

Please Quote
Council Ref: PF4040/1655

Your Ref No:

For Enquiries
Please Contact: Steve Bishop

Telephone Direct (02) 6670 2688

L27SB2

5 November 2008

Mr Luke Brinsmead
PO Box 1315
KINGSCLIFF NSW 2487

Dear Mr Brinsmead

Unauthorised landuse – Jam Shed - Lot 3 DP 755701, Lot 2 DP220685 & Lot 1 DP128578 - Dodds Road

I refer to the site meeting on 24 October 2008 with yourself, Barry Stegman - Senior Building Surveyor and Steve Bishop - Development Assessment Planner – Compliance in regard to concerns that have been raised about public gatherings in connection with live music events at the “Jam Shed” and the related issues of consumption of alcohol, security and potential environmental damage.

Land-use Planning

As advised, most land-uses other than agriculture would be prohibited within the 1(b2) Agricultural Protection zoning. Your current activities appear to be defined as a “Place of Assembly” [or possibly a “recreation establishment”] which are both prohibited uses within the zone – however the events may qualify as a “temporary use” under Clause 12 of the LEP2000 – depending on the scope and frequency of the activity you might make application for. Attached is copy of Clause 12.

You indicated that you had attended a workshop with Council and that Council’s Aboriginal Advisory Committee (AAC) had encouraged you to continue events by resolving at its meeting on 1 August 2008 that:

“the Committee fully supports the events/workshops which are currently being held at the Jam Shed, Chinderah in connection with Mirringingi Pty Ltd Incorporated.”

In view of this resolution, Council will not be prosecuting or issuing a PIN (Penalty Infringement Notice) for past events, however all music events planned for the future need to be abandoned. All public gatherings need to cease as no Development Consent has been issued for this use.

If you seek to establish the use lawfully, the activities need to be authorised through the formal planning approval process by the submission of a Development Application. You indicated on site that you would engage a planning consultant to assist in lodging a Development Application. This would be encouraged to regularise the situation as soon as possible.

BCA and Residential Buildings

In addition to the above, it was noted that several structures have been erected or placed on the property without first obtaining Development Consent or construction approval. At least one of these structures is being used for residential purposes. Shower, toilet kitchen and laundry facilities have also been installed without an adequate waste management system.

You are advised that this type of construction and residential use without prior consent of Council is a breach of the Environmental Planning & Assessment Act 1979, which requires a person to obtain approval before carrying out such work.

Accordingly you are required to advise Council in writing within 21 days of the date hereon:

1. Why the work was carried out without appropriate approvals
2. Why Council should not institute legal proceedings or issue Penalty Infringement Notices for carrying out works without Council approval and why Council should not require those structures erected without consent to be demolished.

If you require any further clarification on the Building matters, please contact Barry Stegman on 66702551, or on the planning matters please phone me on 6670 2688.

Yours faithfully

Steve Bishop

Development Assessment Planner – Compliance

cc – Mr J. Brinsmead & Mrs A. Armstrong
5 Loders Road
DURANBAH NSW 2487