live bands and DJs at the main stage. These will be playing at the event throughout the nights with the following schedule:

- Friday - Music from approximately 7:00pm to 3:00am.
- Saturday - Music all night through to the following morning.
- Sunday - Music to finish at 9:00pm.

The event will also involve the sale of festival related merchandise and will be serviced by food stall providers. Riverwood Downs is a licensed facility and alcohol will be available under Liquor Licensing approvals for the event.

## **SITE DESCRIPTION:**

The site has an area of 89.03 Ha and is located over six (6) kilometres from the intersection of Upper Monkerai Road and The Bucketts Way. The site has an established tourist facility already operational consisting of a restaurant, motel and cabin style accommodation and primitive camping facilities. The site does have a history of holding similar events, including an annual Bachelor and Spinsters (B&S) Ball.

The main site area of the resort is cleared of most remnant vegetation, within only isolated stands remaining. The site topography is generally level in the area of the resort, with undulating topography to the north. The lower portion of the site is bordered by the Karuah River.

The closet residential dwelling is to the north-west approximately one (1) kilometre from the resort area. Other dwellings are over 1.5 kilometres away. The outlying topography and vegetation provides both visual and acoustic buffers to the site.

The site has an existing caravan park and camping license which was last issued by Council on 30 June 2009. This license has granted approval for 85 short term sites, which gives a total capacity of 1020 people under clause 121 of the Local Government (Manufactured Homes Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

The applicant has advised that the remainder of the accommodation available on the site (motel resort and bunkhouse) has a total capacity of 267 people. Therefore, total guest capacity for overnight accommodation is 1287 people. A search of Council's records could not locate any reference to an approval for the Resort. However, the resort has known to exist on the site for over 20 years.

## **REPORT:**

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

***The provisions of any environmental planning instrument; any draft environmental planning instrument that is or was on public exhibition and which have been notified to the consent authority; any DCP; any matters prescribed by the regulations that apply to the Development Application on the subject land***

***State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment) 2007 (SEPP POPE):***

The SEPP applies to this development as the applicant is proposing to have two temporary stages erected. Under the provisions of the SEPP there are no exemption requirements for stages erected for public entertainment purposes. The applicant has been advised of the requirement that approval is required to be sought for the stages.

The applicant will be required as a condition of consent to obtain a construction certificate for the structural certification for the stages.

Clause 12 of the SEPP lists matters that the consent authority must take into account when determining an application. In the assessment of the application these matters (where relevant) have been considered and the proposal is seen as being consistent and appropriate with these considerations.

***Great Lakes Local Environmental Plan 1996 (GLLEP 1996)***

The site is zoned No. 1(a) - Rural under GLLEP 1996 and festival is defined under the GLLEP 1996 as being an Entertainment Facility which is permissible form of development within the zone.

The objective of the zone is to restrict development to those uses which are unlikely to:

- a) prejudice in a significant manner the agricultural production potential of land within the zone, and
- b) generate significant additional traffic, or create or increase a condition of ribbon development on any road, relative to the capacity and safety of the road, and
- c) have an adverse impact on the area's water resources, and
- d) create unreasonable or uneconomic demands for the provision or extension of public amenities or services.

The development is not considered to be inconsistent with the zone objectives, and therefore is considered consistent with the use of the site as a tourist facility in hosting such events.

The following clause provisions of the GLLEP require consideration in determining the application:

- Clause 12 - Services: The existing tourist facility has existing services for the development, including but not limited to - garbage collection, onsite sewerage management and water supplies for drinking and sanitary and hygiene purposes. As this event will involve a substantial increase in the number of patrons to the site (above what the sanitary facilities are designed for) it will be necessary to require portable toilets to be provided to cater for the additional demand. This is considered to satisfy this clause requirement.
- Clause 13 - Temporary Use of Land: This clause provides that development for events which contributed to the cultural well being of the community can be approved for a period of not more than 21 days annually regardless of any other provisions of the GLLEP. It is considered that this event fulfils this requirement, however is not required to be utilised as the development is permissible in the zone.

## **Car Parking Policy**

Councils Car Parking Policy applies to all developments within the Great Lakes area which create a demand for onsite parking. The policy does not however provide any requirements for development such as the Music Festival. In consideration of the parking requirements of the site it has been determined that there is enough onsite parking areas available within the grounds of the site to accommodate any necessary demand.

Due to the temporary nature of the development it is not considered necessary to require formalised parking for all vehicles within the site, and considered more appropriate to allow the event organisers and site owners to manage internal vehicle movements and parking in the most appropriate manner.

The applicant shall be required to provide to Council prior to the event a Traffic Management Plan which will dictate car parking within the site and proposed traffic control and marshalling internal to the site during the event.

### ***The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality***

#### **Noise**

The event is a music festival held over a period of three days and nights. There will be some noise impacts on adjoining properties during periods of the event (predominately at night when only the main stage is operational and atmospheric conditions are most suitable to sound transfer).

