

SUPPLEMENTARY SUBMISSION ON SSD 8169 North Byron Parklands and MOD 3 of the Concept Plan

When writing this objection to North Byron Parklands, I am reminded of Professor Gates, University of Sydney, (circa 1960-70s) who endeavoured to instill in his students the honourable and privileged position of the Public Service to give forthright and fearless advice to its Ministers. This was critical as part of the underpinning of the checks and balances in our inherited liberal democratic tradition. Equally critical to that fearless and forthrightness is acknowledging omissions and or errors in that advice so that it may be corrected or the consequences mitigated. 'Discovery' is, to my mind, critical to maintaining the independence and impartiality of the public service and the impartiality of the Independent Planning Commission. Consequently, when reading documents on the history of North Byron Parklands there is compelling evidence of the need to acknowledge and accept the implications of 'Discovery' information that has been previously omitted, challenged by reason of substantive evidence and/or handled in a partial manner. In particular, this relates to

- (a) Aboriginal cultural heritage
- (b) Wastewater management
- (c) Noise
- (d) Sundry other issues

In this supplementary submission I add to my previous material and object to North Byron Parklands' MO3 on the following grounds

ABORIGINAL CULTURAL HERITAGE

There has been an abdication of responsibility of the proponent to acknowledge and consult with traditional custodians of the land in relation to the proposed development.

- (i) In light of the presentation made to the Independent Planning Commission by local custodians of the land, at the Ocean Shores hearing, the value position of the proponent was found to be wanting in the extreme.

'The Ngarakbal Githabul moiety are the only regional clan to have gained land rights. They have proved to federal government their ancestral links and their continuation of traditional practices.

Recently, an Elder appeared at the government's public meeting which is set to decide whether the music festivals will be allowed to become permanent at the Yelgun site. The Elder was supported by Lore keeper, Stella, who gave a power point presentation showing the moiety's links to the area and its amazing traditional significance.

The Elder talked with the authority of spirit passed down through many generations. He spoke strongly against the current inappropriate use of the sacred area which lies on the songlines that have connections across Australia and the world. He also spoke in language naming some of his ancestors, bringing the history of the Yelgun site into the context of a long history of traditional use. The Yelgun site and surrounds has been shown to contain special and sacred sites and is recognised by government.

These Originals were never consulted about the use of the area for massive music festivals.

How ironic that the festivals now ban Indian head-dress because it is culturally disrespectful, and yet they ignore the local Original people.'

Data source: CONOS Facebook site

- (ii) Concerns raised about the potential damage/compromise to the Heritage-listed Bundjalung Wandaral ceremonial sacred twin Bora Ring site cannot be ignored.

Summed: The applicant must demonstrate in word and practise a change in value position that stands as an inclusive view of society and culture and can be seen/measured by all as reflecting that change. This should be non-negotiable. This needs to be treated as 'Discovery Information' with retrospective implications

WASTEWATER MANAGEMENT

GHD's analysis of the proposed waste water management system was justifiably scathing. Council's comments were a relief to read and in all probability represented the result of a much needed fearless and forthright response to the proposed system.

Years before these reports and even any thought of the MO3, I had concerns with Parklands' wastewater system¹. I attended an on-site meeting with management during which time I raised those concerns. They were duly glossed over. At another time I was able to contact their consultant on wastewater management and discussed with him my concerns. He shared those and made the point at that time, that his report was dependent on information supplied by Parklands. He had been unable to verify Parklands' information. We also discussed the operation of the system was dependent upon continuity of management/ownership.

The relevance of the above anecdote is that the proposed wastewater management system is an extension of the existing system. It has been severely criticized in expert reports which in part address concerns already raised directly with management years ago. The concerns raised then are now in the public domain and carry with them the authority of waste management experts. It cannot be understated that the latest criticisms give perspective to the proponent subsuming public health below community expectations and standards. Armed with the GHD report and Council's comments, this issue is again 'Discovery Information' with retrospective implications because they give information and criteria that needs be used to investigate current practice.² Until that is done, then the 'soundness' of the existing system remains in question and the proposed 'could do' concept of what is proposed is founded on a dubious performance of what exists.

