Submission RE North Byron Parklands SSD Application 8169 and MP09_0028 (MOD5)

I strongly object to the Concept Plan Modification and the SSD proposal for North Byron Parklands to be given permanent approval as a festival site. My reasons follow.

1. **Permanent approval is not in the interests of the community.**

The trial has shown that the negative impacts of the events are unpredictable. Traffic, noise, repeated use of illegal fireworks on site and other fire risks, questionable safety and security on site, questionable emergency evacuation procedures, injuries on site, local festival flu outbreaks, ongoing drug use and sales on site and in the area, excessive alcohol consumption, pollution of the site (significant vehicle emissions, discarded plastics, etc.), festival pedestrians on local roads, illegal camping off site, thousands more tourists in an area already inundated with tourists, and more—all have been observed by the community and enumerated by the NSW Police. These problems result directly from the festivals and have significant impacts on the local community. The festivals will continue to bring these problems to our area, and each year brings a new constellation of problems. For example, after the 2016 PAC raised the noise limits to accommodate Parklands, against the wishes of those most affected, community-funded noise monitoring found that the new limits were breached. This was at the 8th trial event, after Parklands claimed they had the noise well under control.

In addition, the site is highly prone to serious flooding that can occur very quickly when it rains heavily, as it often does in this area. That's serious enough to be considered a major constraint of the site. Parklands claims that everyone can walk out of danger in a few minutes, but they do not explain how they will deal with tens of thousands of pedestrians who are now separated from their vehicles. Parklands claims that they will not hold events if flood conditions are predicted, but warnings about flooding from Cyclone Debbie in 2017 didn't come soon enough for the people in the area around Parklands, including local authorities. No one expected the disaster that happened. During that storm, the campgrounds at Parklands were seriously flooded in a very short period of time in the middle of the night. More of the same can be expected, very likely with increasing frequency.

Permanent approval should not be given in the face of such a wide array of issues and such unpredictability and also in the face of still considerable opposition in the community. The developers claim that they need permanency at this location for business certainty, but their two large festivals have been operating profitably without permanent approval for some years now, both at Parklands and elsewhere, and it is likely that they will operate profitably wherever they are held in future, whether or not the location has permanent approval.

Approval to continue at all is questionable, but if future events are allowed at Parklands, they should be limited to one or two a year, should be based on year-to-year approval, and should have to meet new conditions that are firmly based on the needs and concerns of the local community, the considerable constraints of the site itself, and the issues that have arisen during the trial period.

2. **Local authorities should be in charge of this decision and this development.**

As the 2012 PAC stated, *"Outdoor events following the trial period will require a further approval from Council under Part 4 of the EP&A Act"* (Final Determination Report, 2012, page 11). As the PAC noted, the developers did not think it necessary to require any further approvals under Part 4 from any authority, but the PAC nevertheless imposed that further-approval

requirement, and local residents have trusted that their council would gain control at the end of the trial. Parklands' claim that they are state significant simply because they will be spending over $30 million should not be allowed to push the council and residents out of the way as happened with the Part 3A determination.

If for legal reasons, Byron Council cannot become the actual consent authority, then Council should be closely involved in assessing the proposal with the Department, in making the determination, in setting the consent conditions, and in enforcing those conditions post-approval. Tweed Shire Council should also be closely involved because the development affects that shire, too. The councils should not be relegated to the sidelines as they have been during the trial.

3. **Department oversight of the development has been seriously inadequate.**

The first two festivals in 2013 generated major problems, especially with traffic and noise, that had serious impacts on local residents and that breached the consent conditions. Members of the Department's compliance team were not there to observe the breaches, and community members questioned how seriously the Department was taking its responsibilities.

Compliance Director Kirsty Ruddock recently explained that a total of 11 breaches have been noted by Compliance *"in our monthly reports, media releases and in our internal databases. There are no other breaches recorded in that system."* Director Ruddock acknowledged that other issues may have been noted on paper but that finding any records from before 2015 would be very difficult. However, many more breaches have occurred from the first festival in 2013 through the end of 2017, as observed by local residents and Community Representatives on the Regulatory Working Group.

A small group of residents paid for a qualified noise engineer to measure noise from Splendour 2013 as a check against Parklands' own monitoring. That report clearly showed breaches of the noise limits. Although consent condition B2(3b) allows the Department to use "any monitoring data about the impact of events" in assessing performance, the Department refused to consider the community-funded report, did not consult with the highly-qualified noise engineer who did the monitoring, and did not acknowledge that noise breaches had occurred. Falls that year was even louder, and Parklands did not even do monitoring in some required locations at that event. The Department again took no compliance action.