It is noted that the direction of the stages have been deliberately orientated away from the closest residential dwelling (approximately one kilometre) to minimise the potential noise impact from the development. Part of the proposed camping area is located on this property (lot 32) and the owners have given their consent to the lodgement of the development application.

In the direction the stage is facing (and therefore the area most likely to be influenced by noise levels) the closest dwelling is 1.6 kilometres away. This dwelling is also partially screened by a small hill with significant vegetation which will act as a natural noise buffer.

In determining the potential noise impacts on residential dwellings within the locality consideration has been given to the physical features of the area including:

- undulating topography of the locality
- areas of significant (if isolated) vegetation strands between the development and dwellings
- significant distance from the development to the dwellings.

Consideration is also given to the fact that the music is unlikely to be excessively amplified as the crowd area around the stage is not exceptionally large (equivalent of a football field), and over amplification will result in a distortion of the sound within close proximity to the stage which the event organisers will be seeking to avoid.

It should also be noted that in the two submissions received during the notification period, none of the submissions raised any concerns with regard to noise impacts.

The application was referred to Council's Environmental Health Branch for comments regarding potential noise impacts and no objection to the development was raised subject to a condition of consent. This consent condition is to require that the development does not become a source of "offensive noise" to nearby residences. It shall be an additional consent requirement that the applicant is to notify adjoining property owners of a contact phone number to receive any complaints. Any complaints received relating to noise are to be addressed immediately by lowering the volume of the music.

It is therefore considered that the development will not create a significant enough impact to warrant either refusal of the application or conditions of consent to restrict the noise level of the event, or the hours of operation.

### ***Access, Transport and Traffic***

The subject site has direct access to the Upper Monkerai Road. The driveway to the actual resort is approximately two kilometres long and is constructed to an all weather gravel standard. The width of the driveway is slightly greater than a single carriageway, although it has a significant gravel verge on either side which allows oncoming traffic to pass safely. Internal speed restrictions are in place within the development and subject to enforcement by the property owners.

Upper Monkerai Road is constructed to an all weather gravel standard and is of variable width with not less than a double carriageway. This road then links up with The Bucketts Way which is the only arterial road in the area.

The application was referred to Council's Transport Assets Section who raised no objection to the development and have not requested any conditions of consent.

### ***Utilities***

In the applicants submission it was stated that the existing onsite toilet facilities and onsite sewerage management system are adequate to cater for the demand created by this proposal. Since the lodgement of the application it has been noted by Council's Onsite Sewerage Management Section that the existing system would not be able to meet the demand of the development. To resolve this, the applicant shall be required to provide portable toilets as a condition of consent to cater for this additional demand.

It has been determined that the applicant shall provide facilities at the following rates:

Male Closets	1/100 patrons
Male Urinals	1/100 patrons
Female Closets	2/100 patrons
Unisex	1/100 patrons

The applicant is also proposing to utilise diesel generators to supply power to the proposed development. There is no objection to this proposal as the generators are not considered to pose a negative impact or safety concern. It will however be a consent requirement that they be operated in accordance with the manufacturer's specification, and located in a fenced off area away from patron access to ensure patron and staff safety.

### ***The Suitability of Site for the Development***

Whilst it is noted above that the site facilities do pose some constraints it has been determined through the assessment of the application and internal referrals that the development can be carried out successfully subject to the implementation of relevant conditions of consent.

### ***Any Submissions Made in Accordance with the Act or Regulations***

The application was notified to adjoining owners in accordance with Council's Policy and two submissions were received. The submissions referred to the following issues:

1. Number of Guests: Is the proposed number of patrons attending the event accurate given that other events have had significantly more attendees. How will the number of patrons be regulated? What happens if additional patrons, over what can be accommodated turn up?

**Comment:** The applicant's statement of 800 patrons is an estimate only. The Riverwood Downs facility has a capacity to host 1287 people overnight. The applicant will be restricted by conditions of consent that patrons staying overnight and onsite are not to exceed the facility capacity (this does not affect patrons who do not stay onsite overnight).

It is a requirement that the event organiser make appropriate arrangements to ensure that the consent is complied with. This could be achieved by issuing patrons with two separate types of tickets for both those who are or are not staying at the site overnight.

2. Alcohol and Drugs: Previous events have resulted in trespass and consumption of alcohol on adjoining private property. What is the drug and alcohol policy for the event?

**Comment:** The event organiser will be required to erect advisory signage around the site to inform patrons that no trespassing is permitted and what areas patrons have access to. Any occurrences of trespassing become a matter for the NSW Police. Riverwood Downs is a licensed premises and shall be required to obtain the appropriate licensing for the event. The taking and possession of drugs is illegal in NSW and is therefore a matter dealt with by the NSW Police Service.

3. Security/Trespass and Property Damage:

**Comment:** The event organiser is providing private security at the proposed rate of 1 security guard per 100 patrons. In addition to this the NSW Police has indicated that a police presence of up to 6 police officers will also be present onsite during the event.

