

BLUES FESTIVAL DA 10.2008.352.1, TYAGARAH
RESPONSE TO ISSUES RAISED AT COUNCIL MEETING 05/08/09
10 August 2009

1. INTRODUCTION

Byron Shire Council at its meeting of 5 August 2009 considered a determination report on Development Application 10.2008.352.1, which seeks consent for an Annual Place of Assembly (Blues Music Festival) and associated infrastructure and temporary structures at Lots 103, 104 and 105 DP 1023126 and Crown Roads, Pacific Highway, Tyagarah. The council resolved:

1. *That the matter be deferred pending completion of information and/or resolution of outstanding issues including:*
 - a) *agreement with Cape Byron Pistol Club*
 - b) *traffic management, including Grays Lane issues and contingency planning for resident parking in case of flood*
 - c) *security, including off-site impacts and controls*
 - d) *social impact*
 - e) *flooding and drainage*
 - f) *Tyagarah beach access over the Easter long weekend*

2. *That the above information be received by Council as soon as possible.*

This submission is made on behalf of East Coast Blues and Roots Music Festival Pty Ltd (ECBF) trading as the Tyagarah Tea Tree Farm. It provides the applicant's response to the issues raised in the Council resolution, including specific issues raised in subsequent discussions with the Mayor, Council staff and initial discussions with community representatives.

To comply with the Council resolution's request for speedy determination Council staff were advised that this response would be lodged by Monday 10 August 2009. The festival management received a further comprehensive submission outlining specific community questions on the morning of 10 August and consequently time has not allowed further consideration of those matters at this time. However a further response addressing the questions raised on behalf of the local community will be lodged with Council as soon as possible.

2. CAPE BYRON PISTOL CLUB

In all its discussions with the Cape Byron Pistol Club, ECBF has maintained that it would like the two businesses to coexist. Irrespective of the festival going ahead on this site, it is legally incumbent upon the Pistol Club to ensure that any neighbouring property they want to shoot over is protected.

The fallout zone for stray bullets from the pistol club is directly over the applicant's Tea Tree farm. The Tea Tree farm is home to the farmer, his wife and children who live on the property for 365 days of the year. In addition other employees, farmhands, Tea Tree Contractors and visitors to the land are exposed to the potential risk of a stray bullet striking them.

ECBF has made contact with the NSW Firearms Range Inspector to obtain specific details of the fall out zone, risk assessment and other details so it can pass this information onto its Tyagarah Tea Tree Farm insurer. NSW Firearms have advised it will take them between 2-3 weeks to provide this information. ECBF has advised the Pistol Club of this and looks forward to continuing discussions with them in due course.

In kind support has always been offered by ECBF to the Pistol Club. To date ECBF has provided them with:

- contacts in the NSW Police Force who may be able to support them in obtaining government grants;
- details of NORTEC who could help them with labour in the form of work-for-the-dole or other projects they have; and
- offered the services of ECBF's engineering consultant.

Proposed consent condition 54 recommended to the Council meeting of 5 August 2009 adequately requires the two parties to continue and finalise their negotiations prior to a festival taking place.

3. TRAFFIC MANAGEMENT

3.1 Inclusion of background traffic in traffic modelling

This issue is addressed in the attached correspondence from Cardno Eppell Olsen (Appendix A) and Greg Alderson & Associates (Appendix B).

The traffic modelling does include both the Festival generated traffic plus the background traffic flows currently on the road network. The traffic model considers peak hour volumes, which are the highest on the road network, ie the worst-case scenario.

As pointed out by Greg Alderson & Associates in Appendix B, the Cardno model is considered to be based on a conservative overestimate of traffic numbers, as it utilised high background traffic volumes on Gulgong Road and does not allow for the substantial number of patrons arriving by bus (25%) rather than by car.

See detailed responses in Appendices A and B.