In promoting its wastewater (bio-solid and liquid) management, the applicant should not be relying on adjoining Councils' STPs. It would be improper decision-making to allow the applicant to determine a Council's sewerage policy.

Summed:

- (i) **Wastewater management (bio-solids and liquid) is a public health issue and the applicant has failed to provide a concept of a management system that would satisfy any low risk assessment.**

¹ In 1998 I had been a community member of the Brunswick valley Wastewater Steering Committee where my interest in wastewater management began. That interest has continued because of its public health and environmental impacts.

² I couldn't find in either the GHD report or Council's comments referencing any rag screening of the organic matter in the converted wheelie bins? I'm definitely not supportive of a 2 month composting period for organic matter in a transitional climatic region between East Coast Cool Temperate and Sub-tropical Maritime, which in my opinion would require a lot longer than 2 months. The applicant's continuing opposition to this may be tied with the requirement of having to have hundreds of more wheelie bins and storage space?

- (ii) Given the findings and using the findings of the GHD report and Council's comments, an audit and risk assessment needs to be applied to existing practices. An investigation is warranted to determine if there was erring and or partiality in decision-making for the existing waste management system to be approved. Without that investigation, forming the base on which the 'could do' system is proposed,
- (iii) It would be improper decision-making to provide the applicant leverage to determine a Council's sewerage policy

NOISE

I attended the Independent Planning Commission's hearing at Ocean Shores. Loud noise from outside the building was heard at one point during the presentation given by the Deputy Mayor of Tweed Council³. Until someone shut it down, it became impossible for me to hear the presentation and it was obviously intrusive to others in what was a packed hall. It wasn't until during the break was I made aware, by overhearing the presenter herself, who was visibly upset by the fact that the noise, which had been prepared as part of the presentation had been shut down. It promised to be a brilliant strategy but its annoyance factor was so immediate that action was taken to stop it. The real tragedy here was that the decibel reading had been set to what the Deputy Mayor, in her private capacity has to endure and is expected to endure in her home kilometers from the festival site. The relevant point here is that **noise impact continues to be a major problem with the site that hasn't been resolved to date. Its demonstrated annoyance factor at the hearing was immediate warranting its shut down.**

The site has a varied contouring. Background noise responds to this variation. A base line of mapped noise contours is basic to any consideration of noise impact. That base line data needs to have the use of a measurement scale in addition to an A-weighted scale for the measurement of low frequency noise. Inclusion of this base line data, in mapped form should be mandatory. That data needs to cover a radius of 10kms from the site if it is to address the ongoing noise impact problems and what may be acceptable limits of the location from which there are ongoing noise complaints. If not already done, the purpose of this is to Discover the base data for to provide fearless and forthright information for all parties. This needs to be financed by the applicant but done by an acoustics specialist who is independent of all stakeholders.

This base data must set noise limits at ecological sites. The seemingly arbitrary limit of 65dB(A) at the ecological sites, recommended by the Australian Department of Environment, needs to be reconfigures once actual background noise at those sites has been established.

Fauna are sensitive to noise and in fact we are dependent on some fauna to warn us of danger and signal changes in meteorological conditions. Fauna is sentient and this site forms part of a

³ I do not know the Deputy Mayor of Tweed Council either in her public or private domain

wildlife corridor. Consequently, if there is any variation to the base data for ecological sites then it has to be explain, why now and not before? If there is either erring in decision-making or partiality in any change from the base data then that has to be explained in terms of existing legislation and reasons as to why it should continue.

Using an artificial base for noise, omission of bass noise and noise zones

It is peculiar that without any contoured mapping of base noise there has been an ‘understanding’ that it would “ordinarily” be 30-35dB(A). This is akin to treating the subject area as approximating a homogenous plain, which clearly it is not.

