

12 September 2017

**NSW Planning Assessment Commission Determination Report  
MP 09\_0028 Cultural Events Site Concept Plan (MOD 2) and Project Approval (MOD 4)**

## **1. INTRODUCTION**

On 4 August 2017, the Planning Assessment Commission received from the Department of Planning and Environment two modification requests from Planners North on behalf of Billinudgel Property Pty Ltd.

The modification requests seek to modify the concept plan and project approval for the cultural events site at North Byron Parklands by extending the trial period for outdoor events of up to 35,000 patrons by a further 20 months, to 31 August 2019.

The Department has referred the modification requests to the Commission for determination in accordance with the Minister for Planning's delegation dated 14 September 2011 because it received more than 25 public submissions in the nature of objections.

Ms Lynelle Briggs AO, Chair of the Commission, nominated Mr Paul Forward (chair), Prof. Zada Lipman, and Mr Tony Pearson to constitute the Commission to determine the development application.

### **1.1 Background to the concept plan and project approval**

The Commission originally granted approval to the concept plan and project approval for North Byron Parklands on 24 April 2012. These approvals permitted use of the site for up to three cultural events per year on a trial basis for five years, with patron capacity increasing following each trial to a maximum of 35,000.

The project approval specifically comprised two stages, with stage 1 for the trial events and various support infrastructure such as roads and site entries; and stage 2 for the construction of more permanent infrastructure on the site such as administration buildings, water and waste water treatment plants. Importantly, the project approval required North Byron Parklands to carry out noise attenuation work on a number of residences nearby the site.

Since the 2012 approvals, North Byron Parklands has held nine events at the site (five large trial events and four medium trial events). Work has been completed on an access road, underpass, various intersections, laneways and drain crossings. Stage 2 of the project approval has not been activated and there is one nearby residence that remains the subject of negotiations about noise attenuation.

The project approval has been modified on three previous occasions. The most recent modification adjusted noise criteria for the events, particularly in respect of low frequency noise, to better reflect the type of sound produced by a music festival. The Commission determined in that modification that the previous noise criteria in the project approval were based on the assessment methods of the NSW Industrial Noise Policy, and could be improved as that policy did not truly contemplate the noise profile of music events. This modification also permitted a range of smaller events on the site up to a maximum of 3,000 patrons.

## **1.2 Proposed State significant development application**

North Byron Parklands has commenced an application for the ongoing use of the site for cultural events beyond the currently approved trial period. So far it has obtained Secretary's Environmental Assessment Requirements for the preparation of an Environmental Impact Statement to support a development application.

During the Commission's consideration of the modification to extend the trial, people raised issues related to the future application. Byron Shire Council, and some individuals, felt the Council ought to be the consent authority for the ongoing application, and believed it was well placed to govern compliance with any consent. It was also noted that agencies, including the Police, had raised issues that needed to be addressed if the site was to be used on an ongoing basis. The Commission notes these matters are not for consideration in conjunction with this modification.

## **2 THE DEPARTMENT'S ASSESSMENT REPORT**

The Department completed its assessment report and concluded that *with the continued implementation of the proponent's environmental management plan and procedures, in addition to the Department's recommended condition, the site can continue to operate for an additional 20 months with minimal impact upon the environment and the local community*. Also, the Department considered that extending the trial period for outdoor events would allow the proponent to refine its operations and obtain more information as it seeks permanent approval to hold events at the site.

## **3 COMMISSION'S BRIEFINGS FOR THE DETERMINATION**

As part of the consideration of the determination process, the Commission was briefed by the proponent, the Department, Byron Shire and Tweed Shire councils and conducted a public meeting in Ocean Shores. The Commission also visited the site with the proponent. Notes from these briefings are provided in **Appendix 1**.

### **3.1 Briefing from the Department of Planning and Environment**

The Department briefed the Commission on its assessment report on 17 August 2017. The Department explained the history of the site and the permissibility to modify a trial period. The Department also explained the proponent's justification for the proposed modification.

### **3.2 Briefing from the proponent**

On 17 August 2017, the proponent briefed the Commission on its application to extend the trial period and the ongoing monitoring and compliance with the conditions of consent since the project approval in 2012.

### **3.3 Meeting with Byron Shire Council**

The Commission met with Byron Shire Council on 30 August 2017 where Council acknowledged the noise and traffic management improvements the proponent has undertaken since it began operations at the site and its quick response to critical issues. Council also indicated its support for the extension and the long-term potential economic benefits to the area, and requested consideration for the Council to be the compliance authority once the trial period ends.

### **3.4 Meeting with Tweed Shire Council**

The Commission met Tweed Shire Council on 30 August 2017. Council's senior staff indicated that traffic management was acceptable, and that there were no particular issues of concern. The Mayor and Deputy Mayor raised issues about how the site would be evacuated during a flood. More specifically that there was a need for an access road from the emergency assembly area to evacuate patrons in a shorter period of time and for the State Emergency Services resources to reach the site if a flooding situation occurs.

### 3.5 Public meeting

The Commission held a public meeting at the Oceans Shore Community Centre on 29 August 2017. A list of the speakers that presented to the Commission is provided in **Appendix 2**. A summary of the issues raised by the speakers orally and in written submissions from the community is provided in **Appendix 3**.

## 4 AUTHORITY TO MODIFY APPROVALS

Section 75W of the *Environmental Planning and Assessment Act 1979* continues to apply to transitional Part 3A projects under the transitional arrangements for the repeal of Part 3A. Section 75W permits the Minister (or delegate), if requested by the proponent, to change the terms of a concept plan and project approval by revoking or varying a condition of approval, imposing an additional condition of the approval, and changing the terms of a concept approval.

The original concept plan and project approval are transitional Part 3A projects. Under section 75W, the Commission must consider and be satisfied that the modification requests are within the scope of the section before it can decide such requests.

The concept plan and project approval have recently been the subject of judicial consideration in the Land and Environment Court. The Court considered whether section 75W could authorise the deletion of condition C1 of the concept plan. The effect of condition C1 is that any events at the site beyond 2017 require a further development application to be made, considered and determined under a separate development consent process.

The Court found that section 75W could not authorise the deletion of condition C1 as it would change an underlying or essential part of the approval. The Court did recognise, however, that the condition could be changed and it is the effect of the change that was important when deciding whether it was a change that could be authorised by section 75W.

The current modification proposals would not delete condition C1, but rather, extend the duration of time within which events can be held under the concept plan and project approval. The modifications propose to alter the relevant conditions so that the date beyond which events require separate approval changes from the end of 2017 to 31 August 2019.

The Commission considers that these modification proposals are clearly distinguishable from the modification proposal considered by the Court. Extending the five-year trial by one year and ten months would not fundamentally alter the way the approvals operate. Events on the site would continue to be carried out on a trial basis, albeit a longer trial basis, and require performance monitoring to help demonstrate that the site is suitable for permanent use as part of a separate, future development application. This is consistent with the Court's finding that the conditions could be changed, although not deleted, and that the Commission must consider the effect of any changes.

Therefore, the Commission is satisfied that the proposed modifications can be authorised by section 75W, subject to the Commission's consideration of relevant matters, below, and that the Commission has the authority to determine the proposed modifications.

## 5 COMMISSION'S CONSIDERATION

In this determination, the Commission has carefully considered:

- all information provided to the Commission;
- the Department's assessment report;
- all oral and written submissions from the public and special interest groups;
- advice from government agencies; and
- section 79C of the *Environmental Planning and Assessment Act 1979* and the matters it requires the Commission to consider.

### 5.1 Compliance performance during approved trial

The Commission's original decision to approve the concept plan and project application for the site in April 2012 was based on a cautious, step-wise trial of the way events are carried out. While the Department had recommended a trial duration of seven years, the Commission decided that a duration of five years was more appropriate. The Commission capped patronage overall at 35,000 people (down from 50,000, as then proposed), and required capacity to be gradually scaled-up to the cap, following successful implementation of environmental management plans at each trial event. The intention of a trial approval was to confirm that impacts would be properly managed and minimised. The Commission addressed a range of issues in its decision report including traffic, ecology, noise, community impacts such as anti-social behaviour, bushfire and flooding.

There have now been five large trial events and four medium trial events at the site since approval was originally granted and the environmental performance of the site has not been without incident. Indeed, a significant traffic problem at the 2016 *Splendour in the Grass* received a very high media profile, while other incidents have been the subject of penalty infringement notices including for noise at the 2014 and 2015 *Splendour in the Grass*, and for exceeding the patron cap for the 2016/17 *Falls Festival*. Some events, particularly those held shortly after approval was granted, resulted in more than two hundred telephone complaints, mostly in relation to noise but also in relation to illegal parking / camping, trespass, telephone reception, litter and fireworks. The proponent has yet to receive approval to host the maximum capacity under the concept plan of 35,000 patrons, and it is currently limited to hosting a maximum of 32,500 patrons (whether paid or unpaid ticket holders).

The Commission heard claims from speakers at the public meeting that over a hundred non-compliances had been observed by community members, and that both the Department and the proponent have been slow to resolve issues as they arise. One speaker noted that the Middle Pocket and Yelgun Progress Association had engaged a private noise consultant at considerable expense, who recorded noise breaches at a receiver nearby to the site between midnight and 1am on New Year's Eve, during the 2016 Falls Festival. The noise report, prepared by Acoustic Works (see **Appendix 4**), indicated low frequency noise levels in 63Hz octave band of 64 dB, which the report said was in breach of the noise criteria in the conditions. The speakers opposed to the trial extension said that five-years was long enough and the proponent had not demonstrated sufficient management to warrant permission for any further trial events. Speakers in support, however, suggested that management had improved over the duration of the trial, and highlighted the proponent's responsiveness to issues, including those in relation to traffic, noise and telephone reception.

The Department suggested that the extension of the trial would be appropriate with an ongoing patron cap of 32,500 people. The Department reports:

*"The proponent has continued to improve management of noise and traffic across all events held to date. Measures have included a revision of traffic flows on to and around the site, and an improved noise management approach including centralised noise monitoring and control, implementation of on-site noise attenuation and additional attended and unattended monitoring, both on-site and off-site, during events. Events held have demonstrated continuous improvements in environmental management and compliance with the Project Approval since the commencement of operations at the site."*

The Commission met with Byron Shire Council, which indicated that it supported the trial extension, although it said that Council should have a role in enforcing compliance. Council had earlier provided written advice to the Department that the patron cap should remain at 32,500, and that the proponent should develop a more comprehensive approach to the management of traffic, emergency evacuations, noise, and waste, as well as a further review of the veracity of ecological monitoring of koalas and other threatened species.

The Commission notes that the key State agencies responsible for these matters, including the Environment Protection Authority, Office of Environment and Heritage (OEH), Rural Fire Service, Roads and Maritime Services and Police raised no objection to the trial extension, provided patron numbers remain capped at 32,500, and in the case of the OEH, subject to the completion of a land swap and additional flora and fauna rehabilitation measures.

The Commission has observed a number of key management improvements that have been carried out over the duration of the trial and these are discussed below.