3.2 Inclusion of Festival traffic from Mullumbimby in modelling

Cardno Eppell Olsen have modelled a new option based on the worst-case traffic scenario at the Highway interchange, plus an additional 20% of extra Mullumbimby Festival traffic assigned to Gulgong Road (Scenario E). The Scenario E model assumes 20% additional traffic flow to and from Mullumbimby, over and above the already conservative total festival traffic modelled previously. The Scenario E modelling results demonstrate '*satisfactory operation under a conservative scenario*'.

Again, the Cardno model is considered to be quite conservative, as it utilised high background traffic volumes on Gulgong Road and does not allow for the substantial number of patrons arriving by bus rather than by car.

See detailed response in Appendix A.

3.3 Residents' access between the Pacific Highway and Grays Lane

The Environmental Planning and Assessment Act requires that the General Terms of Approval (GTAs) issued by the NSW Roads and Traffic Authority (RTA) must be incorporated in the Council's consent. The GTAs stipulate that the right turn movement at the Grays Lane intersection with the Pacific Highway is banned for the duration of the event.

This means that there will be a disruption to local residents during the festival. During those times they will need to access Grays Lane from Byron Bay by using the Tyagarah Interchange, with the Festival Traffic, and also exit Grays Lane to the north via the Tyagarah Interchange.

If Council so wished, the applicants would be happy to liaise with Council and RTA to examine strategies and implications of a future change to the GTAs and consequent consent conditions to allow residents to access the Highway directly to and from Grays Lane. This would be best done using modelling based on at least one year's experience with the currently proposed arrangement.

See detailed responses in Appendices A and B.

3.4 Festival patrons and public access to Grays Lane and beach parking

This is discussed by Greg Alderson & Associates in Appendix B. Details of Festival Attendees' access to Grays Lane will be controlled through the approved Festival Traffic Control Plan. If Council so desires in consultation with residents, a restricted parking limit could be imposed at the parking area at the beach at the end of Grays Lane. Also residents' car window stickers would be issued, to allow the security personnel to easily identify residents and their guests vehicles. There would also be "no stopping" signs placed along Grays Lane to restrict any parking by Festival Patrons. In this regard the parking on the Festival site is to be free of charge, and there is ample parking available on site, so the desire to park in the street should be greatly reduced, compared to other Festivals and sites where parking fees are charged.

See detailed response in Appendix B.

3.5 Traffic impacts on Mullumbimby and Brunswick Heads

As advised by Cardno Eppell Olsen (Appendix A), detailed assessment of traffic impacts on Mullumbimby and Brunswick Heads CBD have not been undertaken. However, as the Street networks in those towns currently operate well within capacity limits, Cardno Eppell Olsen expects any additional traffic generated by the festival to be readily accommodated without the need for upgrading. The Festival management also will provide public transport shuttles to and from Mullumbimby and Brunswick heads (as well as other towns and localities in the district), which will reduce the impact of private vehicles on the towns.

See detailed response in Appendix A.

3.6 Adequacy of parking demand estimates

Cardno Eppell Olsen (Appendix A) has reviewed the festival parking and traffic estimates. Their review concludes:

- The allocated parking in the festival site can accommodate more than 6200 cars.

- Assuming 75% of all patrons attend via car and a conservative vehicle occupancy of 2.5 people per vehicle, parking is available for a festival with a capacity greater than 20,600 people per day.
- The traffic generation estimates were developed by forecasting the event capacity and taking into account public transport share consistent with previous festivals, using a variety of vehicle occupancy scenarios to represent a conservative estimate of traffic volumes.

In response to questions raised at the Council meeting, Greg Alderson and Associates (at Appendix B) has recalculated parking demand based on a very conservative occupancy rate of 2.5 persons per vehicle for day patrons (Council's adopted rate is 4 persons per vehicle). That evaluation concludes that ample parking is available based on 2.5 day patrons per vehicle.

See detailed responses in Appendices A and B.