However, the original noise limits as set by the PAC in 2012 at sensitive receivers:
Allowing background + 10dB(A) between 11am and midnight. This brings noise to 40-45dB(A).
Allowing background + 5dB(A) from midnight to 2am. This brings noise to 35-40dB(A).

Omitted from PAC’s 2012 constraints were limits on the dB(C) or dB(lin) which are measurements of the most intrusive to date of bass noise. Even authorities such as RMS is concerned with additional measurements on noise to the A-weighted scale. It warrants explanation why PAC would rely on Parklands’ self-regulation at that time?

In response to Parklands complaining and wanting to have higher noise limits, PAC gave them zonings. They didn’t ask for the right to create more noise. They asked for higher limits so that it would be easier for them to comply with the limits. The effect was they were *allowed* to create more noise.

Zone 1 Between 11am and midnight noise was now increased to 60dB(A) and 70dB(lin).

Between midnight and 2am noise was now increased to 45dB(A) and 60dB(lin).

When compared to the original limits it means that noise that had been set at 40dB(A) has been increased to 60dB(A), **a 20dB(A) increase**. Noise set at 45dB(A) is now 70dB(A) representing an increase of **25dB(A)**.

From midnight to 2.00am noise set at 35dB(A) is now 45dB(A) representing an increase of **10dB(A)** and that set at 40dB(A) is increased to 60dB(A) representing an increase of **20dB(A)**.

Comments:

- (i) Unless there is error in the above, the increase in dB(A) from the 2012 levels presents as ‘erratic’ warranting explanation. Furthermore, the increase in the noise heard is more than doubled. “10 compressors will give a noise level increase of 10dB(A)- this represents a doubling of the noise that we hear.” (see footnote 4)
- (ii) It would appear from these limits that no consideration was given to a change in the base noise over the course of the day. One would readily argue that base noise varies

over the 24hour cycle. Day, evening and night would have a different base noise. This has not been represented/acknowledged in these limits.

- (iii) Even the RMS acknowledges the need to consider noise in time intervals from 7.00am to 10.00pm and then 10.00pm to 7.00am. At a minimum, the applicant should have the timing adjusted so that noise is considered from 11am to 10pm and from 10.00pm to 2.00am.

Zone 2 Between 11am and midnight noise has been increased brings noise to 55dB(A) and 65dB(lin)

Between midnight and 2am noise has been increased to 45dB(A) and 55dB(lin).

Compared to the original noise limits this means that which was set at 40dB(A) is increased by **15dB(A)** and that set at 45dB(A) is increased **by 20dB(A)** from 11.00am to midnight. Noise originally set from midnight to 2.00am at 35dB(A) is increased by **10dB(A)** and that at 40dB(A) is increased by **15dB(A)**

Comment:

- (i) Unless there is error in the above, the increase in dB(A) from the 2012 levels presents as 'erratic' warranting explanation. To give an insight into the sound effect of a change in noise limits, "10 compressors will give a noise level increase of 10dB(A) – this represents a doubling of the noise that we hear"⁴ Here, noise level increase is equivalent to an increase of 10 compressors i.e. 10dB(A) **and above**. Because decibels are on a logarithmic scale, a 10dB increase sounds twice as loud, and a 20dB increase sounds four times as loud. Now consider the impact of the pattern of change in those new noise levels - **in Zone 1 +20dB(A), +25dB(A), +20dB(A), +10dB(A),
in Zone 2 +15dB(A), +20dB(A), +10dB(A), +15dB(A).**

Not only is the pattern of change 'erratic' but the change itself is horrific in terms of noise that can be heard.

- (ii) It would appear from these new limits that no consideration was given to a change in the base noise over the course of the day. Base noise varies over the 24hour cycle. Day, evening and night would have a different base noise. This has not been represented/acknowledged in these limits.

