



Council Chambers,
BERRIGAN. 2712

Sir/Madam,

Notice is hereby given that an extraordinary Meeting of the Council of the Shire of Berrigan will be held in the **Council Chambers**, Berrigan, on **2nd November, 2016, commencing at 4.00 pm, to consider and order upon a Development Application to stage the Strawberry Fields event at an alternative location to that already consented to.**

No business, other than that on the Agenda, may be dealt with at this meeting unless admitted by the Mayor.

ROWAN PERKINS
GENERAL MANAGER



Extraordinary Council Meeting

Wednesday, 2nd November, 2016

BUSINESS PAPER

1. **APOLOGIES**

2. **DECLARATION OF ITEMS OF PECUNIARY OR OTHER INTEREST**

5. **DEVELOPMENT APPLICATION 46/17/DA/DM
2016 STRAWBERRY FIELDS MUSIC
FESTIVAL – ALTERNATE ADDRESS**

AUTHOR: TOWN PLANNER

STRATEGIC OUTCOME: Supported and engaged communities

STRATEGIC OBJECTIVE: 4.2 Strengthen and diversify the local economy

FILE NO: 46/17/DA/DM

RECOMMENDATION: that Development Application 46/17/DA/DM for the Strawberry Fields Festival 2016 be approved subject to the following conditions:

1. Approved Plans

The development shall be implemented substantially in accordance with the details set out on the Strawberry Fields Site Map (Version 2.2), Event Plan, Alcohol Management Plan, Emergency Management Plan, Fire Management Plan, Medical Plan, Risk Assessment, Security Management Plan, Waste Plan, the application form and any supporting information received with the application except as amended by the conditions specified hereunder.

Items requiring Council Resolution

2. Pollution

All necessary precautions must be taken to ensure that pollution of waterways does not occur in accordance with the provisions of section 120 of the *Protection of the Environment Operations Act 1997*.

3. Impact on Adjoining Properties

Measures must be taken to minimise and control the emission of dust and noise from the property to ensure that there is minimal impact on adjoining properties.

4. Combustible Material

The event site and camping areas must be grazed and / or slashed prior to the event so as to reduce combustible material and reduce the risk of harm by fire.

5. Aboriginal Place or Objects

Activities on the site must not harm or desecrate any Aboriginal place or object in accordance with the *National Parks and Wildlife Act 1974*. Should any Aboriginal object be discovered and / or harmed in, on or under the land, the event organisers must notify the NSW Office of Environment and Heritage.

6. Mosquito Borne Diseases

Precautions must be undertaken prior to, and during, the event to reduce the potential for exposure to mosquito borne diseases given that there are large areas of stagnant water in close proximity to the site. The Murrumbidgee Local Health District of the NSW Department of Health in Wagga Wagga can be contacted on (02) 6933 9100 for advice.

7. Food Stall Holders

All food stall holders must operate in accordance with the *NSW Food Act 2003* to ensure that the health and well-being of patrons is maintained.

8. Emergency Services

All emergency service organisations in the locality must be notified at least two weeks prior to the event to ensure that all resources will be available in case of emergency.

9. Fencing

Items requiring Council Resolution

Appropriate fencing must be maintained between the event site and adjoining properties throughout the event in order to contain patrons and prevent stock escaping.

10. Security

All security personnel must be licensed and boundaries with adjoining properties are to be monitored at all times with patrons warned upon entry that penalties apply if caught trespassing. Sufficient security personnel must be employed to achieve the above requirement and a security presence must be maintained from Thursday until Tuesday noon. This condition is added to maintain site safety and ensure patrons do not encroach on adjoining properties.

11. Native Vegetation

Any destruction or injury to native vegetation is to be undertaken in accordance with the provisions of the *Native Vegetation Act 2003* and where necessary an approval obtained from the Murray Catchment Management Authority.

12. Litter

Garbage bins must be provided throughout the area and the site must be inspected following the event to ensure all litter is collected and disposed of appropriately. At the cessation of the event a site inspection must be arranged with Council officers to ensure that there is no refuse remaining on site.

