

To: The NSW Minister for Planning
From: Coalition for Festival Sanity, Mac Nicolson, Convener
RE: S.75W Modification Application for MP 09_0028
Date: 21 June 2015

As a group of concerned residents and associations in the north of Byron Shire and south of Tweed Shire, we object to the modifications to the PAC approval that are being proposed by North Byron Parklands. Here are our concerns.

Proposed dB(A) Noise Limits Too High. Noise has been an issue with this development from the beginning. The noise affects many people who ordinarily enjoy very quiet surroundings and want to keep it that way, not just the designated sensitive receivers. So we strongly object to allowing LAeq 65 dB(A) from 11AM to midnight and LAeq 55 dB(A) between midnight and 2AM. These levels are much higher than what's allowed now, which means residents will be disturbed that much more. In addition, because LAeq is a unit of measurement that represents an effective averaging of emissions, the perceived noise will be higher than that much of the time. LAeq can be contrasted with the LMax unit of measurement used as limits for many of the venues cited in Table 2.1 of the proposal—to which Parklands is comparing itself. LMax (maximum level) is notably different to LAeq, especially when considering the effects on residential amenity.

Adding another 5 dB(A) to the LAeq limits when the weather is bad makes the situation even worse. Parklands admit that strong winds make the noise even more noticeable to residents. Rather than asking for still higher limits when the wind blows, they should be managing the noise more effectively or reducing the noise during adverse weather conditions.

Local residents hired AcousticWorks, a professional noise engineering firm, to do independent monitoring during Parklands festivals and to review the reports prepared by Parklands' noise engineers (Benbow and ANE). In November 2014, AcousticWorks offered this comment on ANE's contention that Parklands should have a 5dB "allowance" under adverse weather conditions:

This proposed condition is the opposite of what should occur in practice. It is not the fault of the receivers that the wind is blowing towards their property. The responsibility should be on the event organiser to reduce the PA system volume under these conditions, not get a bonus 5dB allowance.

(The complete review by AcousticWorks of ANE's report, provided to us by the people who commissioned it, is attached with this submission.)

We also call your attention to this statement on page 18 in the modification proposal: *"It is important to note that the proposed A-weighted limits would result in both events complying with this criterion, while not increasing A-weighted emissions at sensitive receivers."* This statement is not consistent with the predicted noise levels shown in Tables 4.2 and 4.3 on pages 158-59. For example, the proposed limits up to midnight are 21dB or 22dB *higher* than the existing limits at R6 and R12 and 26dB or 27dB higher under a worst-case scenario. These are increases. Why Parklands/ANE characterise them otherwise is completely perplexing.

It's obvious that the proposed increases in dB(A) emissions will make it easier for Parklands to stay within approved limits, but that will happen at the expense of residents and is contrary to the letter and the intention of the PAC approval.

Proposed dB(C) Noise Limits Too High. Parklands' proposal to set specific limits on the dB(C) (bass) noise makes sense, but they're asking for limits that are too high. Parklands used these same limits as target levels for Falls 2013 and Splendour 2014, but noise was a big problem both times and generated many complaints about the noise in general and the irritating bass in particular. AcousticWorks reviewed the noise report issued by ANE after Splendour 2014 and stated:

"The aspirational noise limits shown in Table 1.4 appear to have been selected with a view to 'fit' the noise levels measured during the SITG 2013 event, rather than determining a more appropriate noise limit and requiring the festival to take steps to reduce low frequency emissions. In simple terms, the aspirational noise levels appear to make it relatively easy for low frequency compliance. (AcousticWorks, November 2014)

We urge the Minister to set lower bass limits than those being proposed and to consider them tentative, subject to comparison with "the subjective assessment of residents", as recommended by the Department in its "Review of the Noise Performance Update, Splendour in the Grass (30 October 2013), when the issue of setting bass limits first arose.

Lower Noise Limits Already Requested. Community representatives and other members of the development's Regulatory Working Group have more than once recommended lower noise limits. The Director-General/Secretary has not acted on these recommendations, so we are urging you, the Minister, to now impose lower limits. This is the only change in noise levels that makes sense to those of us who live here.