Even the RMS acknowledges the need to consider noise in time intervals from 7.00am to 10.00pm and then 10.00pm to 7.00am. At a minimum, the applicant should have the timing adjusted so that noise is considered from 11am to 10pm and from 10.00pm to

⁴ Isles Steve Manager Environmental Compliance 'Road Traffic Noise and Mitigation Techniques' Northern Pacific Highway Taskforce Report. RTA Presentation to the Taskforce

2.00am. However, this does not overcome the continuing contentious issue that noise limits are simply not aligned with the very quiet base background noise of the area.

I have concerns about these latest noise limits:

- (i) The **change** from the original 2012 limits present as opportunistic in favour of the interests of the festival as opposed to community
- (ii) The **pattern of the changes** is at best ‘erratic’ warranting explanation, and
- (iii) The aforementioned becomes even more concerning because it is these latest noise limits that are being recommended for the current development.

Assuming the pattern of changes in noise limits, which I have described as ‘erratic’ is confirmed then the information needs to be treated as ‘Discovery Information’ and adjusted for transparency. A warranted adjustment must be explained in terms of the change in sound that a person can hear.

(i) The increase in dB(A)s from the original 2012 limits is unacceptable let alone being recommended for the current development. As the Commission would be aware, these are not arithmetic but exponential increases in noise. In considering the impact of these limits, it is appropriate to look to expert authorities. The RMS for example, when working with new developments, albeit here it is traffic, are limited to +2dB(A) above existing base noise after which noise mitigating measures must be used. The then RTA’s commissioned research review of noise on sleep found: “*the only consensus within the literature is that the characteristics of a noise signal that are most strongly related to sleep disturbance are:*

- . *the peak level of noise events, described by Lmax*
- . *the emergence of noise events above the general noise level, described by measures such as (Lmax-Leq) or (Lmax – L90)*
- . *the number of such noise events occurring during the sleeping period.”⁵*

What is clear is that the new noise limits were not adjusted upwards to reduce disturbance for the community. This then raises the question in whose interests were they increased and the obvious answer is Parklands. By increasing noise limits it is more than reasonable to say that Parklands would find it easier to meet compliance as compared to the original limits set in 2012. It cannot be denied these new noise limits were opportunistic increases to benefit the festival’s interests. This means, the decision to increase noise limits was partial in favour of the applicant. It hasn’t solved

⁵ Northern Pacific Highway Noise Taskforce Report 11/8/2003 3.14 page 20

the problem for the community. In fact it is being made worse because the applicant is leveraging these limits as a recommendation into the future.

- (ii) Unless there is a transparent data base for zoning, then zoning is reduced to arbitrary lines. Such is the need for a map(s) showing the contours of base noise, ideally during day, evening and night before any change in noise above the base data can be recommended. To recommend any noise limit without that base data, in a radius to 10kms from the site is to act partially in favour of the applicant. It would also provide ground truthed data to manage the site in ways other than treating it as a quasi homogenous plain.
- (iii) A 10dB(A) reduction in sound level will produce a 90% reduction in acoustic energy which should be attainable by the applicant and maybe acceptable by the community, subject to ongoing monitoring of compliance and ongoing negotiation.

SUNDRY OTHER ISSUES

I have accessed a copy of submissions done by CABS and Carmel Daoud and Gary Opit. I support those submissions. Consequently, I am choosing not to add further to this submission because to do so would only echo their content.

OVERALL SUMMARY

The accumulative problems with the site for events at the existing scale has not been resolved.

- (i) Omitting consideration of Aboriginal cultural heritage issues is wanting and reflects badly on the applicant
- (ii) There is 'Discovery Information' that requires investigation to determine whether or not there has been erring and or partiality in decision-making thus compromising the principled position that those serving the public are expected to provide fearless and forthright advice on an issue.
- (iii) There is Discovery Information that requires investigation to determine whether or not existing wastewater management system and noise limitations have been properly determined in terms of satisfying community expectations and standards and presents minimum risk to public health and safety.

The applicant is requesting an increase in the scale of operations from a base of existing practice that has far too many questions and unresolved issues to warrant any extension.

Patricia Warren
8 January 2019