3.7 Plans Illustrating Local Traffic Arrangements

Greg Alderson & Associates Outline Traffic Control plans for the festival site, Pacific Highway, adjoining local roads and nearby intersections are at Appendix C. These plans represent a draft or preliminary version of a Traffic Control Plan for the Festival. The plans address the following scenarios:

- Before and after the festival – Bump-in and Bump-out times.
- Arrival – festival days.
- Departure – festival days.
- Grays Lane intersection detail – festival days.

4. SECURITY

4.1 On site and off site controls and impacts

The festival management (Bluesfest) engages the services of a private security company to ensure the safety of its patrons both inside the festival site and around the perimeter. Additionally, due to the size of this site, Bluesfest will be including within its security services brief specific additional key locations such as the wreckers yard, airport (refer conditions of consent), Grays Lane, Fox Lane and the site boundary with the adjoining property to the north of Lot 103.

In addition to the security company, Bluesfest engages 'user pay' police to work with the festival on the safety and security of the event for patrons. Bluesfest will be engaging additional user pay Police to have on hand to provide assistance to the security team. These additional Police Officers will be tasked with patrolling Grays Lane, Fox Lane, the airport and with assisting Byron Shire Council rangers to enforce any illegal camping or parking issues that may occur external to the site.

Bluesfest is also in the process of conducting a thorough risk assessment of the site with the input of the emergency services (police, fire brigade and ambulance) and this will be reviewed before and after each event and submitted to council in the form of a risk assessment within our annual event management plan.

Council may like to note that in addition to engaging the services of First Aid provider St Johns Ambulance, Bluesfest engages the NSW Ambulance Service to provide an Ambulance and paramedics on site for the exclusive use of the festival patrons and campers so as to not detract from the resources of the community. The festival pays

for the service of the Ambulance to attend the event similar to the 'user pay' police scenario to ensure that the festival does not detract from community resources.

4.2 Security for nearby homes, including those vacant over Easter

As detailed in point 4.1 above. The festival's private security service and the 'user pay' additional Police will patrol known security 'hot spots' and will be available at the direction of Senior festival staff to respond to residents' concerns.

During the event nearby residents will have direct access to not only the festival hotline, but to a Neighbourhood Response team and Senior event management staff who will be able to assess the concerns and issues raised, liaise directly with residents and provide timely responses – such as sending security or the police to address any issues that may arise. The first point of call needs to be to event management staff so they can respond accordingly.

Bluesfest will consult with residents at Grays Lane and Fox Lane as well as its immediate neighbours when preparing its annual event Risk Management Plan. Bluesfest will survey the areas directly neighbouring the site as well as nearby localities to ascertain the best way to mitigate any unwanted activities.

4.3 Illegal campers in public land and private property

As detailed in point 4.1 above – this is the jurisdiction of Byron Shire Council Rangers, however Bluesfest has spoken with the Police who are happy for the festival to engage additional user pay Police as proposed. These additional Police Officers will be available to attend to incidents and issues at the direction of Senior festival management.

4.4 Internal security fencing and perimeter controls

This will be detailed in the event management plan, which will be prepared in consultation with Council, Police and emergency services. Festival management will be speaking to all affected neighbours when preparing the annual Risk Management Plan to ascertain the need for specific additional fencing points.

5. SOCIAL IMPACTS

5.1 Future Social Impact Statistics and Assessment

At the time of DA lodgement Council did not have in place an adopted Social Impact DCP. However, the Statement of Environmental Effects (SoEE) accompanying the DA included a Social Impact Assessment and community consultation report prepared by Dr Jane Stanley (refer SoEE Sections 1.8, 4.9, 5.8.3 and Appendix O).

Bluesfest collects information and statistics from questionnaires and from ticket sales data in conjunction with each year's festival. Bluesfest proposes that, once Council's Social Impact Assessment DCP is formally adopted, it will collect social impact statistics on an annual basis in a format consistent with the adopted DCP, and will include the results of that research in its annual post-festival report to Council. That information will then be used to inform the annual Event Management Plan.