We note that ANE's noise report for Splendour 2014 states "*...the background plus 10dB and background plus 5dB noise limits imposed on the venue by the conditions of approval can not be achieved by events*". AcousticWorks (the engineers hired by local residents) comments on this statement in its review of the ANE report:

This statement is incorrect. The PA systems all have volume controls and consequently the volume and frequency characteristics can easily be reduced in order for noise emissions to comply.

The issue is that Parklands does not want to lower the volume and has resisted all suggestions to solve the disturbance in this way. Despite the resistance of Parklands, reducing the volume remains a solution.

Parklands Is Not Like Other Venues. The comparisons Parklands makes between their events and other events around NSW are misleading. Most of the examples they cite in the proposal are one-day events, and all are in different locations with different operating hours and different kinds of entertainment. But the most relevant point is that *it doesn't matter what's going on at other venues because those other venues are not operating under conditions set by the PAC for a five-year trial.*

Noise Complaints at Other Venues vs Parklands. Parklands asserts that other named events in NSW generated few or no complaints but gives no citations so that the numbers can be checked independently. Assuming the complaint numbers are accurate, though, the complaints to Parklands have so far been much more numerous than any of the examples they give. Splendour 2013 generated 73 complaints. The numbers were 34 for Falls 2013, 139 for Splendour 2014, and 22 for Falls 2014. These numerous complaints indicate the need to keep the existing limits or lower them, not raise them.

Of particular note is that recent complaint data (Parklands' 2014 Noise Impact Report and the Complaints Register) show that more than half the complaints related to the overall noise volume being too high. So Parklands is claiming erroneously in this proposal that bass noise has been the source of most of the complaints directed to them. Our own experience confirms Parklands' 2014 Noise Impact Report: although the bass noise is irritating, the overall volume of noise is equally disturbing, or possibly more so, to most complainants.

We remain concerned about Parklands' reported complaints because of the way they have handled complaints so far. We know that the reported complaints are lower than the number of people who tried to complain. We don't know how much lower, but we've talked to many people who have said they were unable to get through on the hotline when they tried to complain.

A More Reasonable Comparison. If Parklands wants to compare itself to other venues, they should look to the site of Bluesfest, a large music festival that has been operating for years in Byron Shire. Last year, Bluesfest applied to Byron Shire Council to establish a more permanent events site. The DA describes events similar to Parklands' events in size with these noise limits for the largest event: LAeq 55 dB(A) up to 10PM and LAeq 50 dB(A) from 10PM to closing time at midnight. These are notably lower than Parklands proposed limits of LAeq 65 dB(A) up to midnight and LAeq 55 dB(A) from midnight to 2AM. Bluesfest's noise emissions have also been lower than Parklands' reported emissions for Splendour, the larger and noisier of the two Parklands' events. Parklands' claim that they must have higher noise limits is weak in the face of Bluesfest being able to operate successfully and profitably with lower noise limits and shorter operating hours. Bluesfest's noise management also takes into account their use of multiple stages simultaneously, with the resulting exacerbation of noise, something not built into Parklands' noise management plans. (For details of the Bluesfest proposal, see DA 10.2014.753.1, submitted to Byron Shire Council in October 2014.)

Parklands Not A Good Place for Music Festivals. As we argued to the PAC in 2012, this site is the wrong location for outdoor festivals with amplified music coming from multiple stages, bars, etc. The PAC made a very reasonable decision to set background-plus noise limits because of the very quiet vicinity, especially in winter. This decision clearly took residential amenity into account and is not an unusual or unreasonable condition. See, for example, the background-plus conditions used at other venues that are cited by Parklands in its Noise Impact Report of November 2014.

Parklands now complains that their background-plus limits are “prohibitively low in winter and therefore very difficult to comply with”, but the more important point is that the festivals held in winter (Splendour 2013 and 2014) were seriously disturbing to the surrounding residential areas and will be even more disturbing if the allowable noise limits are increased. The Falls festival is about half the size of Splendour, but it also was extremely disturbing in 2013. The noise was better controlled in 2014, but Falls’ long-term ability to control its noise can’t be assumed and is still undergoing a trial. Doing a better job in 2014 doesn’t necessarily mean that they’ll manage noise well in future, especially if the event grows in size.

