



PO Box 168
Brunswick Heads
NSW 2483

INQUIRY INTO CROWN LAND

RESPONSE TO QUESTION ON NOTICE REFERENCE SUBMISSION 110

QUESTION ON NOTICE:

Mr DAVID SHOEBRIDGE: I am sorry to give you more work. You are the only consultation body in place in Brunswick Heads. We have had submission 110 from the New South Wales Crown Holiday Parks Trust. The secretariat can provide you a copy. It says what a fine job they are doing, what income they are providing and what a fine body they are. I would be interested in your giving us your thoughts on the submission. You can do that on notice if you have the time. You are living with them, they are telling us how great it is; I am pretty sure you have a different view.

Ms BOLT: Yes.

PART 1 HOLIDAY PARKS

1. INTRODUCTION:

Submission 110 from New South Wales Crown Holiday Parks Trust (NSWCHPT) is an overview at the macro scale of its management principles. It bears little if any relationship to management of the Holiday Parks/caravan parks at the micro scale as experienced in Brunswick Heads.

NSWCHPT replaced North Coast Accommodation Trust (NCAT) in June 2013. The management principles of NCAT continued with the new Trust. The following outlines some of the continuing management issues with NSWCHPT.

There are 3 Holiday Parks located on Crown Reserves adjoining the foreshores of the Brunswick River and its estuary, Simpson's Creek. Over the last 15 years, Crown Lands has exhibited Plans of Management (POM) 6 times, including the now approved 2014 POM, yet the following unresolved management issues remain:

- a. Failure to reinstate a buffer zone cum unfettered public walkway to and along the top of riverbank of Simpson's Creek in Terrace Park.

- b. Failure to adhere to Council's operational boundaries and conditions of operation including a 10m setback from the top of the riverbank for all built structures. This has resulted in the loss of prime foreshore parklands in all the holiday parks and access to a public boat ramp at Massy Greene
- c. Failure to ensure compliance with parent legislation
- d. Failure to adopt meaningful consultation, negotiation processes, and satisfactory dispute resolution.

2. Plan of Management (POM) ISSUES:

- a. In June 1988 Byron Shire Council (BSC), as the then Reserve Manager, in response to changes in the Local Government Act 1986, identified over 16,200sqm of illegal encroachments outside the approved operational boundaries. Under conditions of license, some of these encroached lands were used for "overflow" primitive camping during peak periods (Xmas & Easter) only between 1988-2000. Other encroached lands were simply used by the respective park managers.
- b. The 1988 POM and the operational boundaries remained in force until the appointment of a consultant/manager in 2000. Between 2000-2004 this person expanded park operations onto encroached lands. Without any consultation he intensified the use of the encroached lands in Massy Greene and on the Ferry foreshore to 24/7 usage and installed power and water services in defiance of Council's resolution for a 10m setback from the top of the riverbank to all built structures. These behaviours were without Council's knowledge or approval.
- c. The unendorsed 2007 licence agreement also sought to include "encroached lands" within the operational area of the caravan parks.
- d. An "interim" license issued 10 May 2013 was misused by NCHP/NCAT to misrepresent park boundaries in the preparation of the now approved 2014 POM.
- e. POMs exhibited by Crown Lands in 2000, 2002, 2005, 2007, 2010 & 2013 all sought to expand the park boundaries to include adjoining "encroached lands", in direct defiance of Council directives and despite widespread community opposition.
- f. The 2014 POM fails to have community and Council support as evidenced by reaffirming Resolutions 15-323 of 16 July 2015 and 15-651 of 10 December 2015. Crown Lands' through its administrator NSWCHPT has been wilfully dismissing Council's directions to date. The Association can only speculate that this is a tactical intent, pending changes in legislation which remove s68 Approval to Operate power from Council?

In June 2013 NCAT was replaced by NSWCHPT. They had their first meeting in August 2013 chaired by Alan Rivell. It is strongly suggested that the Board would not have been familiar with the history of the caravan park/foreshore parklands in Brunswick Heads prior to being advised on the draft POM. If they had, then it is more than reasonable this would appear in the Minutes August through to November 2013. If these issues were clearly documented in the Minutes then the Board has directly misled the Minister about the POM. If the Minutes do not clearly reflect BSC's operational boundary issue and conditions of operation, then the Board has indirectly misled the Minister about the POM. POM do not determine operational boundaries and conditions but the clear intent of the development plans usurped Council's legislative and regulatory power to do so to date.

3. LICENSE ISSUES:

a. 2007 License Agreement

In 2007 a very dubious license agreement was initiated by a Grafton Crown Lands' senior staffer following the removal of Byron Shire Council in 2006 and management passing to North Coast Accommodation Trust/North Coast Holiday Parks.