The event organiser will be required by consent conditions to erect signage advising patrons of areas they can, and cannot access. Patrons are to be informed that trespassing will not be tolerated and any occurrences referred to the NSW Police for further action.

4. Capacity of Facilities: Are the facilities of the site adequate to cope with the number of proposed patrons to the event?

**Comment:** As stated previously in the report it is considered that with the additional requirement for portable toilets to be provided the site and surrounding road network has been considered adequate for the proposed development.

### ***The Public Interest***

Throughout the assessment of this application the public interest has been considered and it is determined that the approval of this application is not against the public interest.

### **CONCLUSION:**

The proposal seeks consent to operate a Music Festival on the subject land.

Two (2) submissions were received from adjoining property owners, the issues raised have been addressed above.

The proposal is considered to be satisfactory having regard to the relevant legislation, Council Codes and Policies and will have a positive social impact on the community. Accordingly the application is recommended for approval subject to the attached conditions.

**RECOMMENDATION:**

**It is recommended that Development Application No. 32/2010 for Music Festival at 311 Upper Monkerai Road, MONKERAI, NSW, 2415 (Lot 33 DP 800610) is approved subject to the following conditions of consent:**

The following condition/s have been applied to ensure that the development complies with the provisions of the Environmental Planning and Assessment Act and Regulations and Policies of Council:

1. The development must be in accordance with the **STAMPED PLANS**, the application form and on any supporting information received with the application, except as may be amended by the following conditions.
2. This development consent is restricted to a single event only. The date of the event is restricted to 4 - 6 December 2009.
3. The applicant shall provide portable toilet facilities at the following rate:

Male Closets	1/100 patrons
Male Urinals	1/100 patrons
Female Closets	2/100 patrons
Unisex	2/100 patrons

The toilets must be cleaned every 3 hours, or as required and toilet paper, soap and handtowels must be provided at all times. Additional toilets shall be brought in as required to satisfy additional demands.

4. Promotional/advertising signage is not to be displayed upon any site other than the site approved for the event.
5. Work on any building shall not commence until a Construction Certificate, complying in all respects with the provisions of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and the Building Code of Australia, has been issued.
6. It is a condition of approval that all building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
7. Structural drawings prepared by a suitably qualified and experienced Structural Engineer being submitted to and approved by the principal certifying authority prior to the issue of a construction certificate.
8. Noise associated with the use of the music festival must not be a source of offensive noise at the nearest affected residence:  
offensive noise" means noise:
  - a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
    - i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or
    - ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or
  - b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulation.

9. The applicant shall notify all adjoining property owners in writing of a contact telephone number for any complaints regarding the development which may include but not limited to offensive noise and trespassing issues.
10. Food stalls and food handlers associated with the development shall at all times comply with the requirements of the Food Act 2003, the Food Standards Code and Council's Guidelines for Commercial Operators/Charity Organisations at Temporary Events. Copies of these Guidelines are available at Council.
11. A 'Notification to Council for Temporary Food Stall' form must be completed by the proprietor of each food stall and be submitted to, and approved by Council's Environmental Health Officer prior to the event.
12. No permanent structures are to be erected or installed.
13. The site is to be free of obstacles and trip hazards, such as power leads.
14. No fires are permitted within the site unless within existing barbeque facilities. Any "ceremonial" fires must be approved by the NSW Rural Fire Service and strict compliance with any fire bans are to be complied with.
15. The applicant shall comply with any requirements of the NSW Police Force.
16. The applicant shall erect security fencing around any plant equipment (including generators) to prevent patron access.
17. The applicant shall erect signage (including maps) which will indicate which areas patrons are permitted to enter. Signage shall also be erected to ensuring patrons are informed where adjoining properties boundaries are, and that trespassing is prohibited.
18. The Waste Management Plan as submitted with the Development Application is to be adhered to with aspects of the development and ongoing waste services.
19. A first aid station/tent shall be provided. First aid personnel must be appropriately qualified. St John's Ambulance recommends 4 first aiders per 1000 people.
20. Overnight guests shall not exceed 1287 people. The applicant is to take all reasonable measures (including but not limited too ticketing of patrons) to ensure compliance with this requirement is met.
21. The erection of any temporary structures shall be in accordance with the provisions of State Environmental Planning Policy (Temporary Structures and Places of Public Entertainment).
22. At least four weeks prior to the race meeting, the applicant shall submit to and have approved by Council a traffic management plan prepared for the music festival that will take place on the site. The plan/report should be prepared for all vehicular traffic and pedestrian management and include the following details:
  - Parking for people with a disability, an ambulance to access the St Johns ambulance tent and any required official vehicle.
  - Set down area for buses/taxis (this area should have a compacted gravel or sealed surface for the vehicles using this area).
  - Car park layout for the projected vehicular spaces.
  - An overflow/informal car park area for excess vehicles.
  - Details of the entry fee point.