#### *Traffic management*

The Commission notes that the proponent has been proactive in efficiently managing traffic for each event by undertaking road improvement works and engaging with neighbouring properties to accommodate satellite parking areas. The Commission also notes that the proponent relocated the dedicated areas for drop offs and pickups that were responsible for the traffic queuing in the previous event and is managing the frequency and the numbers of buses needed to transport patrons from the surrounding area to the events.

#### *Noise management*

The proponent advised the Commission that it has put in place site-specific sound amplification at their Front of House that works as an 'active volume management' which is governed by real-time weather and noise monitoring. The system controls unwanted sound ('noise') including a revised noise limit and the use of 'bass noise' criteria; and works together with the community complaints hotline. In addition, the Commission is aware that the Department investigated the noise occurrences reported by Acoustic Works and did not find sufficient evidence to attribute a breach to the event, primarily because the data came from an unattended monitoring site. The Department also noted that the approval conditions permitted all three stages to continue operating until 1am on New Year's Eve.

#### *Phone reception*

To address previous issues with the reception to the mobile network, the proponent advised that it had installed a fibre optic cable in 2014 that is currently connected to the Telstra network. The proponent also advised that for each event Telstra provides equipment that connects to the fibre optic cable and that both Optus and Vodafone provide a 40-metre mast antenna for improving their connectivity at each event.

#### *Ecological monitoring*

The Commission notes that the proponent has undertaken ecological monitoring in accordance with the conditions of consent and has a robust dataset with evidence that the events have a negligible effect on the environment of the site. The Commission notes that the proposed modification does not alter any aspects of the project site or materially increase the nature or scale of impacts beyond those permitted under the approved project, rather it is seeking an extension of time, and that ecological monitoring would still be undertaken as currently required.

The Department has recommended modification of Condition C20 that incorporates the requirement of Statement of Commitment B12 and strengthens the details for the ecological monitoring without altering the current frequency of the monitoring.

#### *Response to off-site activity-Illegal camping and parking*

The proponent advised that during the events, it contracts additional security to manage off-site activity and uses a 'sweep team' to act on littering, illegal camping and issues with buses, in liaison with the local Police Force. The proponent also advised that additional police officers are contracted under the NSW Police Force requirement to respond to antisocial behaviour both on site and off site, to prevent under resourcing of the usual services to the local community.

The Commission notes that the proponent will be erecting signage to discourage illegal camping to the immediate south of the site, and has advised it will explore options to contract additional Council rangers on a pay for service basis for the events to focus on illegal camping and parking.

The Commission was advised that since 2013 illegal camping was related in two instances to patrons attending the events and that overall illegal camping occurs in the region throughout the year.

#### *Litter*

During the briefings with the Department and the proponent, the Commission was advised that the proponent's 'sweep team' covers local areas immediate to the site as well as at the dedicated shuttle bus stops, where litter has been found.

The Commission acknowledges community concerns about the management of glitter on site. The Commission accepts that it is not a banned substance, however, the availability of biodegradable options should be promoted by the event organisers. The proponent advised that all rainwater and surface water drains through a gross pollutant trap located in the northeast corner of the camping grounds and that it is monitored during the events.

#### *Commitment to Patron numbers*

The proponent has acknowledged the traffic issues that occurred in 2016 and accepted Roads and Maritime Services and NSW Police capping to allow up to 32,500 patrons on the site for the large events until it can demonstrate satisfactory management of vehicle movements and pedestrian safety on and around the site.

For Splendour in the Grass 2017, surveillance from the Department confirmed that the proponent had undertaken strategies to improve the movement of vehicle and ensuring the safety of patrons that resulted in no traffic issues.

#### *Performance of the site during recent 2017 Splendour in the Grass*

Despite a small number of incidents, the Commission does not observe any systemic or recurring issues that indicate the events are not being managed appropriately or that necessary improvements are not occurring as a result of the trial.

The Commission is satisfied the proponent is taking the relevant action to ensure ongoing management improvements. The Department's enforcement of conditions requiring continued improvement of event management plans, based on the performance of each trial event are effective in managing the events held on site.

## **5.2 Social and economic issues**

In 2015 the proponent engaged RPS Australia to prepare an economic impact and benefits report for North Byron Parklands. Using common economic assessment methods, the report found from a direct expenditure of \$46.8 million over two festivals in that year, total economic output was \$107.8 million (accruing \$28.1 million to the Byron Shire), gross value-add was \$51.7 million (accruing \$13.8 million to Byron Shire) and there were 196 full time equivalent jobs, representing about 1.79% of the Byron Shire workforce.

These figures were contested by speakers at the public meeting and several people said that the proponent's assessment was unreliable or inaccurate, or that it overstated the economic benefits of the events to the Byron Shire. Other speakers explained how the events had given them business or employment opportunities, or that their exposure to the planning and management of the events had allowed them to develop skills in the entertainment industry. Others spoke to the financial contributions that North Byron Parklands had made to local community and sporting groups, and that the site had been made available, free of charge, for school sporting carnivals.

Speakers also raised concerns about anti-social behaviour arising from the events. These behaviours included illegal camping and parking, littering and visitors showing a lack of respect to the local community and environment. On the other hand, some speakers also spoke about the social benefits of the events. Some spoke more broadly on the benefits of cultural and music festivals, and others quite specifically about the Falls Festival. Byron Shire Council explained that Falls Festival had helped to address the problem of anti-social behaviour in the Byron Bay town centre over the New Year period. New Year's Eve in Byron Bay has been transformed, Council said, by providing an appropriate out-of-town venue for live music festivals, while allowing the town centre to be used for family-oriented and alcohol-free celebratory events. The "Soul Street" festival is marketed in the following way:

*"New Years Eve in Byron Bay this year will be a family friendly event!*

*Bring the kids out from 4pm til late and venture through Jonson St which will be full of artisan stalls, food stalls, craft activities, face painter's, numerous local bands and acts in Railway Park, buskers, circus performers, fire twirlers, drummers and children's activities galore. Come down to the heart of Byron and celebrate with us the talent we have in this region as it fills the heart of town on New Years Eve.*

*This is an alcohol free event to help keep our streets safe, family oriented and in support of Byron's vision of reclaiming the streets on New Years Eve."*

The Commission recognises that economic assessment methodologies can have limitations. Indeed, the RPS report highlighted particular issues that are common with the input-output and economic multiplier methods of estimating economic flow-on effects. Despite assurances in the report that appropriate adjustments were made for the assessment of the events in 2015, the Commission is cautious of the results that have been presented.

Nevertheless, it is clear to the Commission that there is, on balance, a positive social and economic benefit that accompanies the two annual events. There are direct benefits that result from employment of people during the festivals, and all year round for event planning and site management. While the precise nature of flow on economic benefits is contested, they are likely to be materially beneficial and while there are some anti-social issues that accompany such events, there are also significant positive social and cultural outcomes.

### **5.3 Risk management and site evacuation**

#### **5.3.1 Flooding and Bushfire**

Considering the severe weather events in the first quarter of 2016, submissions to the Commission and the public meeting raised concerns regarding the capacity of the proponent to evacuate 30,000 patrons off the site in case of immediate bushfire or flooding events.

The Commission notes that the project approval requires the events to be carried out in accordance with the Flood Risk Management Plan. In addition, the original application conditioned a requirement for evacuation of the site during flood events and for the Bushfire Emergency Evacuation Plan to be reviewed with the relevant authorities prior to any event.

The Commission notes that the proponent also has an early warning mechanism in place that would assist with up-to-date weather information in case cancellation of an event is necessary.

During the briefing with the proponent and the Department, the Commission was advised that there is a significant number of emergency personnel on the site during the events and that the existing conditions adequately address the safety of patrons in relation to evacuation.

The Commission notes that the Rural Fire Services and NSW Police did not raise any concerns on this matter besides capping the site's patronage capacity. Consequently, the Commission is satisfied that the existing conditions provide for the necessary flood and bushfire risk management and evacuation planning during the trial period.

### **5.3.2 Noise Attenuation**

The Commission notes that there remains one sensitive receiver who is entitled to noise attenuation works. The proponent and the receiver have been unsuccessful in reaching an agreement despite efforts over an extended period. The Commission notes that both parties have presented submissions to the other party and that they maintain frequent communications in an effort to resolve the type/specification of attenuation works. The Commission encourages the parties to continue to work towards reaching an agreement, however this matter may ultimately have to be decided by the Secretary.

### **5.3.3 Crowd safety**

Crowd safety was an issue raised with the Commission and a matter raised in the NSW Police Force's letter on the development application for ongoing use of the site for these events. An emergency crowd crush situation at the Lorne Falls Festival in Victoria was highlighted. The Commission understands that specific incident is still under investigation by WorkSafe Victoria.

The Department's assessment found that existing conditions adequately address the safety of patrons in relation to evacuations. The Commission accepts this, noting the conditions include requirements for an Event Management Plan to be prepared in consultation with the relevant authorities, prior to each event. This is required to include an Event Structure Plan and internal layouts allowing for safe crowd movement through the site to be addressed.

### **5.3.4 Regulatory Working Group**

The Commission heard concerns about the level of oversight provided by the Regulatory Working Group. Existing conditions require the working group to comprise key State government agency, Council and community representatives to oversee the environmental performance of the events including in relation to biodiversity, noise, transport, emergency evacuation, security and litter management. The Commission is satisfied these are important issues that warrant the continuation of the Regulatory Working Group to ensure ongoing improvement in the management of these issues.

## **6 COMMISSION'S FINDINGS AND DETERMINATION**

The Commission has carefully considered the proponent's modification proposals and whether the proposals are within the scope of section 75W. The Commission is satisfied that these modification proposals would not fundamentally alter the way the approvals operate and that the events on the site would continue to be carried out on a trial basis under the Project Approval. Therefore, the Commission is satisfied that the proposed modifications can be authorised by section 75W.

The Commission has considered the Department's assessment report and the relevant matters for consideration under the *Environmental Planning and Assessment Act 1979*, and the advice and recommendations from the relevant government agencies. The Commission has also carefully considered written and oral submissions and comments from the community.

The Commission acknowledges the concerns expressed by speakers at the public meeting. Nonetheless, the Commission finds that the trial events are generally performing within the required conditions of approval and that the proponent is active in addressing and adapting the management of these large-scale events.

The Commission is satisfied that the issues raised in submissions and at the public meeting are being addressed by the proponent and that strategies used are continuously reviewed before and after events take place by different parties in consultation with the relevant government agencies.



The Commission acknowledges the concerns on the quantum of the economic benefits in the assessment, nevertheless, it is clear to the Commission that there is, on balance, a positive social, cultural and economic benefit that accompanies the two annual events.

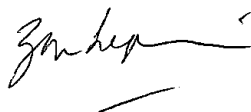
The Commission supports the cap on site capacity to 32,500 patrons for large events until the proponent can satisfactorily demonstrate that it can manage vehicle and patron movement safely in and around the site.

