

Submission to the Planning Advisory Committee in respect of the North Byron Parklands "Splendour in the Grass" application.

The submission I am making regards noise pollution from a splendour festival. Appendix D1 of the development application is the noise impact assessment prepared by Benbow Environmental. I have extracted these points to the handout which I have made available to the commissioners. The relevant points are:

1. **Page i/240:** "The Site has several immediate residences that are in conflict with the proposed development. Experience at other major greenfield sites has shown that this is to be expected and respected." *It is actually the proposed development that is in conflict with the environment and not the other way around. I also suggest the use of the word respected here is nothing more than a platitude.*
2. **Page ii/241:** "The use of any outdoor venue for music requires a reasonable and fair compromise between what is a reasonable level of noise for an event and the level of the music needed for patrons. These two aspects are partially in conflict however a noise management strategy is able to assist the community in accepting the potential intrusion. This is based on first-hand experience. It has also been found that there will be a resident or pocket of residents who will be annoyed by any level of music that is audible." *If the application receives consent, affected residents will be deprived of the protection afforded by the PEOA. Noise monitoring on the site will undertaken either by or on behalf of the proponents, and is highly unlikely to be self condemning. Further, the conflict is not between a reasonable level of noise from an event and the level of music needed to patrons but rather these are one and the same and are in conflict with the peaceful enjoyment and amenity of residents in the north of the shire.*
3. **Page iii/242:** "In conclusion the noise impact assessment has found that the music industry acoustic criteria will be readily satisfied at the majority of the rural residences. *Music industry acoustic criteria is likely to be self-serving and is not the criteria relevant to residents of a quiet rural environment. It is the proponents that are encroaching upon a quiet rural environment and if the application is passed will be destroying much of that quietude.* The music levels will alter the lifestyle of the nearest affected residents being in Jones Road and the conflict with their lifestyle is unable to be completely resolved. A similar situation existed with other major projects the Principal Consultant of Benbow Environmental has assessed. A similar change has no doubt been accepted by the presence of the Pacific Highway." The proponents also admit that the music levels will alter the lifestyle of affected residents (they claim only those in Jones Road, but I put it to you that the negative effect will be heard much further afield) and this conflict cannot be completely resolved.

This "The number of large scale events needs to be kept in context. It is proposed that 12 days per year would be occupied by these events. This, from the author's experience is not significant." *Surely the author's experience, given his occupation and who is paying him is irrelevant; it is the local residents experience that will be significant.* In .4 they claim that during preparation of the noise assessment report consultation has taken place with the

immediate residents on at least 2 occasions. I am advised that most of the residents on Jones Road had never been consulted either by the developers or the Dept of planning to this statement is patently incorrect.

4. Page 1/243 “During the preparation of the noise assessment report, consultation has taken place with the immediate residents on at least two occasions. As each resident is potentially affected by different background levels and music noise levels, individual consultation is preferred.” ***Most of the residents on Jones Road have never been consulted, either by the developers or the DoP, so this was not an accurate statement in 2010 and still isn't.***

“There is a general recognition that outdoor music venues need levels of noise for patrons that result in noise levels in a range typically experienced by residence near to roadways.” ***It can be argued that amplified music noise will be even worse than highway noise.***

5. Page 11/253 “Residence R05: This residence will be exposed to high music noise levels due to its position near the roadway that overlooks the parkland site. This situation is clearly understood by all parties and consultation with the residents is ongoing.” ***(Note: It is not at all clear that this resident accepts the situation, only that the resident understands it.)***
6. Page 20/262 RE noise monitoring on Jones Road: “The results from the monitoring assist in determining the acoustic criteria that are reasonable to consider given the likelihood of noise from outdoor venues exceeding the background levels from varying amounts at different times of the day/evening/night that the events would be expected to require to make the venue financially viable.” ***What exactly does this mean? How will this assist sleep deprived locals?***
7. Page 39/281 “The period from 11.00pm to 03.00am will be sensitive and sleep disturbance may be an issue. Sleep disturbance requires specific attention to detailed noise management of the quality of the music.”

“The community will need a lot of assistance during the sleep sensitive period to accept the intrusion. There will potentially be many residents who would usually complain. A strong pre-event one on one consultation program is recommended.” ***The underlining in this point is mine as I think the statements speak for themselves.***

8. Page 78/320 “Benbow Environmental have extensive experience in resolving night time noise intrusion from major projects by working with residents to provide them with satisfactory acoustic treatment of their residences. The three most potentially affected residences in Jones Road all lend themselves to architecturally appealing treatments that during night time would achieve a low level of music inside the residences so that sleep disturbance issues would not arise.” ***(Note: The developers have not discussed these measures with residents; nor has the DoP. Satisfactory mitigation is therefore only assumed.)***
9. Page 79/321 “Architectural treatments have been recommended for receiver locations potentially affected during the night time, i.e. from 10.00pm onwards, as it is expected that windows and balcony doors would be open during the daytime. Therefore, architectural treatments would not be a feasible solution for receiver locations potentially affected during

the daytime period.” (*Note: Residents would have to put up with the noise during the day and would be required to sleep with all doors and windows closed.*)

10. Page 105/347 (Conclusions) This section states that the “recommended design noise criteria may not be met at all times at all receiver locations” and that “actual event noise levels and the corresponding spectra may differ for each performance.”

As the commissioners would be aware noise pollution is governed by the Protection of the Environment Operations Act which defines *noise pollution* as the emission of offensive noise, and *offensive noise* means noise:

(a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:

(i) is harmful to (or is likely to be harmful to) a person who is outside the premises from which it is emitted, or

(ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted, or

(b) that is of a level, nature, character or quality prescribed by the regulations or that is made at a time, or in other circumstances, prescribed by the regulations.

The proponents admit that the noise being omitted from the site during a festival cannot be contained within the acceptable limits which will interfere unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the premises from which it is emitted and will therefore cause undue stress on affected properties. My personal experience living in North Ocean Shores several kilometres as the crowd flies from the festival site is that on some evenings through to the following morning, I am disturbed by Doof music coming, as far as I can tell from the evidence garnered from my regular walks on the beach, from the beach somewhere near the Byron Tweed boundary which is in line with the festival site. This music can only be generated by portable sound equipment as it has to be carried to the location. It is inconceivable that large banks have amplifiers and speakers will not broadcast particularly the bass notes over a radius of many kilometres and therefore disturb many more residents who have sought out a quiet location in which to live.

My understanding is that approval of the festival will override the protection afforded by the PEOA. Accordingly, while part 3A can allow something that is otherwise unlawful and totally immoral, (i.e. to disturb with noise so substantially) it is not a reason to approve a project as such when the merits considered reasonably would say that the impacts overall are simply too great.

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