

AUSTRALIANS FOR ANIMALS NSW INC.



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Australians for Animals NSW Inc. (AFA) submits the following objection to the Billinudgel Property Pty Ltd (BP Pty Ltd) modification request Application No. MP 09_0028 MOD4 seeking to extend the trial period for outdoor events of up to 35,000 patrons by a further 20 months to August, 2019

GENERAL COMMENTS.

The infrastructure of Byron Shire is groaning under the weight of 2 million tourists annually. 15,500 Ratepayers were recently levied a 33.5 % increase in rates to cover the cost of infrastructure. BP Pty Ltd has no requirement to pay towards the damage to the Shire's infrastructure which is considerable given the number of patrons attending the megafestivals.

- . The charity expresses its deep concern over the claims of economic gains to Byron Shire and beyond.
- . It is incumbent on the Department to examine evidence which supports these claims . With no attempt to consider the costs to Byron Shire's infrastructure, damage to roads, costs to ratepayers, damage to the environment, degradation of Billinudgel Nature Reserve including costing the impacts of loss of biodiversity, sleepless nights, anxiety and disruption of recreational time, traffic jams, carbon emissions, beaches rubbished, illegal camping, loss of confidence in local and state government, drugs, alcohol abuse, gridlock on highways and in town, loss of business, over-loaded hospitals, the claimed economic benefits are both disingenuous and dishonest without a proper balance sheet. Further, there is no gross or net profit provided by BP Pty. Ltd.
- . It is important to note that the recently completed Byron Hospital Byron Hospital has an inpatient unit with 43 beds. Given the concern of the police expressed in the SEARs responses to the SSD application by BP Pty Ltd., it is clear that the hospital would not be able to cope with any major emergency whether generated by the proposed modification or any future approval of the SSD application.

It is imperative that the DOP apply the principles of fairness, transparency and accountability. The residents' loss of amenity should be properly quantified both in physical and financial/economic terms.

With no independent audit of ticket numbers, Condition C53 is relevant to the modification request.



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At no stage has the Director General ever provided confirmation of patron numbers which are relevant to any modification proposal. This information should be included in any application as aerial photos and police estimates suggest the limits to patrons have not been complied with. Numbers of staff, security and other personnel should also be included.

NON COMPLIANCE BY BP PTY LTD

Australians for Animals NSW Inc submits that BP Pty Ltd has failed to comply with Condition C53.

- . ***C53 Evidence of Attendee Numbers***
- . Within 28 days of the conclusion of an event, evidence must be submitted to the Director-General to confirm that patron numbers within the event did not exceed the numbers specified within this approval.

As a result of emails and phone calls to Chris Ritchie, AFA has been provided with the patron numbers for Splendour and Falls since 2014. The information provided for both festivals is inconsistent, contradictory, contains major omissions relevant to patron numbers, and cannot be described as “evidence”. No information is provided on the number of free tickets given out by both festivals. In combining camping numbers with ticket sales, the patron numbers under the approval for Falls 2016 have been exceeded. In other “evidence” camping tickets have not been included.

C53 has breached C53 with patron numbers exceeding the numbers specified in the project approval. How can the community possibly trust any compliance with future approvals? There has been a long history of BP Pty Ltd making promises, giving undertakings, and providing incorrect and invalid information together with a long list of breaches provided to the DOP. No action has been undertaken by the DOP in response.

It is of major concern that the DOP refers community representatives and others to Parklands Social Impact Consultant as a means of raising social impact issues. This lack of objectivity by the DOP and referrals to the proponent on such a critical matter provides ongoing evidence of bias by the Department.

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AUSTRALIANS FOR ANIMALS INC. OBJECTIONS FOLLOWS:

1. The DOP advertisement which appeared in the Byron Echo 21st March, and Byron News, 22nd March, contained links to DOP websites where no information, documentation could be found. This resulted in emails to the DOP to advise that the advertisements contained no proper links to the modification documents. An apology was received by DOP via an email and links were subsequently corrected.
2. In an email to Chris Ritchie sent on 22nd March, AFA requested a further week to make submissions based on the incorrect links in the DOP advertisement as many people would find the lack of information confusing. As well, it would be difficult for many people to visit Council to inspect the documents because of a lack of transport.
3. AFA was advised by Chris Ritchie in a phone call that “*letters advising of the modification had been sent out to many people.*” However, there was no clarification as to who sent out the letters, when and why? No letter was received in the AFA office in spite of many years of involvement by the charity in the megafestivals’ operation. Nor was a copy of the letter provided.
4. AFA objects to the efforts of the DOP and North Byron Parklands to quarantine impacts of any continuation of megafestivals to August 2019 to neighbours and nearby residents. The entire Shire is impacted by these festivals, particularly Falls which is held over the Xmas New Year period when many people have arrived in the Shire for holidays.
5. It is of concern that under Appendix C, consultation was confined to the Byron Mayor, 3 Councillors and various Council staff. Why all Councillors were not advised or consulted is further evidence of efforts by the DOP to quarantine information and potential submissions/objections.
6. It is unclear from the wording of the DOP advertisement whether in fact if the modification is approved, both Falls AND Splendour will be permitted to hold events with up to 35,000 patrons.
7. There has never been any independent audit of ticket sales and patron numbers provided by NBP are therefore highly questionable. Aerial photos of megafestivals with over 35,000 are almost identical to aerial photos of Falls with NBP claiming 12,000 less numbers.

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8. Security staff, service operators, stall owners and staff, crews and others are never counted in the numbers.

9. Economic Benefits.

10. In the latest modification, the following claims are made by NBP.

“Importantly, economic assessment indicates that the annual Splendour in the Grass and Falls Festival Byron events are generating significant tourism and economic benefits for Byron Bay and the North Coast region, with the 2016 events generating:

- direct expenditure of \$55.1 million, of which \$16.6 million was in the Byron Shire;*
 - gross value added of \$60.7 million, with \$17.1 million in the Byron Shire;*
 - 788 full time equivalent jobs, including 246 jobs in the Byron Shire (representing 2.25% of the Byron Shire workforce); and*
 - a range of direct contributions to local community organisations, which have totalled more than \$575,000 since 2001. ”*
11. These claims and the complete lack of any evidence in support of the “*economic gains*” are unacceptable and should not be regarded as made by NBP. No gross or net profit made by BNP Pty Ltd is ever included in these fanciful estimates.

RELEVANT ECONOMIC BACKGROUND TO MODIFICATION REQUEST

12. A short history of these claims is listed as follows:

- * In October, 2010, NBP claimed in the Northern Star that their proposed festival site at Yelgun would provide a staggering \$192 million benefit to the Byron Shire economy annually.*

13 * At the time, NBP was unable to clarify or comment on the figure which represents almost 20 per cent of Byron Shire’s total annual gross regional product.

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14. * NBP claimed the \$192 million was a calculation of multiplied flow on effects through the local economy. No research, no studies, no figures, nothing was made available to back up these extraordinary claims.

15. **NOTE: According to the latest economic claims contained in the 2017 modification, the benefits to Byron totalled 33.7 million.**

16. **The assessment dated September 2015 covering Splendour 2015 and Falls 2014/15 identified the total economic output of these events at 107.8 million. 2016 figures demonstrate 115 million.**

17. *. In 2017 modification request this figure has jumped to 246 full time jobs. No details or evidence is presented to support this claim.*

Nor do we have any information as to where these jobs are, whether holiday pay, sick leave , superannuation and other government requirements are met .

18. *The 2015 assessment claims 28,995 room nights in accommodation within Byron Shire and 7,721 room nights in other areas of Northern NSW (not including on site camping) all over a period of eight days.*

19. ** There is zero information to back up this claim.*

20. *NBP Performance Report 2015 includes under Economics an assumption that the average cost of accommodation per night is \$120. Based on the number of festival goers who camp, go to caravan parks and stay with friends, this figure is highly inflated and cannot be accepted as valid. No evidence is provided to support the claim of \$120 per night.

21. * Accommodation revenue is also misleading. If 85% of all accommodation revenue on festival weekends is from festival attendees, this cannot be taken as an estimate of additional revenue into the local economy. Most weekend occupancy rates are at least 80% without a festival. Therefore, the contribution of the festival accommodation revenue is an additional 20 % of accommodation above average occupancy rather than a simple revenue figure of 85% would suggest.

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22.* Festival goers displace other tourists. Any festival accommodation revenue gain for the community requires an offset calculation of the spend patterns of festival goers vs. a different type of displaced tourist. Festival goers probably spend less in art galleries, restaurants, dolphin kayaking etc. than other tourists, offsetting additional accommodation expenses.

23. * According to a **Splendour in the Grass 2006** Economic Report, their economic analysis showed that the event injected \$5.7 million into the Byron Bay economy, through ticket sales, accommodation, food and touring expenditure. No evidence provided.