The Commission also supports the Department's recommended modification of Condition C20 that incorporates the requirement for the proponent to provide evidence of a signed agreement with OEH for the dedication of land parcels identified within the ecological structure plan, includes the Statement of Commitment B12, and strengthens the details for the ecological monitoring without altering the current frequency of the monitoring.

The Commission has determined to approve the proposed modifications subject to the conditions of consent.



**Mr Paul Forward**  
**Chair of the Commission**



**Prof. Zada Lipman**  
**Member of the Commission**



**Mr Tony Pearson**  
**Member of the Commission**

**APPENDIX 1**  
**RECORDS OF COMMISSION MEETINGS FOR THE DETERMINATION PROCESS**

**Notes from briefing from the proponent**

This meeting is part of the determination process.	
<b>Date:</b> Thursday, 17 August 2017	<b>Time:</b> 9:00am
<b>Project:</b> MP 09_0028 Cultural Events Site Concept Plan (MOD 2) and Project Approval (MOD 4)	
<b>Meeting place:</b> Commission Office	
<b>Attendees:</b> Commission Members: Paul Forward (Chair); Prof. Zada Lipman and Tony Pearson Commission Secretariat: David Mooney (Team Leader) and Jorge Van Den Brande (Planning Officer)	
<b>The proponent:</b> Mat Morris – General Manager of North Byron Parklands Jessica Ducrou – Director of Billinudgel Property (co-owner of Splendour in the Grass and Falls Festival) Steve Connelly – Planners North	
The purpose of the meeting was for the proponent to brief the Commission and to provide comments on the Department's assessment report.	
The proponent briefed the Commission on the following matters: <p><b>Details of the project site and proposed modification</b></p> <ul style="list-style-type: none"> <li>• The modification requests a 20-month extension to allow large events to take place while it gathers the necessary information to lodge an application for permanent use.</li> <li>• There are no changes proposed by the proponent to any other aspect of the trial period and it will still need to comply with the conditions of consent.</li> <li>• Large events have a maximum capacity permitted of up to 32,500 patrons from which 19,500 are campers, but the site has capacity for 50,000 patrons.</li> <li>• Public transport services approximately 60% of the patrons to the site.</li> <li>• Litter management is in place during the events.</li> <li>• Extra Police and security are hired to respond to offsite issues during the events.</li> <li>• Evacuation plans are reviewed before and after the events and a speaker system is in place to address the public when patrons need to be informed or evacuated.</li> </ul> <p><b>Outcome of previous event monitoring</b></p> <ul style="list-style-type: none"> <li>• There have been two traffic issues, one in 2013 and one in 2016, from which the proponent has learnt and implemented amended traffic management arrangements.</li> <li>• Noise management has improved through active live monitoring during the events and complaints are being managed through the complaints hotline.</li> <li>• Fauna monitoring has shown that events have a minor impact on the environment.</li> <li>• Overall management of the events has improved in the last five years.</li> </ul> <p><b>Relationship and agreements with neighboring landowners</b></p> <ul style="list-style-type: none"> <li>• There are compensation agreements in place with neighboring landowners with one exception.</li> </ul>	
<b>Documents tabled at meeting:</b> Maps	
<b>Meeting closed at:</b> 10.30am	

## Notes of briefing from the Department of Planning and Environment

This meeting is part of the determination process.	
<b>Date:</b> Thursday, 17 August 2017	<b>Time:</b> 10:30am
<b>Project:</b> MP 09_0028 Cultural Events Site Concept Plan (MOD 2) and Project Approval (MOD 4)	
<b>Meeting place:</b> Commission Office	
<b>Attendees:</b> Commission Members: Paul Forward (Chair); Prof. Zada Lipman and Tony Pearson. Commission Secretariat: David Mooney (Team Leader) and Jorge Van Den Brande (Planning Officer)  <b>Department of Planning and Environment:</b> Chris Ritchie – Director of Industry Assessments Rebecca Sommers – Senior Planning Officer Joanna Bakopanos – Team Leader	
The purpose of the meeting was for the Department to brief the Commission and to provide comments on their assessment report.	
The Department briefed the Commission on the following matters:  <b>Details of the proposed modification and implication of allowing the extension</b> <ul style="list-style-type: none"> <li>• The modification requests a 20-month extension to the existing approval.</li> <li>• Secretary Environmental Assessment Requirements have been issued for an application seeking ongoing use of the site.</li> <li>• Overall management of the site and events has improved over the years.</li> <li>• The proponent will need to continue to comply with the current conditions of consent.</li> </ul> <b>Traffic management and public transport</b> <ul style="list-style-type: none"> <li>• Traffic management during the events has improved since 2013.</li> <li>• There has not been traffic queuing during the events except for two occasions.</li> <li>• First traffic issue was related to the first year running and second traffic issue was related to private vehicles drop off and pickups.</li> <li>• The proponent has undertaken road works to improve traffic flow and has allocated new parking and drop off and pickup areas.</li> <li>• 60% of the patrons use public transport services to and from the site when events take place.</li> </ul> <b>Noise management</b> <ul style="list-style-type: none"> <li>• Real time noise management has been successful.</li> <li>• Noise management at the site is considered unique nationwide and is a benchmark for future venues.</li> </ul> <b>Biodiversity impacts and land swap</b> <ul style="list-style-type: none"> <li>• Extensive ecology monitoring shows no significant impact to flora and fauna and the site soon reverts to the conditions prior to the events.</li> <li>• The proponent supports the land swap with OEH and for it to be included in the consent.</li> </ul>	
<b>Documents to tabled:</b> NA	
<b>Meeting closed at:</b> 12:00 pm	

## Notes of Briefing from Byron Shire Council

This meeting is part of the determination process.	
<b>Date:</b> Wednesday, 30 August 2017	<b>Time:</b> 09:00am
<b>Project:</b> MP 09_0028 Cultural Events Site Concept Plan (MOD 2) and Project Approval (MOD 4)	
<b>Meeting place:</b> Byron Shire Offices	
<p><b>Attendees:</b></p> <p>Commission Members: Paul Forward (Chair); Prof. Zada Lipman and Tony Pearson. Commission Secretariat: David Mooney (Team Leader) and Jorge Van Den Brande (Planning Officer)</p> <p><b>Byron Shire Council:</b></p> <p>Cr Simon Richardson - Mayor Cr Basil Cameron - Deputy Mayor Cr Hackett Cr Lyon Chris Larkin - Manager Sustainable Development Saran Nagel - Community Enforcement Officer Andrew Hill - Senior Compliance Officer</p>	
The purpose of the meeting was for Council to provide their comments to the Commission on the Department's assessment report.	
<p>Council raised the following matters:</p> <p><b>Regulatory working group</b></p> <ul style="list-style-type: none"><li>The regulatory working group has been working positively since its formation and the applicant is proactive in resolving the issues that are presented to them.</li></ul> <p><b>Events management and benefits</b></p> <ul style="list-style-type: none"><li>Traffic and noise management during events has improved since the previous modification.</li><li>There are still issues that need continuous management and the proponent has demonstrated a commitment to improvement.</li><li>The events have had positive effects both social and economic on Byron Shire and the town of Byron.</li><li>Locals that are employed at the events gain additional skills allowing them to obtain other types of employment outside of festival event dates.</li><li>Evacuation plans have not been updated and fail to reflect a response for extreme weather situations and flooding.</li></ul> <p><b>Council's authority</b></p> <ul style="list-style-type: none"><li>Council has a representation on the Regulatory Working Group.</li><li>Council has enough experience in dealing with major events and has extensive knowledge of traffic and flood issues in the locality.</li><li>After the trial period ends, the project should go back to the Council as the consent authority for future modifications and approvals as stated in the Commission's original approval.</li></ul>	
<b>Documents tabled:</b> NA	
<b>Meeting closed at:</b> 10:15am	

### Notes of Briefing from Tweed Shire Council

This meeting is part of the determination process.	
<b>Date:</b> Wednesday, 30 August 2017	<b>Time:</b> 12:30 am
<b>Project:</b> MP 09_0028 Cultural Events Site Concept Plan (MOD 2) and Project Approval (MOD 4)	
<b>Meeting place:</b> Tweed Shire Offices	
<b>Attendees:</b> Commission Members: Paul Forward (Chair); Prof. Zada Lipman and Tony Pearson. Commission Secretariat: David Mooney (Team Leader) and Jorge Van Den Brande (Planning Officer)  <b>Tweed Shire Council:</b> Cr Katie Milne - Mayor Cr Chris Cherry - Deputy Mayor Cr Ron Cooper Colleen Forbes - Development Assessment Team Leader Danny Rose - Manager Roads and Stormwater Ray Parker – Traffic engineer	
The purpose of the meeting was for Council to provide their comments to the Commission on the Department's assessment report.	
Council commented on the following matters:  <b>Event management and benefits</b> <ul style="list-style-type: none"><li>• There have been improvements since 2013 in the management of traffic and transportation to the site during major events.</li><li>• Those patrons not camping on site stay in accommodation along the coast during major events and travel to the events by public transport that is provided by the proponent.</li><li>• There are no alternative sites in the area with the facility and the capacity to hold the proponent's events.</li></ul> <b>Flood risk</b> <ul style="list-style-type: none"><li>• Although management of the events has improved each year, there is still a flood risk during extreme weather conditions.</li><li>• Flood evacuation is still not appropriate to evacuate the total amount of people at the site during large events.</li><li>• Evacuation by the north route is not appropriate as it becomes flooded during heavy rain, and the Tweed Shire's State Emergency Services capacity to respond in these circumstances is limited.</li><li>• Deputy Mayor recommended that an additional evacuation route should be in place from the emergency assembly area.</li><li>• Tweed Shire Council would like to be represented on the Regulatory Working Group.</li></ul>	
<b>Documents tabled:</b> NA	
<b>Meeting closed at:</b> 13:15am	

**APPENDIX 2  
LIST OF SPEAKERS**

**Planning Assessment Commission public meeting for the determination of MP 09\_0028 Cultural  
Events Site Concept Plan (MOD 2) and Project Approval (MOD 4)**

Date and Time: Tuesday 29<sup>th</sup> August 2017, 9:00am

Place: Ocean Shores Community Centre, 55 Rajah Road, Ocean Shores NSW 2483

List of Speakers:

1. Caroline Parker (North Byron Business Chambers)
2. Donna Hingston
3. Cate Coorey
4. Tracey Barnes (Far North Coast Primary School Sports Association)
5. David Mullen
6. Jeremy Sheaffe
7. Chris Cherry
8. Matthew Evans
9. Janice Mangleson
10. Louise Doran
11. Tina Petroff (Ocean Shores Tidy Town Committee)
12. John Blanch
13. Paul Arrowsmith (Middle Pocket Yelgun Progress Association)
14. John Lazarus (Byron Environment Centre)
15. Matt Morris (North Byron Parklands)
16. Lanie Loughlin
17. Kathy Norley (South Golden Beach Community Association)
18. Val Scanlon
19. Stan Scanlon
20. Denise Nessel
21. Kathy Norley
22. Glenn Wright
23. Andrew Benwell
24. Christine Bush
25. Angela Dunlop
26. Susan Callaghan
27. Mary Starke
28. Jessica Ducrou
29. Sue Arnold (Australia for Animals)
30. Michael Hunt
31. Cr Basil Cameron Deputy Mayor Byron Shire
32. Sue Harnett (Burringbar Community Association) (Did not speak)
33. Robert Strengers
34. Kate Little
35. Paddy Nash (Did not speak)
36. Marc Patten

## **APPENDIX 3**

### **SUMMARY OF ISSUES FROM WRITTEN AND VERBAL SUBMISSIONS TO THE PUBLIC MEETING**

#### **Management of the events**

- Noise issues have been alleviated since the previous year.
- Noise has increased over the years and the proponent's sound engineers acknowledge it.
- Although queuing occurs during the events, traffic management has improved.
- The proponent has continuously improved noise and traffic management as well as making improvements to the overall facilities.