Starting with the first two festivals in 2013, Community Representatives on the Regulatory Working Group alerted the Department to numerous breaches of consent conditions via the RWG meeting minutes along with phone conversations and email correspondence. For one example, see pp 515-523 of Parklands' first performance report, in which RWG members listed breaches in tabled comments to that group. A few of these were included in the final version of Performance Report #1 issued by Parklands (after the comments had been tabled at an RWG meeting), but many others were not included in that performance report and apparently were not noted by the Department, either. Additional breaches have been noted in the other RWG meeting minutes through the years, all of which have been forwarded to the Department, yet none of this information appears to have been recorded in Department records.

Also in November 2013, in correspondence with Byron Shire Council, the Department specifically refused Council's offer to help carry out regulatory inspections at festivals, making it impossible for our local elected officials to see for themselves the extent to which the festivals were meeting key consent conditions and work with the Department to ensure compliance.

In a 2014 meeting in Sydney with the Department, a Byron Shire councillor raised serious concerns about the functioning of the RWG. The councillor noted major irregularities, but it appears no record of the issues were kept by the Compliance Department.

In 2014, the Department conducted the only compliance audit of the trial period and noted quite a number of breaches of consent conditions, but the Department issued only one Penalty Infringement Notice: $3000 for breaching the noise limits. All other observations in that report resulted in recommendations. For a compliance authority to issue recommendations in the face of obvious breaches was unacceptable to the community that expected firm oversight.

In March 2016, a community member and a representative of a local organisation met in Sydney with the Department, with an EDO representative in attendance. They handed a list of breaches to date and other concerns to the Department. This information is also not part of the Department's compliance records for the development.

In 2017, the Department became aware of ongoing excesses in patron numbers only when a local organisation did a thorough investigation and uncovered the fact that Parklands has given away hundreds of tickets through the years but has never counted those ticket-holders as "patrons" even though the original consent condition defines *patron* as "anyone who holds a ticket to attend an outdoor event". Prompted by that organisation's investigation, the Department issued two Penalty Infringement Notices (Falls 2016 and Splendour 2017) and two Official Cautions (Splendour 2015 and 2016) regarding excess patron numbers, but since Parklands had been giving away hundreds of tickets since the beginning, they were in breach of the consent conditions during the other five festivals as well.

Meanwhile, a community-maintained list of breaches and other irregularities currently includes over 100 items.

Another example of Department laxity is the fact that Community Representatives on the RWG repeatedly recommended lowering the noise limits to protect residents from disturbance, but the Department ignored those recommendations and even claimed in their assessment report for Modification 3 that the recommendations were never received.

The Department's inadequate oversight, along with its heavy reliance on the developer's self-monitoring and self-reporting, have not inspired confidence in the community. A full and transparent record of breaches and irregularities has not been maintained by the Department, and repeated changes in personnel have undermined the Department's ongoing understanding of the issues, so it is very difficult to see how the Department will be able to evaluate the trial thoroughly and objectively and use that evaluation as part of its assessment of the current proposal.

4. **A full evaluation of the trial must be done with the involvement of local authorities.**

Before any decisions are made about future festivals, a thorough evaluation of all the trial events is needed to gain a full picture of what has been going on there since the beginning. Byron and Tweed Councils should both be directly involved in conducting this evaluation. This is especially important since both have been left out of the loop during the trial period and since the Department has not been keeping close track, as noted above.

Besides the reports that Parklands has generated, the evaluation should examine whatever records have been kept by the Department's compliance team, including paper records that pre-date 2015. The evaluation should also include a review of RWG meeting minutes and other documents relating to breaches of consent conditions, input from locals who have been most affected by the festivals and who have kept track of breaches, input from ecologists not

connected to Parklands who can evaluate the ecological monitoring, along with input from the police, medical, and ambulance personnel who are on site during events, SES and RFS workers who are on site during events, and any others can contribute to a full evaluation of the trial. All of these perspectives should inform the evaluation. The Department should not rely primarily on reports submitted by Parklands.

5. **If festivals are to continue, stricter consent conditions are needed.**

The current consent conditions have not provided adequate protection for local residents with regard to noise, traffic, residential amenity, and other impacts. They also have not provided adequate protection for the sensitive ecological environments so near to the site, and they have not adequately provided for the safety and security of festival attendees on site. The "continuous improvement" that Parklands claims to have shown is not good enough. After five years of trial events, serious issues continue to arise.

The 2012 PAC acknowledged the extreme quiet of the area around Parklands. Their Final Determination Report discusses noise in detail and shows that they gave very careful consideration to the acoustical characteristics of the area and the concerns of residents. They also used the pre-event monitoring that had been done by Parklands' own consultants to set the baseline data used to compute the noise limits. The commissioners did not make an ignorant mistake in setting the limits they did. Their purposeful decisions were based on the belief that neighbours should not be seriously disturbed and should experience at most only a very small increase in noise. Pages 8-10 of the 2012 Final Determination Report clearly gives the reasoning behind the original consent conditions. The 2012 PAC should be applauded for their concern for the community, not criticised for supposedly not knowing what they were doing.