13. Site Inspection

An inspection by Council officers prior to the event must be arranged and undertaken to ensure all conditions of consent have been met and the proposal has been implemented in accordance with the submitted documents.

14. Traffic Management

Provision must be made on site for extensive traffic queuing areas and a sufficient number of traffic management staff employed to direct traffic in an orderly manner to ensure that queuing on Lower River Road does not occur at peak times or in the event of access to the camping areas being obstructed.

15. Liquor Licensing

A valid liquor license issued by the NSW Independent Liquor and Gaming Authority must be in place for the event and all persons responsible for the sale of alcohol must possess accredited Responsible Service of Alcohol certificates. Evidence of this must be provided to Council prior to commencement of the event.

Items requiring Council Resolution

16. Access

An all-weather access track at least 6m in width, including access & egress points, must be provided within the site to ensure that response vehicles will be able to access the site in the case of an emergency.

17. Noise

Stage closures, as per page 10 of the Event plan, must be in effect during the late hours of the night (especially after midnight) on Friday, Saturday and Sunday nights to significantly reduce noise levels, reduce potential noise impact on adjoining properties and encourage rest.

REPORT:

Site

The subject site is located at 705 Tuppal Road, Tocumwal and is also identified as Lots 93, 109 & 110 on DP752304. The site is approximately 7km west of the township of Tocumwal and has a combined area of 116.62ha in size. The site is located within Zone RU1 – Primary Production Zone under the provisions of the *Berrigan Local Environmental Plan 2013* (BLEP), and is currently used for low intensity agriculture. The land is designated both partly bushfire prone and flood prone under the provisions of the BLEP, but it mainly protected by the Tocumwal Levee Bank. Other than the south west corner, the site is vacant quite open with scattered woodland native vegetation, as indicated on the aerial photo below. Adjoining properties are generally similar in nature with the nearest permanent residence located approximately 500m 'as the crow flies' from the site.

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Items requiring Council Resolution