#### **Economic and social impacts**

- Economic benefits have been inflated in the proponent's report.
- Financial impacts on the community are not addressed in the Department's report.
- Local businesses benefit from extra revenue as visitors increase for each event.
- The events are beneficial for the overall community as approximately 600 full time equivalent jobs are generated with the events.
- During events, employees gain a set of skills that help in obtaining other jobs in the region outside of festival event times.
- Proponent provides the venue for sport events to take place, such as cross-country and parking free of charge.
- There will be economic and social loss if the project is not given an extension.
- Events reflect the booming creativity and broaden the variety of artists in the area.
- Byron Bay brings visitors from around the world and the events are a contributor to tourism in the area.

#### **Ecological Monitoring**

- Ecological assessments show no significant impacts to threatened species at the site.
- Site is rich in biodiversity and there should be independent ecological monitoring.
- Part of the event site land is a wildlife corridor and should be used as such.
- Proponent has not shown whether the events have a detrimental impact on the site.

#### **Monitoring, compliance and reporting**

- Events should be monitored more closely as the compliance surveillance from the community found breaches in the use of fireworks, noise management, patron numbers and hours of operations.
- Department's report classifies significant issues as minor and should all be addressed.
- The events site is the most regulated event site in the country and has meteorological stations that provide weather data for monitoring.
- Ecological monitoring should not change as consistency in the data is key for analysis.
- Community surveillance has revealed over a hundred non-compliances during the events.
- Proponent needs to manage better illegal camping, parking and littering, particularly the use of glitter.

#### **Flood risks**

- Evacuation routes should improve for unforeseen weather and bush fire situations.
- The proponent hasn't updated its flood management plan since 2011.
- The risk management plan for the site is for less people than the permitted capacity.

#### **General issues**

- Events represent freedom and for that reason should continue.
- Extension of the trial is not consistent with the Commission's original approval.
- Byron Shire Council should be the determining authority and not the Commission.

**APPENDIX 4**  
**Acoustic Works Noise Compliance Report for Falls Festival 2016-2017**





Noise monitoring  
Falls Festival 2016  
Yelgun

ACOUSTIC REPORT



**Client:**

Yelgun Residents

ATTN: Yelgun Residents

Reference:

*2016456 R01B Falls Festival 2016 noise monitoring ENV.doc*

**Date Issued:**

6 April 2017

## Document Information

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### Report Register

Date	Revision	Author	Reviewer
5/4/17	R01A	Mark Enersen	Greg Pearce
6/4/17	R01B	Mark Enersen	Greg Pearce

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## 1. Introduction

The following report is in response to a request by Yelgun residents for acoustic monitoring of environmental noise emissions from Falls Festival 2016 at North Byron Parklands.

This report addresses noise impacts from the event to noise sensitive receivers in Jones Road. Unattended noise monitoring was conducted.

This report is based on noise measurements, investigations and analysis by Acoustic Works.

## 2. Description

### 2.1 Site Location

The site for Falls Festival 2015 is located to the north of Jones Road at Yelgun. The approximate location of this site is marked on the aerial photo as shown below.

Figure 1: Site Location (Not to Scale)





### 3. Noise Monitoring

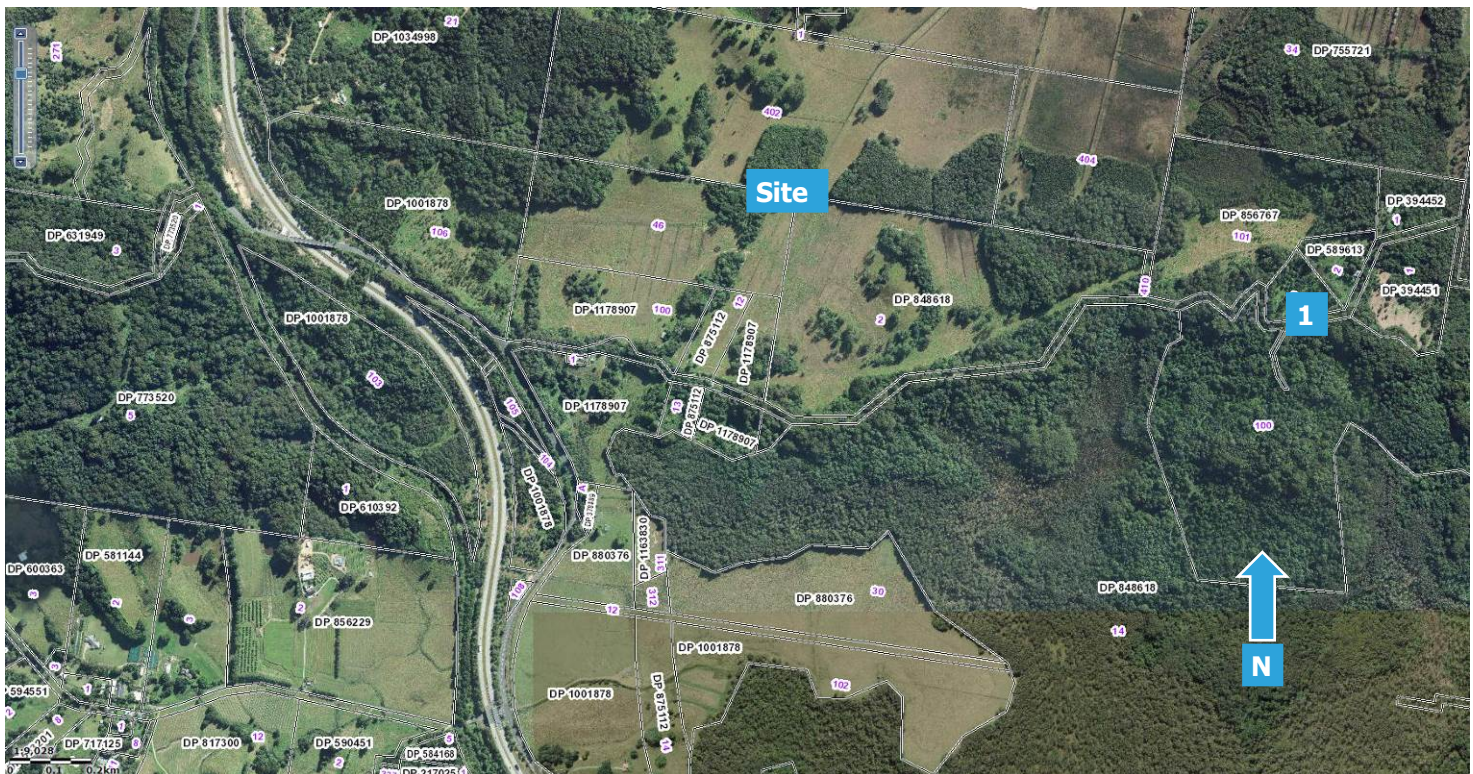
#### 3.1 Receiver locations

The residential receiver location used for noise monitoring is identified as follows;

1. Lot 1 DP589613 - 237 Jones Road

The location is identified on the following aerial photo in relation to the approximate location of the Falls Festival event area.

Figure 2: Noise monitoring locations



#### 3.2 Equipment

The following equipment was used to monitor noise levels;

- 1 x Rion NL42 noise data logger
- NTi XL2 sound level meter
- BWSA Technology calibrator
- Pulsar Model 105 calibrator

All equipment holds current NATA calibration certificates.

### 3.3 Monitoring procedure

Noise monitoring was performed at the receiver locations described above, using unattended measurements.

#### 3.3.1 Unattended measurements

Unattended noise monitors were installed for the following measurement durations;

- 237 Jones Road, 4m west of dwelling - from Wednesday 28/12/16 to Friday 6/1/17

The noise monitor microphone was approximately 1.4 metres above ground surface level. The noise monitor was set to record the following parameters;

- 15 minute statistical intervals
- 'A' weighting broadband
- Fast response
- 'Z' weighting (linear) 1/3 octave bands from 8hz to 16kHz frequency

#### Weather

Weather conditions during the survey period were initially fine then intermittent light rain at times. During the Falls event days, no significant rain was recorded. Occasional intermittent rain occurred from Tuesday 3/01/17 as indicated by BOM weather station data. Wind was predominantly from the NNE until 3/1/17 when the direction changed to SE.

## 4. Existing Noise Levels

### 4.1 Measured background noise levels

Indicative existing background noise levels were taken from the periods immediately before and after Falls Festival activities i.e. from Wednesday 28/12/16 to Friday 30/12/16 and from Tuesday 3/1/17 to Friday 6/1/17. Background noise during the evening and night time appeared to be significantly affected by insect noise.