5.2 Alcohol and drugs control on site

Bluesfest works closely with the NSW police to ensure the safety of its patrons. Bluesfest does not condone the use of drugs on site. Police drug dogs will be onsite.

It is a council condition that the festival has RTA calibrated breathalysers on site. Bluesfest is the Licensee of the event and provides a copy of its Alcohol Management plan to the NSW Police and OLGAR. Both the Licensing police and representatives of OLGAR regularly attend the festival to monitor the Responsible Service Of Alcohol. Council staff have always been provided with copies of the Alcohol Management plan and harm minimisation strategies in the annual event manuals and this practise will continue.

5.3 Alcohol and drugs control off site

As discussed in point 4.1 above, Bluesfest will be working with the NSW Police who have jurisdiction over alcohol and drugs off site. Any off site incidents or risks known by or reported to festival staff will be referred immediately to the Police.

5.4 Noise levels at Nearby houses

The noise levels of the Festival at the Tyagarah houses are designed to be below the level of 50dB(A). This is the level that is used in the rural areas around the Belongil Fields site. In the urban areas the level accepted is 60dB(A).

It is predicted that the Grays Lane and Tandys Lane dwellings should have a level of noise from the Festival of 46dB(A).

The noise level from the Festival for the properties on the western side of the highway (Foxes Lane) is expected to be 49.4dB(A). Note that these residences have a higher background noise level because of the traffic noise on the Pacific Highway.

The noise level expected at the Brunswick Wreckers Yard is 55.4dB(A). This residence will also have a higher background noise level because of its proximity to the highway.

The Acoustic assessment has nominated that performance stages shall be directed to the north east, away from nearest residences, along with other requirements for the efficient management of noise from the site.

5.5 Brunswick Heads & Mullumbimby Towns and Pubs

Traffic issues affecting Brunswick Heads and Mullumbimby are discussed in Point 3.5 above.

Bluesfest has spoken with the NSW police who have advised that due to the fact the festival has been held in town for the last 20 years it is not possible to distinguish between festival patrons vs general Easter Holiday makers.

The festival is targeted to a wide demographic, however the majority of patrons are between the ages of 35-45. The DA is structured to enable Bluesfest to accommodate and retain a large cohort of patrons on site, however given the length of the festival (5 days) some people may not want to camp for this long. Additionally, some patrons may want to visit other local attractions.

Some patrons may wish to search for alternative accommodation at Mullumbimby and Brunswick Heads. Some patrons would still choose to stay in Byron Bay and other areas. Around 30% of patrons are local, so most of those will return to their houses.

Impacts on Brunswick Heads and Mullumbimby townships will be canvassed each year in the annual Social Impact assessment discussed in Point 5.1 above. This will allow Bluesfest to work with Council to adjust the annual event management plan if required, or to make other arrangements if that becomes necessary. However, based on experience to date with the festival in Byron Bay, and given its short duration as a single event over Easter each year, it is expected that Brunswick Heads and Mullumbimby will amply accommodate the additional visitors and that their net impacts will be positive.

As indicated by the economic impact assessment conducted by Bluesfest and included within the SoEE, Bluesfest has a significant positive economic impact on NSW, the Shire and local towns.

5.6 Maintaining access to beach and lakes for local residents

Bluesfest is happy to work with local residents and Council to develop and implement strategies to manage access to the beach. The most appropriate outcomes for all may develop progressively with experience and feedback over time.

At this stage the Preliminary Traffic Control Plan shows the option of controls at the highway end of Grays Lane to restrict Festival Patrons from having unrestricted access to the Grays Lane neighbourhood, including the beach. An option suggested is that the Grays Lane neighbourhood, including the beach parking area, could be restricted with a 2 hour parking restriction for non-residents. This would require NPWS approval in the Nature Reserve, but is similar to the restriction that has been operating for several years at Sunrise Beach for the Festivals at Belongil Fields. Council/ NPWS Rangers would then police the area, enforce compliance and issue fines for those non-residents who park for longer than 2 hours.