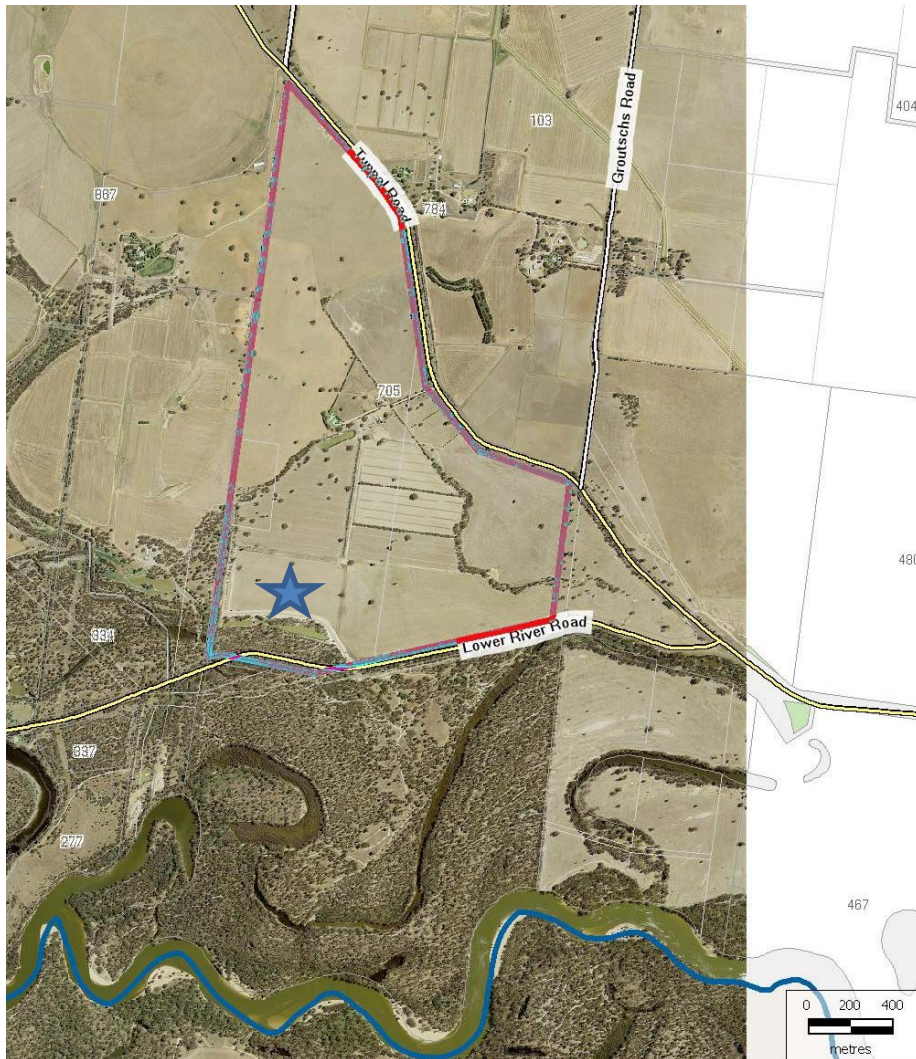


Figure 1 – Aerial Photo showing subject site, star indicating approximate location of main stage

History & Proposal

At an ordinary meeting on 21st September 2016, Council approved application no. 24/17/DA/DM for the 2016 Strawberry Fields to be held at Lower River Road, Tocumwal from 2pm Thursday 17 November 2016 to 2pm Monday 21st November. At the time of approval, it was envisaged that approximately 6,000 patrons would attend. However, since that Council meeting, the Berrigan Shire has experienced above average rainfall during late September and early October. This resulted in localised flooding, and the approved site being unable to be accessed. It is therefore proposed to relocate the Festival to a site which is approximately 4km closer to the Township of Tocumwal, and was protected from recent flooding by the Tocumwal Levee Bank. All other details pertaining to the Festival are the same, with the exception of some site specific plans.

Items requiring Council Resolution

Benefits Relating to Alternative Venue

The following benefits have been identified by the Strawberry Fields Management Team to hosting the Festival at 705 Tuppal Road, Tocumwal:

- ✓ The venue is very suitable for the conduct of the festival and with previously lodged plans to provide comprehensive emergency management;
- ✓ The venue is protected from minor, moderate and potentially also major flood conditions by a levy surrounding it;
- ✓ The venue removes any risk previously prevented in the Event's primary permit by patron swimming activities in the Murray River;
- ✓ The venue is practical from an emergency management perspective due to multiple access points, reduced forested areas and no dependence on causeways or low areas;
- ✓ The venue is attractive from a traffic management perspective as it has very low dependence on Lower River Road causeways and flood prone areas;
- ✓ The venue will provide adequate space for camping and all required festival operations;
- ✓ The venue provides adequate topography such that all neighbouring properties can be protected from significant impact due to either sound or operation of the event in general.

Assessment of New Site

There are a number of potential impacts related to a proposal of this type which must be addressed if development approval is to be granted.

- **Relevant State Environmental Planning Policy provisions**

As discussed in the previous development application, Deemed SEPP - *Murray Regional Environmental Plan No 2—Riverine Land* (MREP2) and *State Environmental Planning Policy (Rural Lands)* 2008 apply in exactly the same way to this alternative address.

Items requiring Council Resolution

- **Relevant Berrigan Local Environmental Plan 2013 (BLEP) provisions**

Similar to State Policy Provisions, most of the provisions of the Berrigan LEP 2013 already mentioned in DA Approval 24/17DA/DM also apply to this alternative site, which is also zoned RU1 Primary Production. However, the main clause which is different is found below:

Clause 6.2 – Flood Planning

As mentioned before, this site is protected from localised flooding because of its location, which is behind the Tocumwal Levee Bank. Therefore, Berrigan Shire can be 'satisfied that the development is compatible with the flood hazard of the land'.