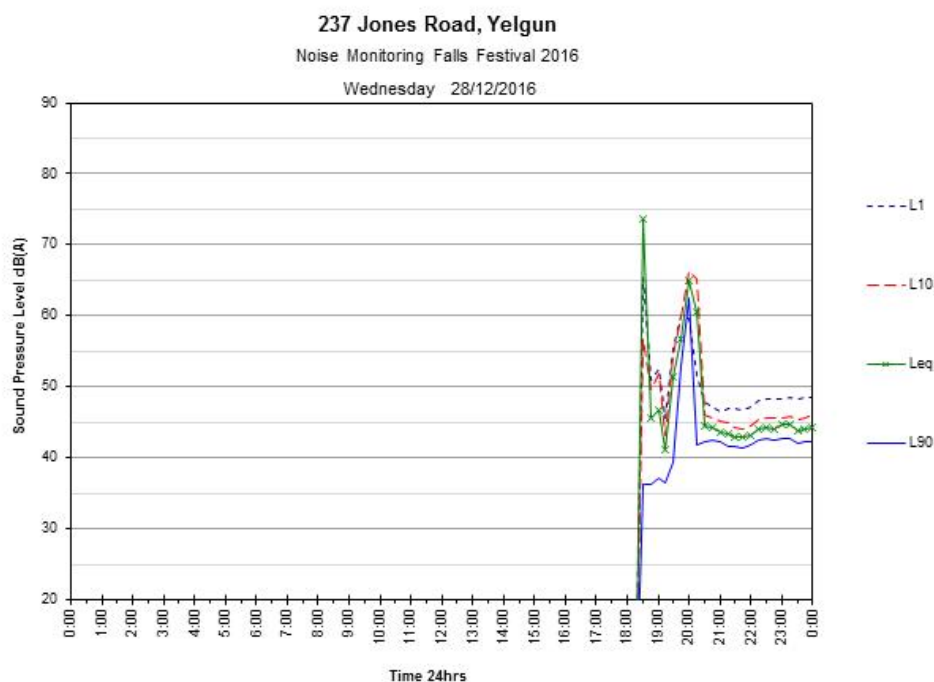
#### 4.1.1 237 Jones Road

The results from the monitoring location are as follows;

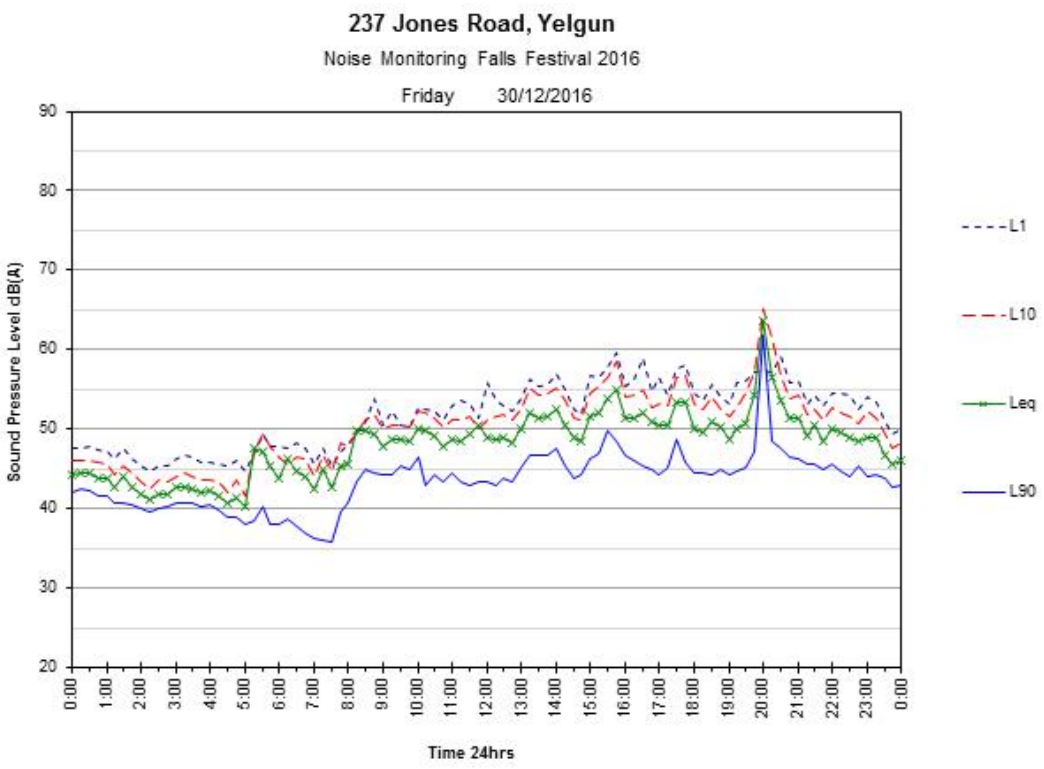
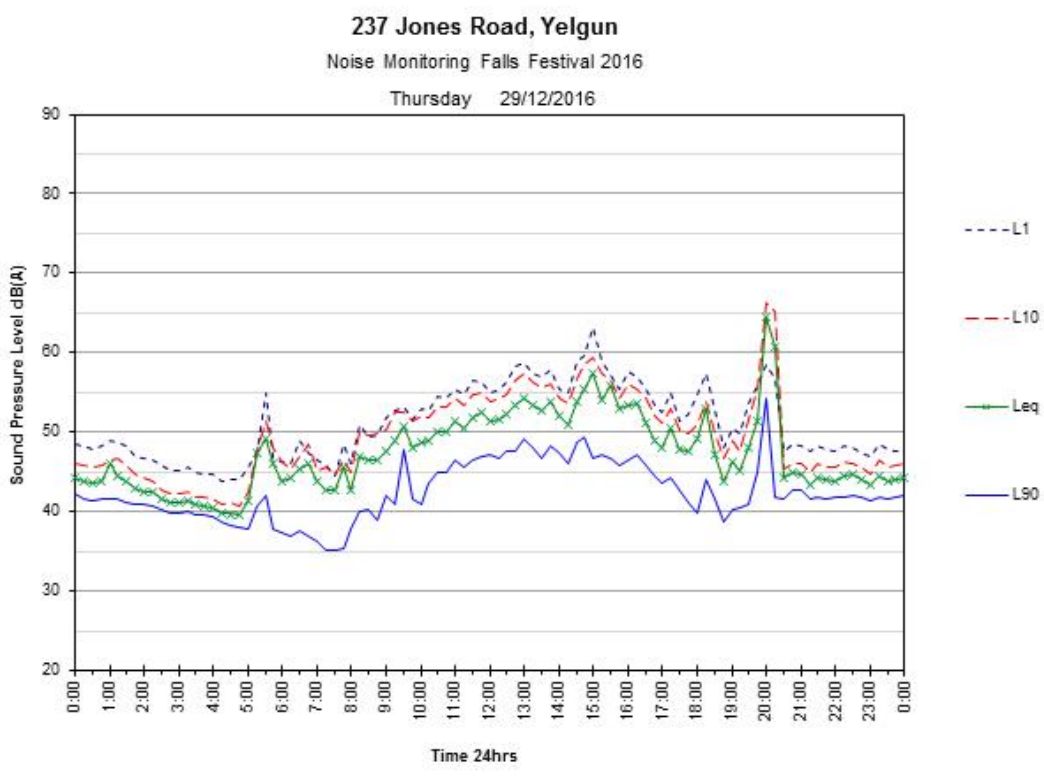
Table 1: Measured LA90 background noise

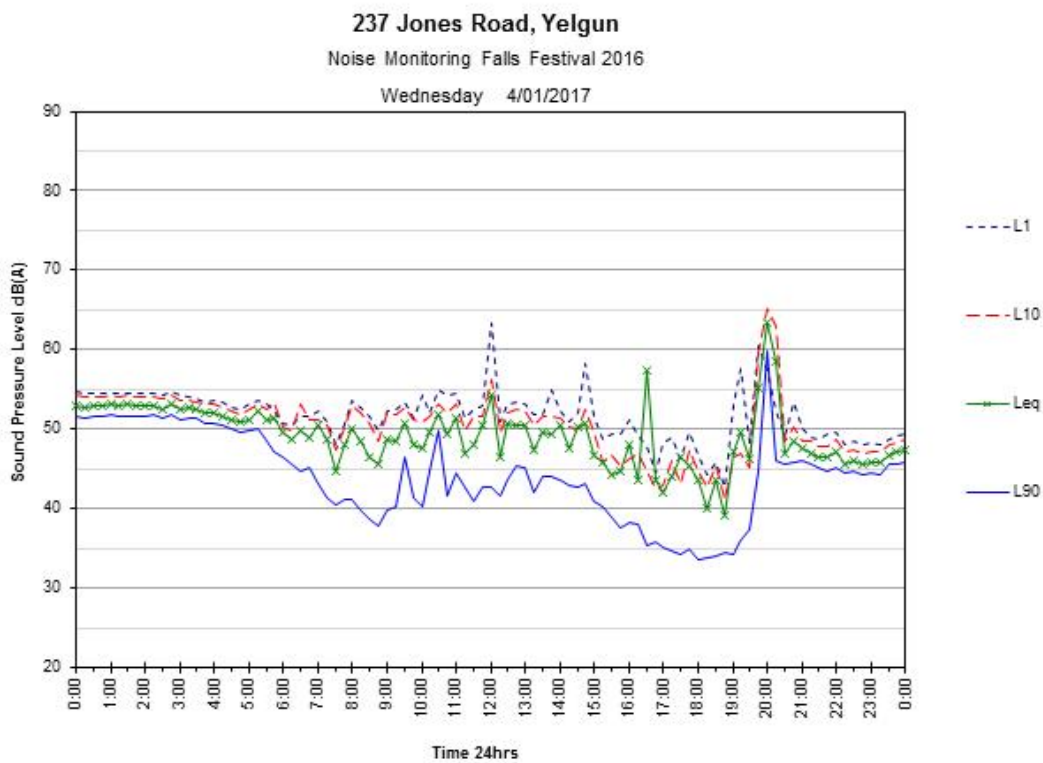
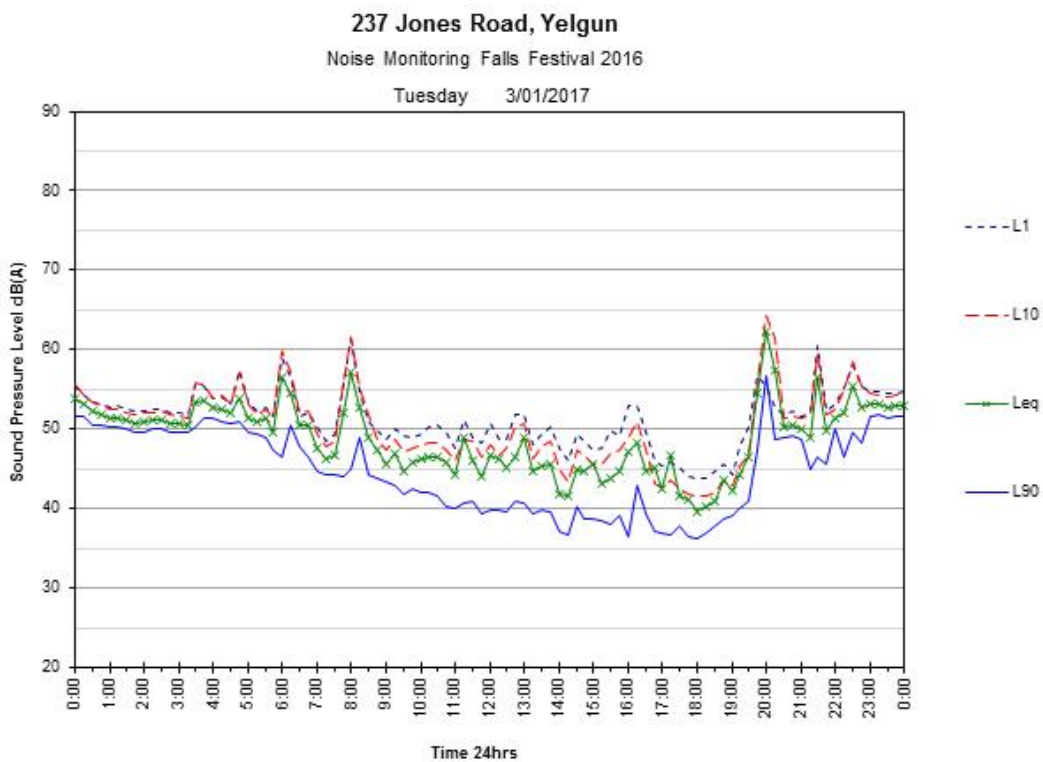
Day	Date	Background noise L90 dB(A)		
		Day	Evening	Night
Wednesday	28/12/16	-	36	41
Thursday	29/12/16	38	40	38
Friday	30/12/16	41	44	38
Saturday	31/12/16	-	-	-
Sunday	1/01/17	-	-	-
Monday	2/01/17	-	-	-
Tuesday	3/01/17	37	37	48
Wednesday	4/01/17	35	34	45
Thursday	5/01/17	33	35	42
Friday	6/01/17	-	-	-
RBL		37	38	42