24. An estimated 1.6 million was spent on accommodation. No evidence provided.

25. * If these figures are correct, then on that basis, ten years later, the economic benefit to Byron Shire at the end of 2015, according to NBP, is \$107 million, an increase of approximately 2,200 per cent – or an annual increase of 220 per cent.

26. * Who checks the accuracy of NBP economic assessments ? What kind of credibility can be given to these documents ?

27. * Apparently in 2017, BP feels sufficiently confident of PAC's support to simply name figures based on assumptions provided by the proponent and expect they will be accepted.

28. Under C13, offsite management. (8) Proponent to provide resources to identify illegal camping and/or illegal parking within 3 km radius of event site. Such identified activities should be reported to the Byron Shire Council and records maintained.

Where are these records in the modification ? This is important data.

29. Noting in the modification the following statement:-

...”...it is envisaged that the assessment and approval timelines for the SSD application will extend well beyond the expiration of the trial period.

This puts upcoming Splendour in the Grass and Falls Festival Byron events at considerable risk. Planning for these events generally commences 18 months in advance

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of each festival, and requires the execution of legally enforceable agreements that include but are not limited to the performance dates and the location where the performance will take place. Changes to either of these parameters can result in financial penalties and/or cancellation of the event by the artist in question.

The Falls Festival Byron 2017 is currently unable to proceed under the trial period, as its operating dates include 1 and 2 January 2018. In addition, booking of international artists for Splendour in the Grass 2018 is well underway, and planning for Falls Festival Byron 2018 and Splendour in the Grass 2019 will commence this year.

Importantly, economic assessment indicates that the annual Splendour in the Grass and Falls Festival Byron events are generating significant tourism and economic benefits for Byron Bay and the North Coast region, with the 2016 events generating: “

30. It is important to acknowledge that BP Pty Ltd was at all times aware that they had approval for a 5 year trial which was, on completion, to be assessed before further approvals were given.

31. Attempting to persuade DOP that the economic consequences of not holding the festivals are a good enough reason for approval of the modification, without any assessment of the five year trial is unacceptable.

32. Given the current approval deems the Byron Council as the relevant entity to provide future approvals, and that this current modification comes under the Project Approval, it is unclear why Byron Council has been removed from the process or on what legal grounds this has occurred.

33. Approving this modification given that an SSD application is in train, provides stronger grounds for BP Pty Ltd to argue against any non-approval.

34. Five years of trials have demonstrated major problems with noise, traffic, evacuation, patron numbers over the limit, infrastructure damage and a significant list of breaches of consent conditions.



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35. An approval of the modification eradicates any trial assessment and ignores the list of breaches provided to the DOP.

36. The decline in hot line complaints is a result of the community achieving zero changes, no action to reduce the noise or the illegal camping, parking, fires, trashing of environment.

37. Under 1.6 Consultation.

Parklands consulted with the Department and a number of key stakeholders in preparing the proposed modification. Consultation was undertaken by way of telephone and/or email, and included provision of background information on the SSD application and the proposed modification, as well as detail on the scope and need for the proposed modification.

38. There has been no consultation with the community only letters sent to neighbors and nearby residents with no links to DOP website to make submissions.

39. Under 4.1.1 the following sentence is of concern: „ *would enable the continued monitoring of the performance of the trial in lieu of the assessment of the SSD application for the ongoing use of the site.*

WHAT EXACTLY DOES THIS SENTENCE MEAN ?

40, Under Performance. 5.9.2 Social impacts.

Table 5.3.

Anti social behaviour.

Feedback from NSW Police for the trial events indicates that caseloads in local villages and townships including Byron Bay are down on normal incident rates.

41. No evidence to support this statement re the NSW police and is contrary to the statement given

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to SEARS in relation to SSD application.

Local businesses advise that patrons are generally well-behaved.

42. No evidence to support this statement. What businesses ? Where ? Which festivals ?

However, some patron noise issues have been reported at Brunswick Heads bus stop. Events have placed security staff at the bus stop and patrons are reminded on the bus and event messaging to respect local neighbours.

43. Brunswick was overwhelmed with Falls festival patrons. It was impossible for residents to find parking spaces, post office and banks, ATMs had lengthy queues, long queues in cafes, beach and parks trashed, illegal camping in Brunswick, Ocean Shores, South Golden Beach.