- **Relevant Development Control Plan(s) provisions**

Like the abovementioned environmental planning instruments, there have also been different considerations relating to the Berrigan DCP 2014. The main headings which have been amended can be found below:

Access & Traffic

Section 3.4 of the DCP relates to parking and access. One of the important controls under this section requires that development must be designed with sufficient turning areas for the vehicles expected to require access to the site. The site map indicates that there are 3 separate entries, where the main access entry for cars which is off Lower River Road at the Southernmost point. The second entry is also off Lower River Road, at the South-Eastern most point, with the third entry and the Northern most point on Tuppal Road. The main concern which has been relayed by Emergency Management Teams is that the access gates are not wide enough for two (2) emergency vehicles to pass each other. The other main concern is the main access requires a right-hand-turn onto a raised levee bank. This manoeuvre could be at time quite dangerous, especially if a vehicle is travelling east at a speed greater than 60km/hr. Should this application be approved, a condition of consent will require the access entries to be wide enough (at least 6m in width) to allow emergency vehicles to be able enter and leave safely without having an adverse impact on road traffic. Finally, the internal access track will be all weather and sufficient width for emergency vehicles as mentioned previously.

Noise disturbance & control

The alternative venue is likely to create more noise disturbance, given its close proximity to neighbours. The management team have directed all stages will be oriented South so as to minimise sound impact. Additionally, the Management Team has stated that all nearby residents will receive a letter

Items requiring Council Resolution

drop in the first week of October with the contact details of our management team (should they wish to discuss the event prior to operation), as well as a 24/7 noise complaints hotline number should they wish to make a complaint during the event, the Management team can then action immediately with level reductions. At the time of writing, it is hoped that the Management Team has been able to contact most of the immediate neighbours in order to find some resolution, which could include alternative accommodation, or compensation for any impact.

Additionally, on page 10 the Event Plan, the Management Team have stated that Stage closures will be in effect during the late hours of the night on Friday, Saturday and Sunday nights to reduce potential noise impact and encourage rest. In order to prevent unnecessary calls to the Police and disturbance to neighbouring residents, a condition of consent has been added to ensure that sound levels are significantly reduced.

Submissions

The proposed event was re-advertised, neighbours with close proximity were notified and the development was referred to a number of public authorities and emergency service organisations. The alternative location event planning documents were also placed on the Berrigan Shire's Website. Written submissions on the proposal were accepted until Tuesday 26th October 2016. At the close of agenda (the same day), a total of 28 submissions had been received (3 in favour, 1 neutral, 22 expressing concern and 2 opposed).

1. The Local Area Command (LAC) Police Unit were ultimately concerned about the noise. They recommended that all music cease at midnight each night, or greatly reduce volumes. These recommendations were passed on to the Management Team, who assured the LAC that all immediate neighbours would be directly consulted and would be offered alternative accommodation / compensation.
2. A young person who works professionally in the area wrote in support of the application, especially as they believed that 'the whole festival is quite respectful of its surroundings and its patrons' and that the 'Berrigan Shire is thirsty for more culture... so it would be wonderful to see one of the largest festivals of its kind operated so well and legitimately, continue locally'. Finally, they stated that 'The practical approaches and delivery abilities the progressive organisers seem to maintain and implement year after year are impressive in my opinion'.
3. A neighbouring resident expressed deep concerns with the alternative venue. They stated that 'it is far too close to many neighbouring properties...with family homes'. They also stated that the noise has a detrimental impact on farm animals. In addition, they stated that the local roads are very busy at harvest.
4. A resident of Deniliquin expressed their support for the Festival. They felt it 'brings together people from all over the world and showcases the beautiful bush soundings of the Berrigan Shire area'. Furthermore, 'local

Items requiring Council Resolution

- community organisations and groups that Strawberry Fields support with their Community Grants scheme would be disadvantaged if the Festival was to be moved' away from the Shire.
5. A local school teacher wrote to state that the Festival has their full support, especially saying that 'No matter where it is held – flood or no flood- I have full faith in the festival organisers and believe the ethos and direction of the festival will stay true, no matter where it is held'.
 6. A group submission of approximately 22 neighbouring individual residents was submitted to Council expressing concerns about the event at the proposed alternative location. The submissions highlighted concerns relating to noise, hours of operation, lack of consultation with nearest neighbours, conflicts with harvest season, and finally impact on young families, elderly and livestock.
 7. A representative from the NSW Rural Fire Service submitted correspondence which identified issues relating to access and egress from the site. This correspondence was forwarded on to the Strawberry Fields Management. At the Local Emergency Management Committee Meeting on Friday 21 October, it was recommended that a condition be added to the consent (should it be given) about upgrading entry points.