The festivals have regularly breached the trial limits because it has been impossible for them not to. The festival promoters admitted early on that they would not be able to keep within the "unworkable" limits and declared the PAC to have had unreasonable expectations. They would not concede that the festivals are simply too loud for that very quiet location. Instead, they blamed the PAC-set noise limits for the problem. But the noise limits didn't create the problem. The developers created the problem by choosing that location for outdoor music events. Once it was clear that they couldn't keep to the limits, despite mitigation efforts, they asked to have the limits raised. They claimed that this would solve the problem as well as benefit the community. Residents were gobsmacked to hear that higher A-weighted noise limits would improve their amenity. Many saw that as a prime example of Orwellian doublespeak. The inclusion of limits for C-weighted noise at that time was also presented as a benefit to the community, with the implication that specifying limits would somehow stop people from being disturbed by bass noise.

After Modification 3 was approved, the festivals breached the new limits, and people continued to be disturbed.

Complaints to the developers' hotline have decreased, but not because people are happy about the noise. People in my neighbourhood have gone from being outraged at the noise to being seriously disturbed by it, but they have simply given up complaining. They say it does not good to complain because the Department doesn't care and doesn't believe the noise is really a problem anyway.

If festivals are to continue on the site, the Intrusiveness Criteria of the 2000 INP are quite appropriate (35 dBA 24 hours a day) because they are in line with how extremely quiet the area usually is. Also, it's time for our local Council to handle the noise monitoring so as to protect the

people who live closest to the site. Parklands should continue to pay for noise monitoring, but Council should select the noise engineers, should be the client to whom the reports go directly, and should have the authority to enforce compliance and reduce any noise emissions that are disturbing their ratepayers. There is a much better chance that residents will be protected if Council is in charge of the noise than if things are allowed to remain as they are.

The noise issue is one of many that affect the community. The NSW Police report on Splendour 2016 raises other issues relating to the safety and security of festival attendees and of residents in the surrounding communities. As they told community members in early 2017, they had tried to discuss their many concerns with Parklands but got nowhere, so they resorted to putting them in writing and making them public. Their concerns clearly indicate the need for stricter consent conditions that are set by the local authorities.

Operating hours until 2AM pose many problems for the local community. Amplified music from bars and cafes can be just as loud that late at night as noise from the main stages. Buses to and from the site are very intrusive in our quiet residential area, especially after midnight. A closing hour of 11PM would be much more appropriate for all activity on site. Appendix L notes that noise guidelines for outdoor events elsewhere in Australia call for closing at 11PM (ACT) and midnight (Queensland), and music is supposed to be inaudible in NSW for amplified music coming from a conference centre, which is a much smaller type of venue than Parklands. Residents would be more likely to accept the festivals if they did not involve 13 hours of loud, amplified music until midnight and then additional disturbing noise until 2AM and after for days on end.

The Department has not been paying close enough attention to locals to know what concerns need to be addresses. Their informants have been the developers, not the people who are most affected. It's time now to focus on the local community and make their concerns the priority.

6. **We don't need more tourists or tourist-related enterprises in the shire.**

A concern that is not being acknowledged is that permanent approval of this development is not in the best interests of the shire. We do not need tens of thousands of additional tourists repeatedly through the year. We are already inundated with tourists. That's been a theme in the local media for quite a while. Our very small rate base cannot support the infrastructure needed to cope with the massive numbers that come here throughout the year, numbers that are increased dramatically by the festivals at Parklands. Those who live in the north of the shire, especially, face ever-increasing numbers of illegal campers, holiday-let houses, and other negative impacts from the Parklands festivals. There is a limit to what we should be expected to put up with and pay for with ever-increasing rates.

Our Council and the state should be focused on supporting enterprises in Byron Shire that are *not* related to tourism to provide a better balance for residents and a better range of opportunities for families and workers of all ages. Approving this proposal will drive the north of the shire into becoming a festival precinct, which is not something the residents have chosen or the Council has determined is in the best long-term interests of the shire as a whole or the north in particular. It is simply not right for the state to impose this on us—as if we don't know best how to plan for our own future.

7. **Parklands' sewage and waste management is still a work in progress**.

The consent conditions call for complete sewage and water treatment systems to have been put in place by the end of 2017—a breach of the consent conditions that the Department has not acknowledged. (The composting toilets and grey water handling approved by Council in 2014 does not meet this consent condition.) The developers now say they will get to a proper sewage treatment program "progressively as budget allows" without being clear about just what will be done when. It appears they are not yet prepared to handle the sewage they generate, and aspects of the site, such as frequent flooding, will make their plans difficult to implement. The proposal's Appendix R identifies many areas on the site that present "major constraints" regarding sewage treatment. It also appears that festivals will probably have to transport some of the waste to sewage treatment plants in Byron Shire or elsewhere although Byron Shire has already said it has limited capacity for effluent from these festivals and Tweed Shire Council has similar limits.