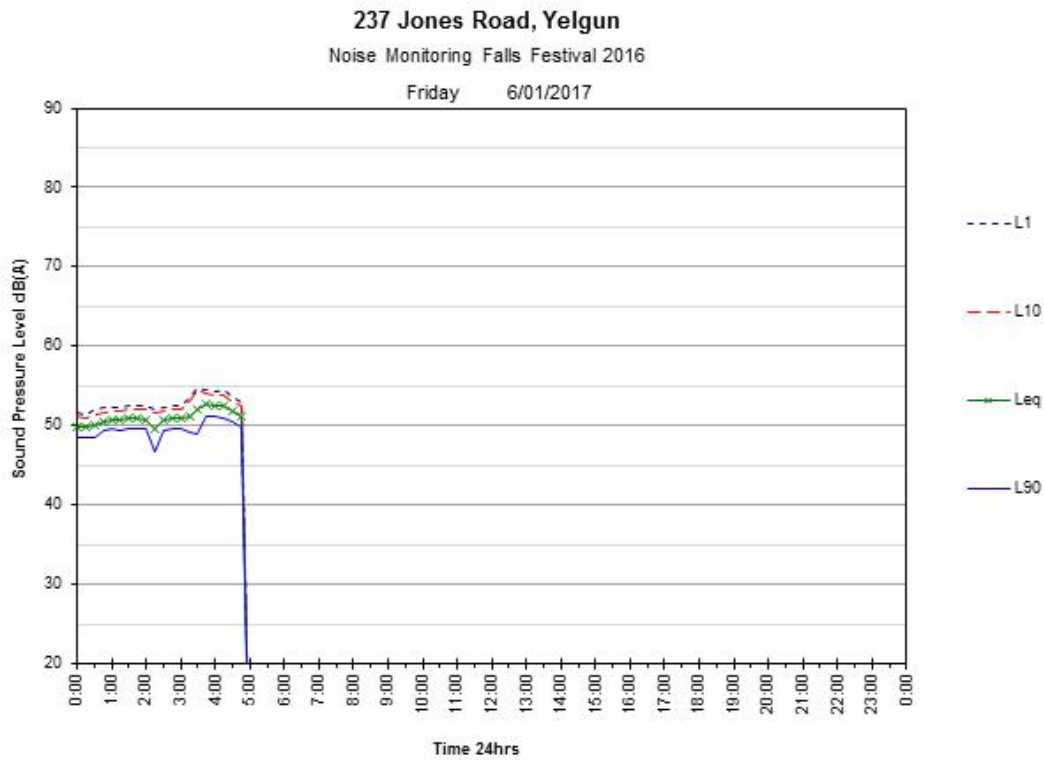
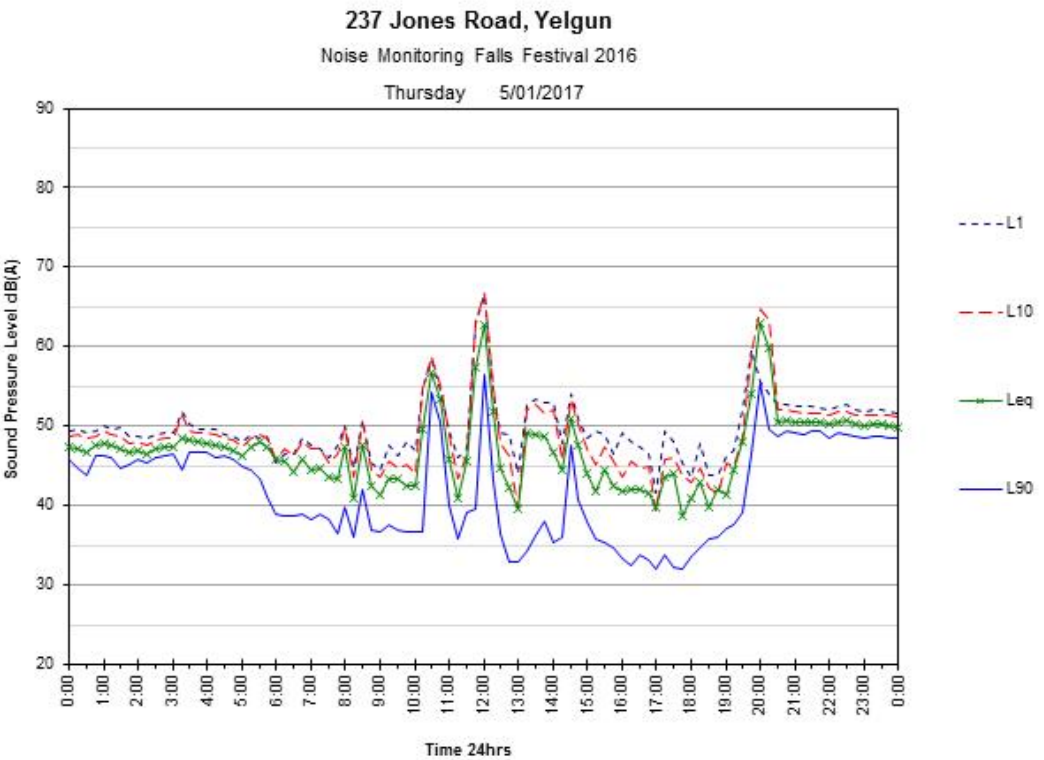
Figure 3: Ambient noise monitoring - 237 Jones Road











## 5. Noise Criteria

### 5.1 Original Project Approval

Under the original project approval for events the conditions relating to noise were as follows;

*Condition B3 of the Project Approval dated 24 April 2012 states the following conditions relating to noise;*

- 2. During trial events, all stages may operate from 11am but must be shut down at midnight.*
- 3. Between 11am and midnight, noise levels at sensitive receivers must not exceed background plus 10dBA.*
- 4. Music from bars, cafes and the dance floor must cease at 2am.*
- 5. Between midnight and 2am, noise levels at sensitive receivers must not exceed background plus 5dBA when measured outside bedroom windows.*

*Also additional requirements relating to noise are contained in (but not limited to) Conditions C16, C17, C40, C41, C42, C52, NBP 008 Noise Standard.*

*Further to these Conditions there is a "Statement of Commitments" attached to (and forming part of) the Project Approval for Application No MP 09\_0028: specifically Table 12.1 Updated Statement of Commitments Part C Operational Phase Commitments C14.*

### 5.2 2016 Modified Project Approval

The Planning Assessment Commission of New South Wales approved modification of the project approval on 22 April 2016. As such Condition B3 has been replaced with the following;

*1) During trial events, all stages may operate from 11 am but must be shut down at midnight, excluding New Year's Eve, where stages may operate until 1am.*

*2) Between 11 am and midnight, noise levels at sensitive receivers must not exceed the following noise criteria:*

- a. For Zone 1 (shown in Schedule 4 of this approval):*
  - i. between 11am and midnight amplified entertainment noise from the event at sensitive receivers must not exceed 60dB(A) LAeq,10-minutes AND 70dB(Lin) Leq,10-minutes in the 63 hertz 1/1 octave band; and*
  - ii. between midnight and 2am, amplified entertainment noise from the event at sensitive receivers must not exceed 45dB(A) LAeq 10-minutes AND 60dB(Lin) Leq,10-minutes in the 63 hertz 1/1 octave band.*
- b. For Zone 2 (as shown in Schedule 4 of this approval):*
  - i. between 11am and midnight amplified entertainment noise from the event at sensitive receivers must not exceed 55dB(A) LAeq,10-minutes AND 65dB(Lin) Leq,10-minutes in the 63 hertz 1/1 octave band; and*
  - ii. between midnight and 2am, amplified entertainment noise from the event at sensitive receivers must not exceed 45dB(A) LAeq 10-minutes AND 55dB(Lin) Leq,10-minutes in the 63 hertz 1/1 octave band.*

*3) Amplified music from bars, cafes and the dance floor must cease at 2am.*

4) The Regulatory Working Group may make a recommendation to the Secretary that noise limits imposed under this condition should be increased or decreased for future events after considering the Noise Impact Report referred to in Condition C52.

5) The Secretary may amend the noise limits imposed under this condition for specific future events after considering the results as presented within Noise Impact Report referred to in Condition C52.

## 5.3 Specific criteria

### 5.3.1 Rating background level

The measured existing rating background levels for Falls Festival 2016 are as follows;

Table 2: Rating background levels - based on measurement results

Location	Rating background level LA90 (RBL)		
	Day	Evening	Night
237 Jones Rd	37	38	42

### 5.3.2 Noise limits

Based on the Modified Project Approval, the noise criteria for 2016 would be;

Table 3: Noise limits Falls Festival 2016 (modified project approval)

Location	Noise limits Leq 10 minute			
	11am-midnight		Midnight-2am	
	dBA	63Hz	dBA	63Hz
237 Jones Rd	60	70	45	60

If based on event noise criteria used for previous years, the noise limits for the receivers would be as follows;

Table 4: Noise limits Falls Festival 2016 (based on original criteria)

Location	Noise limits LAeq 15 minute			
	Day	Evening	Night	
			Before midnight	After midnight
237 Jones Rd	47	48	52	47

As can be seen by the comparison above, there has been a substantial increase in the noise limits for the event. For reference, the noise limits from Falls Festival (FF) 2015 are also included for comparison as follows;

Table 5: Noise limits FF 2015

Location	Noise limits LAeq 15 minute			
	Day	Evening	Night	
			Before midnight	After midnight
237 Jones Rd	46	48	52	47

## 6. Event noise levels

### 6.1 Unattended noise monitoring

Noise monitoring results are provided as dB(A) in tables, as well as dB(A) and 63Hz & 125Hz octave band in charts. The 63Hz & 125Hz octave band charts represent a portion of the low frequency (bass) content of the sound.