Response to Submissions

The alternative venue is closer to rural dwellings and has subsequently drawn more submissions which are in opposition. These submissions arrived at Council before Australia post delivered packs offering alternative accommodation / compensation. As far as the other concerns, the noise impact is probably of most importance. This has already been discussed above. Overall, the Management Team have endeavoured to address many of the concerns relayed to Council by liaising with NSW Police about noise, by corresponding with immediate neighbours and working with RFS on Access/Egress Issues & Evacuation Protocols. Furthermore, it also should be noted that some neighbours have contacted the Management Team to express that they are happy to endure the noise impacts because of the overall benefit to the Tocumwal Township / surrounding area.

Public Interest

The proponent has demonstrated that the event is to be well organized in a professional manner, especially given the speed at which the amendment event documents were submitted to Council. The positive economic impacts have been documented in the previous development application, and they do not change given the alternative venue. Additionally, the donations to charity and local projects remain the same.

Items requiring Council Resolution

Conclusion / Legislation

The assessment of this development application has been undertaken to especially consider the relevant parts of Section 79C of the Environmental Planning and Assessment Act 1979. Upon taking into account these considerations, the proposal for the 2016 Strawberry Fields Festival to be held at the alternate address provides a solution for this year, especially given that original site at Lower River Road is no longer suitable to hold the Festival given recent flooding (as at the time of writing). However, the Management Team have proactively sought to find an alternative venue which will allow the Festival to continue. This development is seen of high importance given that it will generate further employment for local people and revenue for local businesses, promote tourism to the Berrigan Shire as well as provide a much needed social outlet for the young people of the area.

Overall, whilst the proposed site does create additional impacts, the Strawberry Fields Festival Management Team have, and will continue to liaise, with key emergency management stakeholders in order to mitigate these impacts. The Team have also endeavoured to contact neighbouring residents offer compensation / alternative accommodation for the Festival's impact.

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BERRIGAN SHIRE COUNCIL
M E M O R A N D U M

TO: Councillors, Director of Technical Services and Director of Corporate Services.

FROM: General Manager

DATE: 25th October, 2016

SUBJECT: Possible additional agenda item for Extraordinary Council meeting to be held on 2nd November 2016.

CR Jones has asked that the following item be included on the agenda for the Extraordinary Council meeting to be held on Wednesday 2nd November 2016.

As Councillors may be aware the Extraordinary Council meeting was called for the specific purpose of considering a Development Application lodged to consider an alternative site for the conduct of the 2016 Strawberry Fields event.

The Local Government (General) Regulations state:

242 Agenda for extraordinary meetings

- (1) The general manager must ensure that the agenda for an extraordinary meeting of a council deals only with the matters stated in the notice of the meeting.
- (2) Despite subclause (1), business may be transacted at an extraordinary meeting of a council even though due notice of the business has not been given to the councillors.

However, this can happen only if:

- (a) a motion is passed to have the business transacted at the meeting, and
- (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.

(3) Despite clause 250, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.

Therefore, if the requested matter is to be dealt with:

1. A motion must be passed to that effect; and
2. The Chairperson must rule that the matter is of great urgency.

Set out below is the information received from Councillor Jones:

TOCUMWAL FORESHORE MASTERPLAN OPPORTUNITY

PREAMBLE

The Splashpark development will be on the Foreshore close to the corner of Deniliquin Road and Anzac Avenue.

Apart from the Splashpark play area there will be toilets with change room and a pump house and control room.

These will be located beside the Splashpark and will require the services of power, water and sewage to be extended to the area.

This Splashpark development will be a great addition to Shire for the use of residents and the attraction to Tocumwal of many tourists.

FACTSHEET

On the 12th October the Tocumwal Foreshore Committee became aware that the property at 44 Deniliquin Road came on the market for \$200,000.

This house sits on 556m² of land in a strategic position in relation to the Splashpark. It is immediately across Anzac Avenue from the Splashpark development to the north.

The house is one of Tocumwal's older homes with a shop attached which was a teahouse during the 2nd world war. The house is irrelevant to this proposal but sits on a strategic piece of land.