Coupled with this the draft Traffic Control Plan suggests “no Standing” in Grays lane from the highway to Prestons Lane, to restrict the potential for parking of festival patrons vehicles in this area.

The existing beach Crown reserve picnic area at the end of Grays Lane is currently restricted with no camping permitted. A National Parks and Wildlife Services (NPWS) parking permit is required for all vehicles to use that area and for car parking for beach access, which is administered by that authority. Proposed implementation of the restriction to Grays Lane is outlined in 3.4 of this response.

5.7 Measures for locals to report social or security concerns

As discussed in Point 4.2 above, during the event festival neighbours and nearby residents will have direct access to not only the festival hotline, but to mobile phone contacts for Senior event management staff who will be able to provide timely responses, including monitoring of noise complaints.

Bluesfest engages an independent noise monitor for each festival. The acoustic management strategy and monitoring protocols for the festival are discussed in Section 4.4 and Appendix E of the SoEE. Any noise complaint received from residents, Council or other authorities is investigated immediately in accordance with the adopted protocols. The persons nominated in the Noise Management strategy (SoEE Appendix O) have authority to directly control stage managers and to adjust noise volume if necessary.

5.8 Measures to monitor and control anti-social behaviour

As discussed in Points 4.1 and 4.2 above, in addition to the private security company, Bluesfest engages 'user pay' police to work with the festival on the safety and security of the event for patrons. Bluesfest also works closely with Council rangers.

During the event festival neighbours and local residents will have direct access to not only the festival hotline, but to mobile phone contacts for Senior event management staff who will be able to provide timely responses – such as sending security or the police to address any issues that may arise.

5.9 Measures to minimise traffic delays to/ from local residents' houses

The use of long access driveways into the site to ensure that queue lengths onto the public road network are minimised, plus division of the parking for north and south bound Patrons, plus a Traffic Control Plan with clear signage, will maximise efficiency of traffic operation and minimise the potential for delays to local residents.

5.10 Assuring local community of only one annual festival on site

This application seeks consent for one festival on this site a year, ie the annual Bluesfest. Additional events are not covered by this DA, nor are they authorised by any resultant consent issued by Council.

Bluesfest does not have the intention of hosting another festival on this site. In the event that someone else wanted to lodge a DA on this site Council would need to determine that application based on the circumstances at the time, and in light of the terms of the original consent granted – which is that this site be used for one festival per year only.

The land on which the annual festival is located will continue to be maintained as a working Tea Tree Farm for the remainder of the year. The current Festival Director has other overseas business interests and the festival management is not set up to manage the extensive time and resource commitments of running more than one festival per year on this site.

6. FLOODING AND DRAINAGE

6.1 Satisfying the deferred commencement condition

Information has been supplied to Council based on field survey information, following requests after Easter 2009. This information is based on a report by Gary Creighton a former Senior Irrigation Officer at the NSW Department of Primary Industries (Formerly NSW Agriculture & Fisheries). Calculations have been carried out, levels provided and details given as to the method to be employed to drain the car parking areas and the Festival and camping areas of the site. The intention is that grass swales would be installed as high as is possible through the site, to move rain water off the Festival, camping and parking sections of the site. This work is designed to avoid impacting Acid Sulphate soils.

6.2 Extent and depth of flooding on site

The site is flood prone and reports have been presented to Council in this regard. The flood levels vary across the site, as do the ground levels. The probability of a flood at Easter that would disrupt the Festival has been assessed as once in 40 years, based on historical records.