Need for Better Noise Control. In 2012, Parklands talked about how experienced they were at putting on large festivals, and they expressed great confidence about meeting the PAC conditions. They must have assured the PAC and the Department of Planning that they could keep to these conditions and would manage the noise well, and their previous noise engineers said that the existing noise limits were achievable (SITG 2013 Noise Monitoring Report prepared by Benbow Environmental). But Parklands have not done a good job so far and should be expected to do much more. For example, they could construct sound-reducing covers over the main stages like the cover used at the Sydney Myer Music Bowl in Melbourne. This idea was suggested by residents to Department staff some time ago and was noted by staff as a measure that could work well. Parklands should be more proactive about managing the noise instead of complaining about the limits and expecting them to be increased.

No to Extended NYE Hours. We object to main stage hours being extended until 2AM on New Year’s Eve. Falls is not a one-day event. The noise goes on for days before NYE and after NYE, too, for more than 12 hours straight each day. The PAC specified midnight closing time for the main stages, and that condition should be kept. Noise from the café-bar operations until 2AM is disturbing enough. Residents shouldn’t have to put up with the main stages until that hour, too, on any night.

Noise Monitoring at Parklands. We have been frustrated with Parklands’ noise monitoring. We remind the Minister that the Department became aware of problems with festival noise only when a noise engineer hired by local residents reported breaches of the PAC limits during Splendour 2013—when Parklands had reported no breaches. The Department then reviewed Parklands’ noise monitoring and found faults. Parklands’ noise data collection during Falls 2013 was also deficient. Some of the required monitoring simply wasn’t done. Things are slowly improving, but Parklands should continue monitoring at all sensitive receiver locations, whether or not property owners have agreed to withhold complaints. The PAC stated “In considering any future project applications, the Council must take into consideration the performance of events during the trial, the effectiveness of the management plans, the monitoring results of environmental conditions...” (PAC Final Determination Report, 2012). Since noise is such an issue, Council needs as much information as they can get about the noise so that they can understand the issue and make informed decisions when they

become the consent authority. Stopping the monitoring now, with the very spotty history accumulated so far, will put Council at a real disadvantage.

Amplified Music vs Other Sources of Noise. Parklands claims that other sources of noise in the area are as loud as their festival noise, implying that festival noise cannot be faulted because of this. They mention ocean sounds and vehicle movements specifically as causing as much noise as festival music. It's true that residents here experience ocean noise and vehicle noise, but those sounds are not disturbing in the way that amplified music is, especially when the music is cranked up to very high levels and goes on for hours, day after day and well into the night. That kind of noise is seriously intrusive in this quiet area.

Also, when using the LAeq unit of measurement, numerous relatively quiet events can yield the same LAeq over a given period of time as a few very loud events. As with any average, LAeq has advantages but does not necessarily capture the experience of those who are subjected to the noise.

Consolidating Conditions into C16. In wanting to consolidate all noise conditions into C16, we see that Parklands has proposed eliminating most of what was in the former B3: restrictions on noise in the camping area, midnight closing times for main stages, and so on. These conditions should not be deleted from the approval. Of particular concern is the elimination of B3(5), which states that the RWG may recommend increases or decreases to noise limits after considering the noise impacts of festivals. It is very important to preserve the right of the RWG to recommend changes to the noise criteria so that the surrounding communities will continue to have a voice during this trial period.

Required Noise Mitigation. Another concern for us is that Parklands has not completed noise mitigation works at designated sensitive receivers, something that was supposed to have been done before the first event took place in July 2013. The Department was very clear about the need to comply with this condition, and the residents involved have had engineers on their property several times to figure out how they can be protected from festival noise. There are no easy answers to this situation, especially since the required mitigation would place an extreme, unwanted burden on the residents, but these people are strongly affected by festival noise, and we are appalled at how Parklands and the Department have responded to their concerns and to the disturbance they have experienced. We are especially frustrated to see in this proposal the suggestion that the residents involved must put a mitigation request in writing (which some have already done!) and that Parklands will have to act only if the disturbance occurs "over more than two consecutive events". Parklands has not faced up to its responsibility to these people. The Minister should not support Parklands' behaviour and should seek a clear understanding of what has been going on from the perspective of the residents.