#### 6.1.1 237 Jones Road

The results of unattended noise measurements at 237 Jones Road for the three days of the event are as follows;

Table 6: Measured LA90 noise ABL – event days only

Day	Date	L90 dB(A)		
		Day	Evening	Night
Saturday	31/12/16	40	42	39
Sunday	1/01/17	38	43	39
Monday	2/01/17	39	40	39

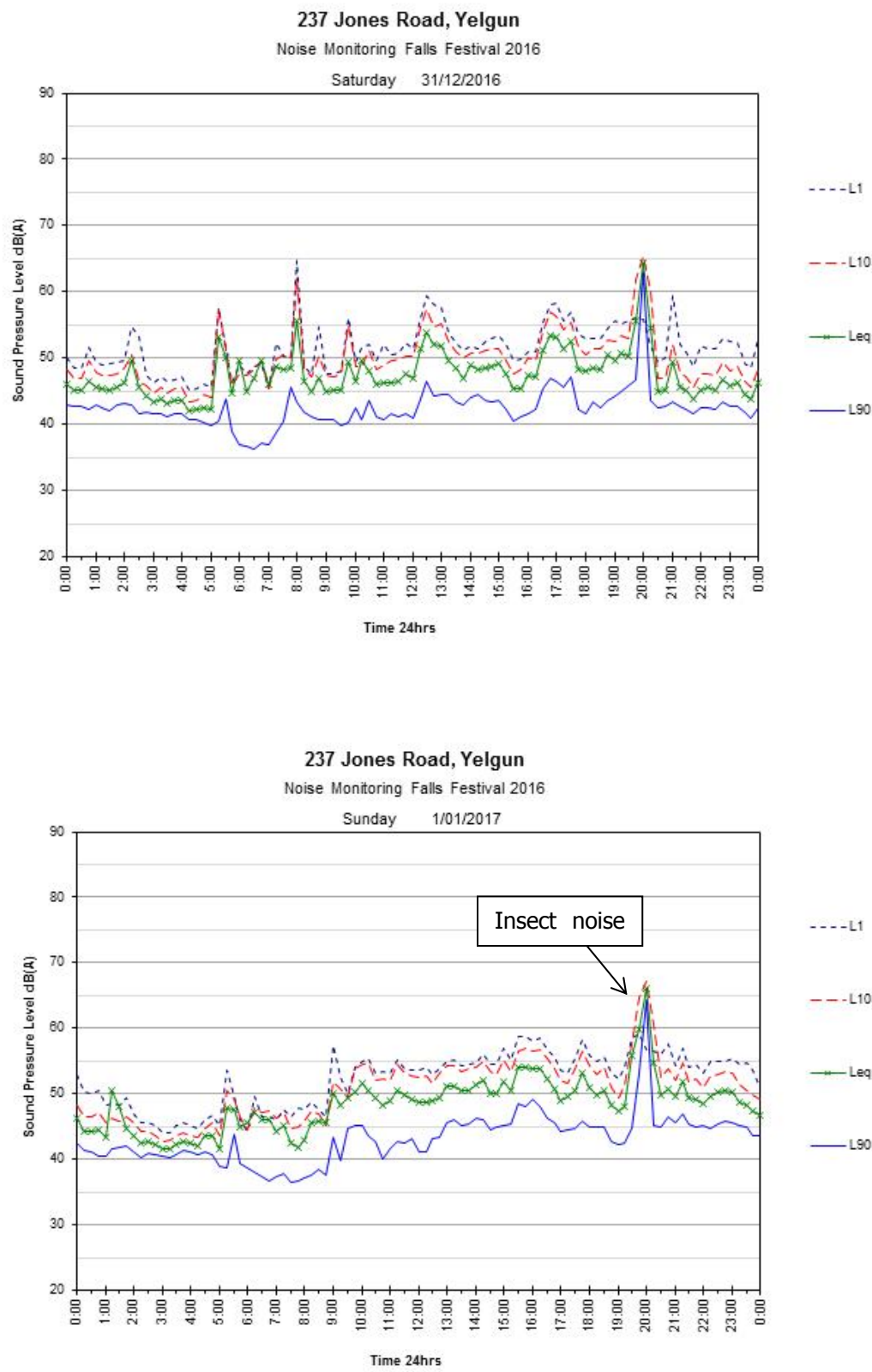
Table 7: Measured LAeq noise average – event days only

Day	Date	Event Leq noise dB(A)		
		Day	Evening	Night
Saturday	31/12/16	45	45	43
Sunday	1/01/17	45	48	42
Monday	2/01/17	47	48	43

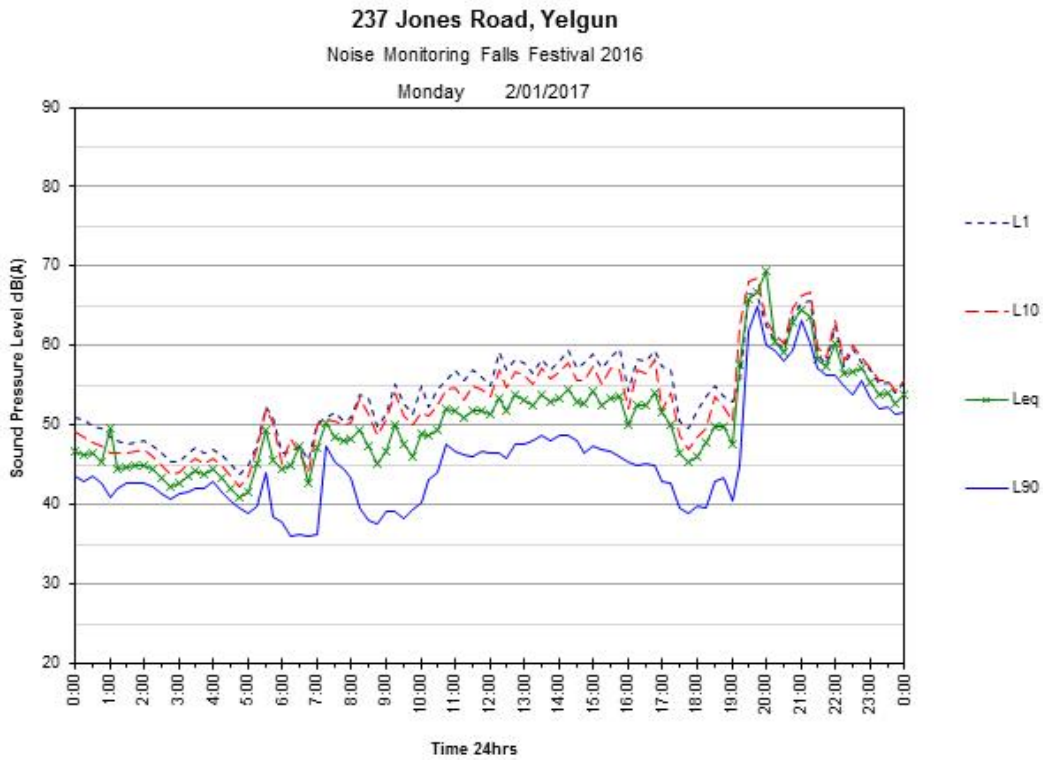
As can be seen from the data and following charts, noise from Falls Festival is clearly evident when compared to the typical pre-event ambient noise levels. These areas are circled on the charts as follows;