Each time tens of thousands of people attend a festival, the generated waste includes recreational drugs, prescription medications, over-the-counter medications, and other chemicals that are not metabolised. These substances cannot all be removed with chlorine, the form of treatment planned by Parklands. At best, the unmetabolised substances will be reduced before they are buried or sprayed over the land; they cannot be completely removed. Prescription meds and similar chemicals in waste systems must be taken seriously. Studies have shown that only half of them can be removed by treatment facilities— facilities that are a good deal more thorough and sophisticated than what Parklands is proposing. Introducing this kind of problem onto a site that is so close to an important Nature Reserve and a Wildlife Corridor and that will affect a major water catchment is irresponsible. The fact that authorities may not include treatment of these chemicals in their sewage regulations does not mean that the chemicals can safely be deposited on the property after each festival, which would happen if this proposal is approved. It's yet another issue with the staging of large festivals that is not taken seriously enough, probably because chemicals in the effluent are not readily apparent.

A certain amount of inorganic material also ends up in the toilets and drains on the site. For example, Parklands allowed the sale of 50kg of plastic glitter at Splendour 2017, as noted in the media. All that glitter ended up in the wastewater and soil at Parklands and elsewhere in the shire when it flaked off or was washed off. Tiny bits of other plastic are also building up on the site and getting ground into the soil, as attendees at a 2017 Parklands information session noted by picking up the plastic just in the area where they were standing. This is the inevitable result of so many people on the site even when a great number of waste bins are provided. Approving this proposal will condemn the site to becoming more and more polluted with chemicals, increasing amounts of inorganic material, and the pollution that all the vehicles leave behind. That would be highly irresponsible.

8. **The state's assets need to be protected.**

NSW has invested millions of dollars over decades in Billinudgel Nature Reserve and Marshalls Ridge Wildlife Corridor. These are the true state significant assets in the north of the shire, home to 50+ threatened or endangered species, including a small number of highly-threatened koalas in the north of the shire. Koalas were sighted recently on the Parklands site and have been seen regularly along Jones Road. Koalas in the Tweed/Byron area are in danger of being wiped out completely by human intrusion. It is difficult to see how this critical issue can be "managed" adequately.

Despite Parklands' claim that no adverse ecological impacts have been observed, the ecological monitoring that has occurred so far does not allow that conclusion to be drawn. Baseline data were never established, as had been promised by Parklands in their 2010 application for Part 3A approval and expected by the 2012 PAC. KPIs were called for in the original consent conditions and in each modification, but KPIs were never used, and the explanations provided for that omission are inadequate. A number of other aspects of the ecological monitoring procedures have been seriously inadequate, a point that has been raised at RWG meetings and included in RWG minutes and in other correspondence with and from OEH. It would appear that the Department has not been keeping careful enough track of this important aspect of the conditional approval. A key issue with this site all along has been the impacts of such large festivals on the sensitive ecology of the area, but the inadequate design and implementation of the monitoring program do not allow any clear conclusions to be drawn about impacts, a point that has been made repeatedly since the beginning of the trial.

9. **A fundamental incompatibility.**

In 2012, the PAC set conditions without fully knowing what impacts the festivals might have on the community and on the sensitive ecological areas in and adjacent to Parklands. It is much clearer now what the impacts have been and what they are likely to be in future if festivals are allowed to continue and to increase in size and numbers.

The Department needs to acknowledge the fundamental conflict: *The developers' expectations are not compatible with the quiet and peaceful residential and conservation areas around the site.* The Key Issue of the strategic context of the site needs to be reconsidered, as required by the SEARS. Given the many problems and breaches that have occurred during the trial, this development cannot be justified in terms of its "location and impacts, the suitability of the site, and the public interest"—despite the developers claims that everything will be managed well if only they are granted permanency.

It is doubtful that the proposed dramatic increases will be managed well, given the issues that have been observed during the trial period and given the many new and unpredictable elements of the proposed development, such as increased patron numbers, increased numbers of stages, reconfigurations of event layouts, a proposed year-round bar and hotel that is twice the size of what was originally proposed for Stage 3, and so on.

This development should be dramatically reduced in scale, not increased, and it needs to be governed by year-to-year approval from local authorities, who are accountable to the ratepayers of the shire. Even better would be for the festivals to find a different place for their operations so as to make way for a more suitable use of the land that would have the full support of the community, that would bring much more widespread benefits to the community, and that would not threaten the high conservation values of Wildlife Corridor and Nature Reserve.