Southern Car Park. The use of the southern car park was limited by the federal government (EPBC Act) because of the nearby wetlands. The federal government's approval needs to be sought for this proposed

modification. We are against it because cars don't belong so close to those wetlands. Other proposed modifications are also part of the federal government's approval (as detailed in that approval), and they, too, should be the subject of federal government assessment under the EPBC.

Changes in Part B. On page 47 annexure A, Part B, Parklands proposes to change the definitions of large and medium events by increasing the numbers allowed for the first events in the trial. For example, the PAC approval defines a large trial event as *"an outdoor event the first trial event for which is proposed for between 15,000 and 25,000 patrons"* and Parklands now wants this to read *"an outdoor event the first trial event for which is proposed between 25,000 and 35,000 patrons"*.

There are two reasons not to change these numbers. First, the first events have already occurred, so changing the numbers for these already-held first events has no meaning. Second, since annual proposed increases in attendance are based on the original numbers, those original numbers should remain in place so that any further increases in attendance will be in line with the original approval and will be done in increments from those first-event numbers.

We also note that the definition of "small trial event" here has been changed to "between 10,000 to 15,000 patrons" from the original "up to 10,000 patrons" although the editing is not shown here. The original number should remain in place for the same reasons cited immediately above and because a small trial event has not yet been held at Parklands.

Small Community Events. As to the approval of "small community events", we think the proposed definition of this new category is too vague. Simply saying that an event is a non-music event doesn't mean that it will be low-impact in terms of noise or the environment. A vehicle rally could generate as much, or more, noise than amplified music and be detrimental to the environment. A much more specific definition is needed, and specific community consultation should be sought on this part of the proposal before any approval is given for additional events of any kind on the site.

The Proposal Process: Notifications to the Public. We call the Minister's attention to the misleading notification that the Department placed in local papers regarding this modification proposal, e.g., *The Echo*, 3 June 2015, page 14. Three points were mentioned in the description: low-frequency noise limits, small community events, and "minor administrative issues". No mention was made of substantially increasing dB(A) levels of noise or making other substantive changes in the consent conditions. The Parklands GM also stated, in a letter to the *Byron Shire News* (18 June 2015) that the purpose of the modification is to "increase community amenity with respect to noise" but made no mention of raising the existing levels of dB(A) noise, which will have the opposite effect. This same letter sends readers to the Parklands website for more information, but the proposal is not posted on the website and no mention is made of the proposed noise increases. Given that Parklands noise has been such a persistent and contentious issue, at least notices from the Department should have been far more clear and transparent about Parklands proposing *increases* to their noise limits.

The Proposal Process: Submissions. Members of our coalition have spent many hours carefully going through the proposal, comparing it with the original approval, discussing the implications, and preparing this submission. As local residents, our own comfort and amenity is at stake, and we are very concerned about how the proposed changes will affect us personally.

At the same time, the festival promoters are urging their fans to send in submissions to “pump up the volume” because the existing conditions are so “prohibitive”. (See <http://www.fasterlouder.com.au/news/43093/Splendour-in-the-Grass-needs-your-help-to-pump-up-the-volume>). This plea for “help” from festival fans is likely to generate thousands of supportive submissions from people who have not read the proposal, do not understand the history of the development so far, and do not understand the implications to the people who live near Parklands. This same tactic was used when the PAC was accepting submissions in 2012. Of the people who sent in submissions at that time from the postcodes nearest to Parklands, over 80% objected to the proposed development, but many submissions from fans trying to “help” secure PAC approval swamped the local residents’ concerns.

In assessing this proposal, we sincerely hope that the Minister will be more attentive to the issues raised by the submissions than to the quantity of submissions received.