6.1.1.1      dB(A) monitoring charts

Figure 4: Event noise monitoring dBA - 237 Jones Road

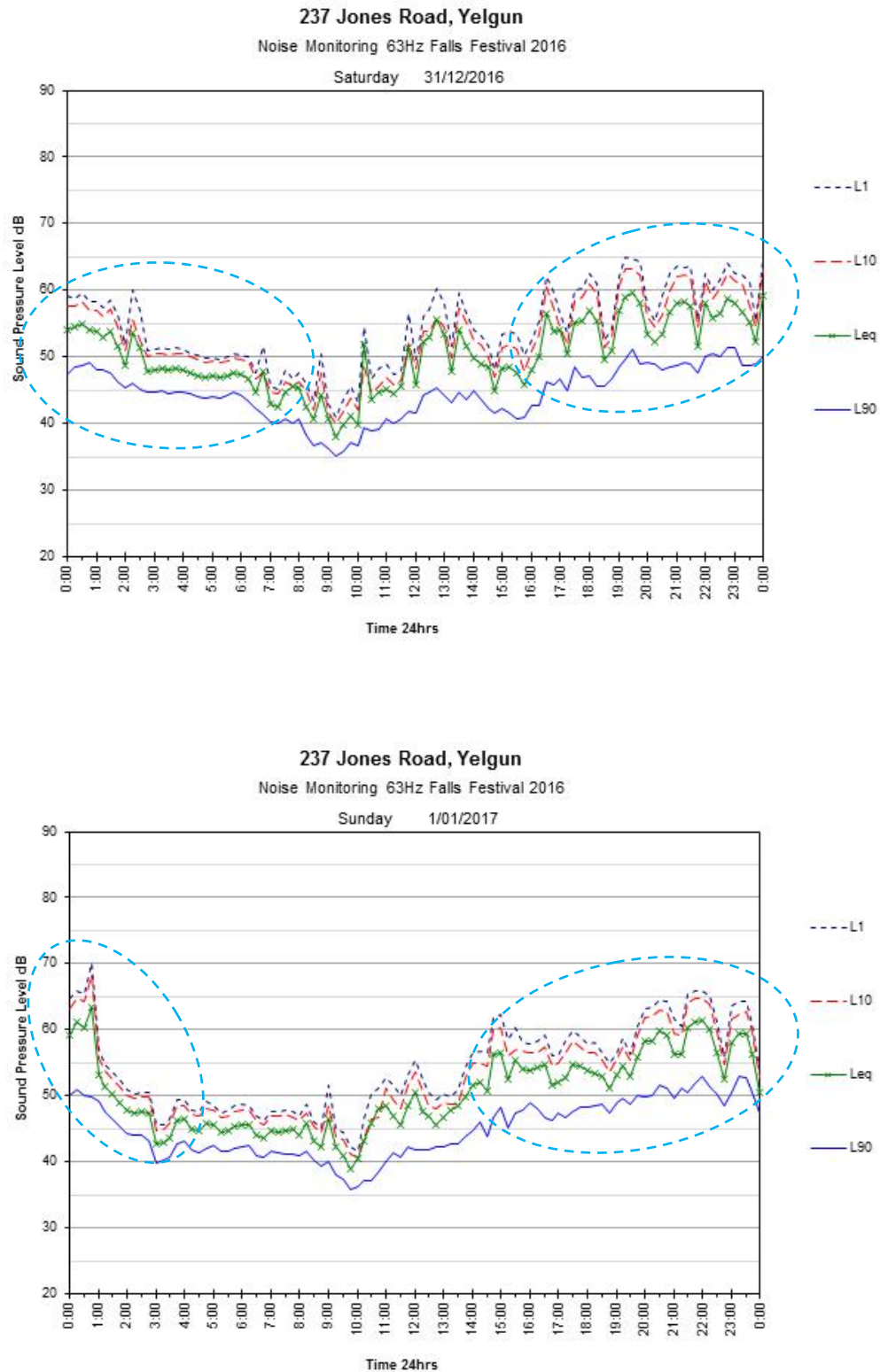




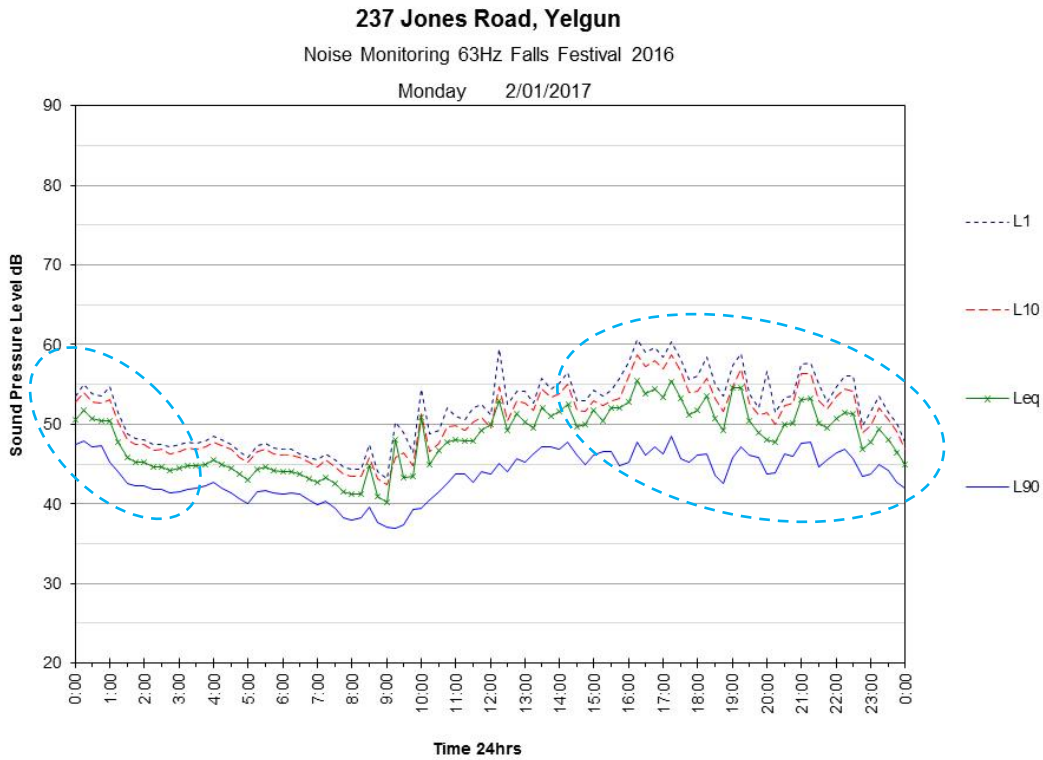


## 6.1.1.2 63Hz octave monitoring charts

Figure 5: Event noise monitoring 63Hz - 237 Jones Road

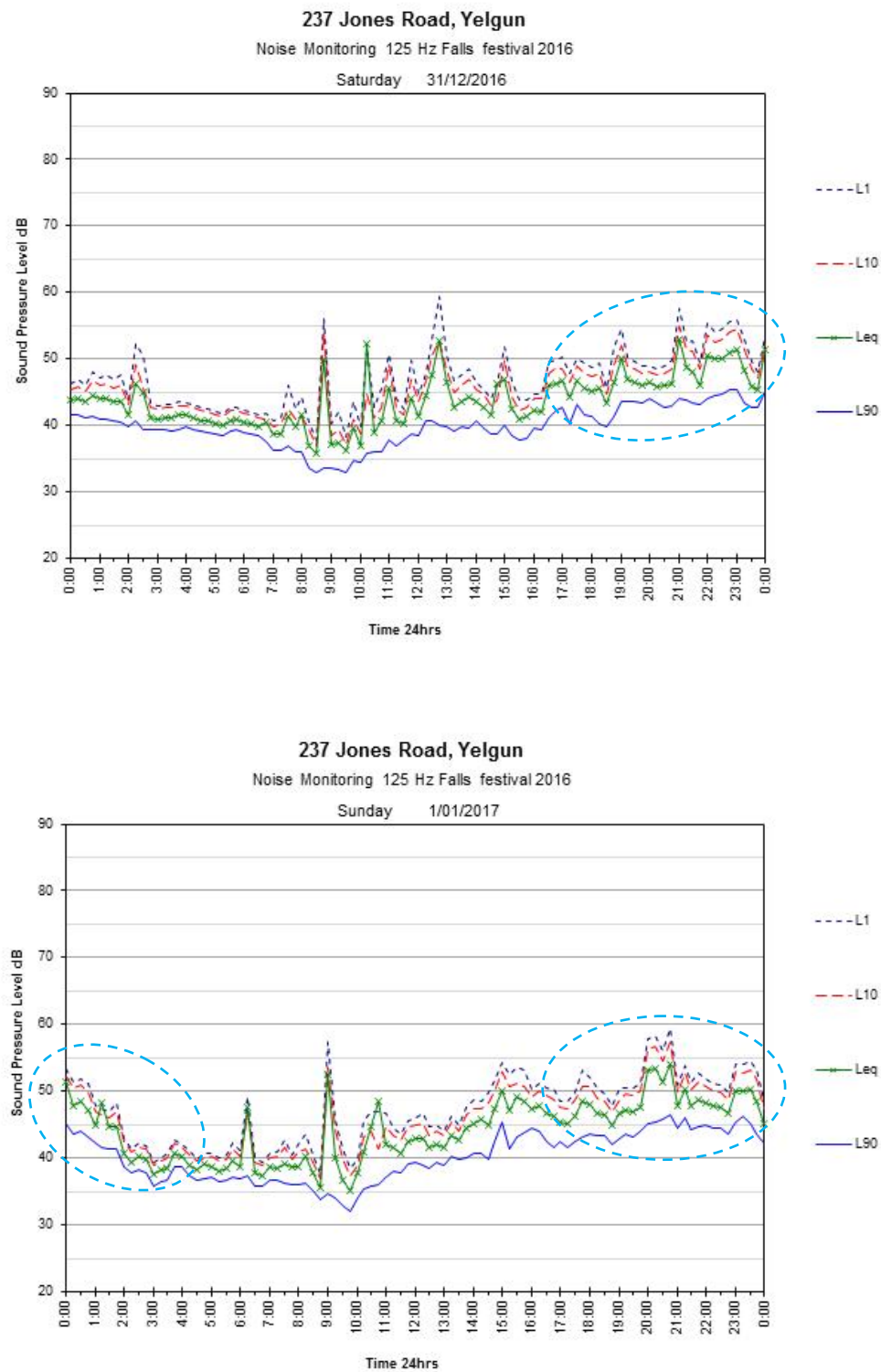


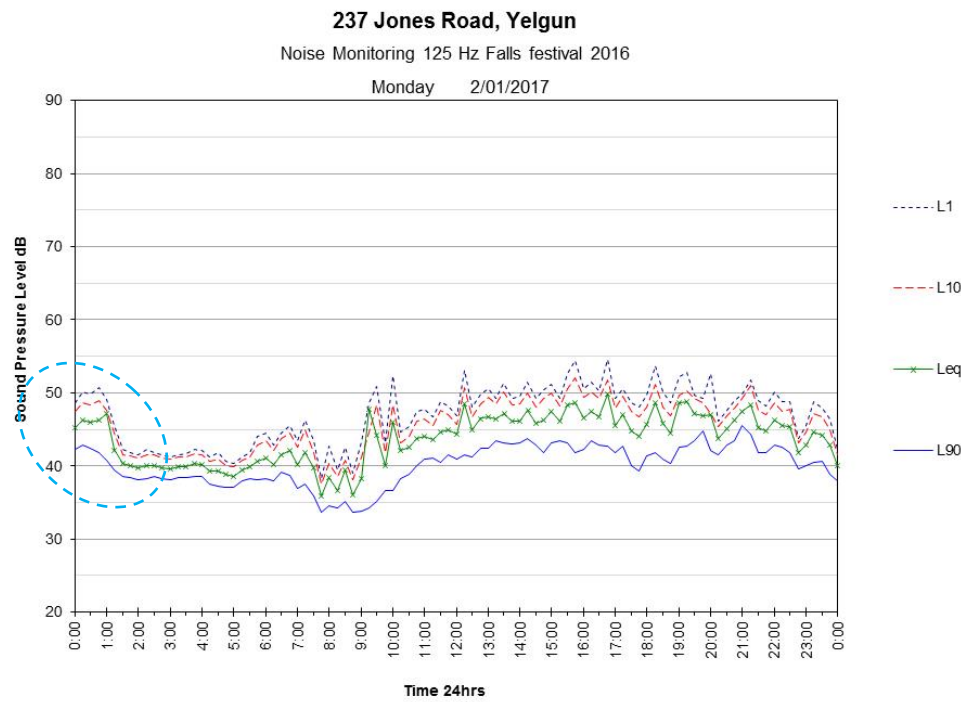
Note significant 63Hz noise continuing until after midnight above the modified approval criterion of 60dB.



6.1.1.3 125Hz octave monitoring charts

Figure 6: Event noise monitoring 125Hz - 237 Jones Road





## 7. Summary of results

### 7.1 Measured noise levels

#### 7.1.1 dB(A)

The dB(A) noise levels from Falls Festival 2016 were not able to be clearly extracted from the ambient noise levels at the receiver locations. This is due to the relatively high levels of insect noise at evening and night during the course of the monitoring period.

Based on the available data it is our opinion that noise levels from the Falls Festival were generally less than 45dB(A) at 237 Jones Rd.

#### 7.1.2 Low frequency noise

The 63Hz octave band noise levels from Falls Festival 2016 were measured to be up to 64dB Leq 15 min at 237 Jones Rd. This is significantly more than the 56dB Leq 15min 63Hz measured for Falls Festival 2015.

The 125Hz octave band noise levels from Falls Festival 2016 were measured to be up to 54dB Leq 15 min at 237 Jones Rd. This is significantly more than the 47dB Leq 15min 125Hz measured for Falls Festival 2015.

### 7.2 Compliance

Based on the Modified Project Approval, the noise criteria, measured levels and compliance for Falls Festival 2016 would be;

Table 8: Noise limits Falls Festival 2016 (modified project approval)

Description	Leq 10 minute			
	11am-midnight		Midnight-2am	
	dB(A)	63Hz	dB(A)	63Hz
Criteria	60	70	45	60
Measured 237 Jones Road	<45	62	<45	64
Complies	Yes	Yes	Yes	No

Based on the measurements dB(A) noise emissions were found to comply with the criteria. Low frequency noise levels were found to be above the criteria.

## 8. Conclusion

A noise assessment has been conducted for noise from Falls Festival 2016. The noise was monitored at the residential receiver location of 237 Jones Road Yelgun.

The assessment revealed that the dBA noise levels emanating from the event were observed to be of a similar level to Falls Festival 2015. These noise emissions were found to comply with the Modified Project Approval criteria.

However the low frequency noise emissions were observed to be of a higher level than for Falls Festival 2015. Low-frequency noise emissions from the event were found to be up to 4dB above the Modified Project Approval criteria.

Therefore based on the measured data, noise from the event was determined not to comply with the criteria at the assessed residential receiver location of 237 Jones Road Yelgun.

If you should have any queries please do not hesitate to contact us.

Report Compiled by:



Mark Enersen B.Sc MAAS  
Director

acousticworks)))