THE PROJECT

1. *It is proposed that the Berrigan Shire purchase the property for the price of \$200,000 or less. Total cost would add stamp duty and legal costs of about \$4,500.*
2. *Owing to the fact that the Foreshore is quite narrow at the Splashpark location it is proposed to add this area to the Foreshore.*

3. *The property has a nature strip 8m wide fronting Anzac Avenue with approximately a 60m frontage.*
4. *Anzac Avenue is approximately 13m wide with a frontage to the property of approximately 60m.*
5. *It is proposed to close Anzac Avenue at the Deniliquin Road end back to the title line which would be about 60m and assume the nature strip into the road and the property.*
6. *This would add approximately 18-1900m² to the Foreshore Park. 480m² of nature strip, 800m² of the road and 556m² of the property.*

MODIFICATION OF THE SPLASHPARK PLAN

- *The play area could be moved a few metres away from the toe of the levy bank and that would allow the slide to be a little longer.*
- *The toilets, change rooms, pump house and control room could be located on the footprint of the present house.*
- *The establishment of this building would have the services of power, water and sewage ready to tap into as they are already connected to the house. Some capacity may need to be improved. BUT, the main service of power would be there and we all know the expense that Essential Energy charges for new power extensions!*
- *If it was deemed desirable we could even incorporate an "Information" booth, manned or unmanned as it seems to be correct that the old style Information Centre may be outdated in 10 years time.*

This is a one off opportunity to improve the Foreshore and it will not appear for another 100 years if we do not do it now!

There are a few disadvantages to this plan:

- *\$205,000 possible purchase price. Where does it come from?*
- *Some procedure to close Anzac Avenue and make it into a Court accessed from Cowley Street.*
- *Some disruption to the residents of Cowley Street and Anzac Avenue.*
- *?*
- *?*

There are many advantages:

- *The price? Over a 30 year period the cost is about \$6-7,000 per year and maybe a bit more if there is a need to pay interest. Not much money in the scheme of things.*
- *The provision of services would be a great deal less.*
- *The toilets would be more accessible to the travelling public and other local users.*

- *The building would provide a buffer of noise to the residents on the northern side of Deniliquin Road.*
- *The building would provide a buffer to the road for child escapees.*
- *There would be a better "space" for the "Fish"*
- *There would be more area for "people use"*
- *The residents of Anzac Avenue would have the same access to their home but have little or no through traffic.*

This proposal has many advantages for the future of the Tocumwal Foreshore and almost no disadvantages.

I would request that this item be added to the agenda on November 2.

If considering the above the Council may also consider:

There is no doubt the land proposed for purchase has some strategic value to the foreshore area generally.

Stamp duty is not payable by the Council and legal costs would be in the vicinity of \$1,500.

A proposed road closure would be subject to public consultation and access to and the extent of the Anzac Avenue caravan parking area will be impacted. An alternative might be to close the existing road and reroute it through the proposed purchase site and absorb the existing road area into the foreshore area (although it would not be a part of the Crown Reserve).

The recently adopted masterplan for the Foreshore proposes narrowing Anzac Avenue to a single one way traffic lane with two parking lanes with surplus land being added to the Foreshore area but as a separate land holding.

The position with the capacity of the existing power supply is unknown and it cannot be assumed that a residential supply will be capable of servicing the splashpark etc. In any case a separate supply will be required due to the separate land holdings.

While the actual cost of the proposal is unknown it is likely to be nearer \$400,000 than \$205,000 when road construction, property purchase, demolition reinstatement of both the former road and the site to parkland, installation of sprinklers etc is considered.

Annual debt repayment would be about \$50,000 pa based on 4% interest over a ten year term.

No provision for the proposal has been made in current or future budgets, current operational or delivery programs or the recently adopted Tocumwal Foreshore masterplan. If it is proposed to borrow funds for this project then the Council would need to formally review its operational and delivery programs, including public consultation, to include this.

Despite the above, the Council could use funding from its Economic Development Reserve for the project although this would permanently deplete the Reserve. This Reserve has usually been invested in economic development projects that would see the original capital returned to the Reserve ie Tocumwal Aerodrome subdivision.