Neither Byron or Tweed Council has raised anti-social behaviour from event patrons as a significant issue.

44. The number of letters in the papers, plus letters of complaint to Byron Council have been completely ignored by NBP.

To date the Community Hotline has received minimal complaints about anti- social behaviour.

45. The hotline was never set up to take complaints about anti social behavior. The newspapers and social media, community meetings details major community opposition and disgust over anti social behavior.

NSW Police has identified alcohol and drug use incidents on site. These issues are addressed through Responsible Service of Alcohol requirements, private security officers (between 200-300 guards depending on the size of the event),

46. Drug arrests have escalated. Police have detailed their concerns over 8 hour delay in evacuation, potential terrorist attacks, sickness outbreak.



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Beach destruction (from modification document.)

Trespassing

Illegal camping

Analysis of Existing Performance

- . ☐ Original community feedback in relation to the project application raised concerns about beach ecology being destroyed, beaches being overrun with patrons and illegal camping on beaches.
 - . ☐ The Community Manager actively documents surrounding beaches by taking photos. From these records and Council rangers feedback no such impacts or illegal camping on beaches has taken place.
47. This is completely incorrect. Beaches were trashed with illegal fires, bottles, faeces, rubbish and litter left Council has two rangers who were directed to focus on illegal parking in Byron.
- . ☐ There have been a number of reported incidents of non-patrons attempting to access events via private property. Events are responding by liaising with Police, Council rangers and neighbours, as well as providing increased static guards, regular security horseback and vehicular patrols and increasing signage, including at the entrances to the publicly accessible Billinudgel Nature Reserve walking tracks.
 - . ☐ Illegal camping is an issue for the Byron Shire throughout the year, however, to date, there have been 5 reports to the Community Hotline about illegal camping. Only two of those reports appear to be directly linked to festival patrons.

48. Funny how the majority of reports of illegal camping synchronize with Splendour and Falls festivals. Has the DOP requested evidence of the extent, dates and problems experienced in the Shire during the festivals ?



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“Any negative social impacts have been managed quickly and effectively, and are commensurate with any large cultural event involving large amounts of people. On balance, Parklands believes that the social benefits arising from each event have far outweighed the isolated incidents.”

49. A complete failure to address community complaints, damage or infrastructure, loss of amenity, a mis-description of the festivals as “cultural events” when they are alcohol and drug fuelled parties. No evidence is given of “social benefits arising from each event”. What exactly are the “social benefits?”

“maintaining pay for use levels of NSW Police Force members ”

50. Advised by Tweed police that police are taken from other stations (at risk to the community) and that they do not have enough resources to cope.

“Parklands also acknowledges that the local community most affected are the immediate neighbors, and is committed to continuing to work with these stakeholders to identify opportunities to reduce unintended impacts.”

51 This is absolute nonsense, quarantining the impacts of massive festival numbers to the local community ignores the impacts on the entire shire as a result of clogged roads, inadequate accommodation, insufficient resources to deal with huge crowds, loss of amenity to residents, inability to get to work because of traffic, inability to access supermarkets without long queues, banks, post offices.

52. Brandon Saul told a meeting of the Brunswick Chamber of Commerce in February that the state government “*had given consent to 50,000 patrons*” and he wanted to ensure everyone would enjoy a “*win win situation*.”

53. No attempt has been made to calculate carbon emissions created by the traffic in and out of the megafestivals.



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SUMMARY.

AFA requests a public hearing and at the same time, an investigation into patron numbers at both festivals since their inception by an independent body. Non compliance of C53 is an issue of major concern as well as no action on a long list of non compliance submitted to DOP last year.

AFA expresses deep concern over the inadequate compliance by DOP, the lack of an adequate time frame to provide comments as a result of the misleading advertisements by DOP, the effort by DOP to contain any concern over the proposal to neighbors and limited Councillors and staff at Byron Council.

Given the application for an SSD, it is of considerable concern that DOP continues to defend and support BP Pty Ltd demonstrating no concern for the social impacts on the Shire. This concern is further exacerbated by a phone call with Chris Ritchie in which our Co ordinator expressed considerable angst felt by Brunswick residents over the modification and the SSD proposal in terms of the social impacts on the small village.

To be directed to provide those concerns to a social impact consultant contracted by BP Pty Ltd is unlikely to result in an independent analysis of these impacts. Once again, the DOP provides no avenue for raising these very legitimate concerns.

Sue Arnold

Sue Arnold
Co ordinator

26 April, 2017