6.3 Flood evacuation strategy, public notification and risk management

The flood evacuation strategy that has been submitted includes warnings that in essence require that the site be evacuated when there has been 2 days of heavy rain and the water in the drains reaches a level of 2.0m AHD, which is approximately the top of the drainage banks. The evacuation plan must be advertised, and as per proposed condition 58 (in the report to the August 5 Council meeting) a contingency plan prepared with the Local SES. The risk management is the essence of the evacuation plan, and it has been assessed that there is at least 6 hours for evacuation assuming that the last available time is used before the evacuation "bell is rung". The more likely scenario is that the Festival will be postponed because of the rain that has fallen the day or days before.

6.4 How will evacuation plan be implemented and notified to attendees?

The Evacuation Plan indicates that attendees would be advised by announcement, camping marshals, staff etc. The music would be stopped, but there would be all other facilities operating such as lights, toilets showers etc, which would be located in semi trailer blocks, raised up above flood levels.

6.5 Emergency measures for unexpected night time deluge & flood

This is an unlikely scenario, given that ample warning of impending flooding and need for evacuation is available. The potential for night time evacuation was included in the later material supplied to Council. Time frames for evacuation were examined as well as the sequence of evacuation, the gates to be used, the roads to be used etc. There will still be full lighting available on the site, as this is provided by portable light towers and grid power.

6.6 Contingency for Grays Lane resident parking in flood

There should be no change to the use of the Tanner Lane/ Grays Lane area for local residents to park their cars in the event of flooding. This can be written into the Festival evacuation plan if required, but it was left as an arrangement that was independent of the Festival arrangements.

7. TYAGARAH BEACH ACCESS

This is discussed in Items 3.3, 3.4 and 5.6 above.

8. OTHER ISSUES

8.1 Patrons increase from 17,500 to 20,000 per day

Bluesfest has successfully demonstrated that it can manage an event of 17,500 patrons per day. As council may be aware, the Bluesfest's draw card is in its unique programming ability and is an attraction for many international musical legends such as Buddy Guy. For economic reasons a patronage of up to 20,000 patrons per day has been used for budgeting purposes. Unlike other events in Byron Shire Bluesfest does not have the luxury of selling the event out. By increasing capacity to 20,000 persons per day Bluesfest has the opportunity to sell tickets up to 20,000 on a particular day if the demand is there.

8.2 Are underground water reticulation pipes proposed/ needed?

Not intended at present. There is already a water supply pipeline on the land under the control of Rous Water. Water reticulation pipes exist to each of the houses on the land.

However, the options of extending this water supply or the placement of a static water supply for fire fighting have been discussed and extension of the water supply may prove to be a more efficient method of providing water to the critical areas of the site. Any extension of the water supply system would require approval of Council and Rous Water and potential Acid Sulfate Soils issues would need to be addressed. The system would need to be provided in accordance with the Water Supply Authority Guidelines. Rous Water has been most helpful in this area to date.

8.3 What daily waste volumes will be removed from the site?

Details provided in Table 2 of the Water and Wastewater Management Strategy nominate that on event days the maximum total daily volume of wastewaters generated at maximum capacity for the site is 366,750 litres. The wastewater collection services accounts for showers, toilets and food stall services which are provided with storage facilities. This volume represents the total maximum volume which could be generated and removed from the site on any one day of the event.

8.4 Will laser levelling increase acid sulphate risk?

No, the laser levelling allows better control on the levelling process of the paddocks. There has been some levelling and contouring done on the land in the past for farming purposes, which has created some of the problems that now need to be addressed for good farming practice.

Typically the acid sulphate soils will be managed more closely with this application than would be the case with farm-based levelling and contouring by eye, which has been the case in the past.

The proposal in the DA will in fact be better land management than has been the case in the past and the laser machine allows better control of ground levels.

In essence the earthworks proposed would only move minor amounts of soil within each of the existing paddocks, and will not affect Acid Sulfate Soils.

APPENDICES

APPENDIX A	CARDNO EPELL OLSEN DESIGN NOTE 6/8/09
APPENDIX B	GREG ALDERSON AND ASSOCIATES LETTER 7/8/09
APPENDIX C	OUTLINE TRAFFIC CONTROL PLANS (4 Sheets)