The 2007 agreements vaguely identified “encroached lands” within the caravan park boundaries for the first time, with the clear intention of changing and expanding the boundaries of the caravan parks. Council and Ministerial consent for this significant and highly contentious boundary change is required, but was not sought by the Grafton staffer or Council's then acting compliance Manager.

The 2007 approvals were not seen or endorsed by Byron Council or the relevant Minister. BSC's staffer took sole responsibility in signing off on the agreements and we believe he was under considerable duress at the time and acted ultra vires in decision-making.

We contend the disputed “encroached lands” were not formally acquired by Crown Lands until 2012, and cannot be included within the 2007 license agreements without Council's knowledge or consent. To argue the 2007 reflects BSC ‘*agreed*’ boundaries is unequivocally incorrect and under no condition can Crown Lands use the 2007 'license' as leverage for subsequent POMs 2010 and 2014.

Significant boundary adjustments require Council & Ministerial approval which did not occur in 2007.

b. Compulsory Land Acquisition Process:

After Crown Lands failed to negotiate an equitable “land exchange” proposal with BSC in 2009/10, Compulsory Acquisition Orders were used by Crown Lands to acquire encroached road reserve lands valued at over \$3 million from BSC in 2012. Despite Council and widespread, ongoing Community opposition to the expansion of the parks onto foreshore parklands the relevant Lands Minister approved the acquisition orders.

c. 2012-15 Approval to Operate (AtO) License Agreements

In response to the land acquisition by Crown Lands, BSC issued a new license agreement (Resolution 12-627) on 9 August 2012 that clearly detailed proposed park boundaries and license conditions.

Despite Minister for Local Government, Don Page's directive for NCHP/NCAT to negotiate with BSC, all subsequent resolutions by BSC on 20 December (12-995) and 14 February 2013 (Resolution 13-25) and 9 May 2013 (Resolution 13-237)) were ignored in the preparation of the 2014 POM.

These resolutions specifically targeted the preparation of latest POM for the three caravan parks and were known to do so by those involved in their preparation.

Interim licenses for Massy Greene and the Terrace were issued in 10 May 2013 in 'good faith' by BSC on the understanding that Council's resolutions would be adhered to in the subsequent POM – clearly this did not occur.

The 10 May 2013 interim license expired in May 2014. NCHP/NCAT's application for new licenses was rejected in 2015 with Council issuing further resolutions in regard to park boundaries and operating conditions in Resolutions 15-323 of 16 July 2015 and 15-651 of 10 December 2015.

NSWCHPT have yet to comply with BSC ATO requirements.

Currently, none of the holiday parks in Brunswick Heads have a license to operate. Ferry Reserve has been operating without a licence since 2012, Massy Greene & Terrace since May 2014.

Ferry Caravan Park must, because of the compulsory acquisition of land been added to the Crown Reserve, be considered a new caravan park

Failure to get Council's s68 Approval to Operate is an indictment of poor management practices and a collapse in the checks and balances between Crown Lands and Local Government.

4. COMMUNITY CONSULTATION:

Since 2000 Park Management has proved reluctant and unwilling to consult the Brunswick Heads community.

The preparation of the POMs for the caravan parks (2000-2013) involved no community consultation. Instead draft POMs were repeatedly put on exhibition as a fait accompli.

No boundary changes or land encroachments were ever acknowledged in POMs.

POM have repeatedly failed to accurately represent community concerns over public access, particularly to and along the top of the riverbank in the Terrace caravan park.

All proposed development works in the approved POM are based on hopelessly inadequate “concept drawings” No subsequent Council approval or Development Applications are required for major works on public land.

The only opportunity the community has to communicate concerns is through the submission process. Feedback on submissions has been minimal and the processing of submissions continues to be highly questionable. Community concerns have not been acknowledged or addressed yet they have been long standing and well known by NCHP/NCAT and NSWCHPT. The summary of submissions provided post 2013 failed to accurately reflect Community concerns.

CLD/NCHP involvement in community consultation over 15 years extends to:

a. One Powerpoint presentation undertaken in 2000 during the exhibition period by Integrated Site Management who had prepared the exhibited documents on behalf of Australian Tourist Accommodation Pty Ltd, the family company owned by the then consultant to Byron Shire Council on the caravan park issue. No questions were allowed. Written questions were requested yet never answered.

b. In 2010 NCHP/NCAT and then senior advisor to the Minister, attended a meeting at the request of the Brunswick Heads Chamber of Commerce during the POM exhibition period. Only select community groups were invited to this meeting. The meeting was unproductive with management refusing to discuss issues raised and indeed highly embarrassed and agitated by the intimate information some attending had on the caravan park issues.

c. No representative of Crown Lands/NCAT/NCHP or NSWCHPT has attended a BHPA meeting in spite of a number of invitations to do so.

d. Community consultation conducted by NCHP/NCAT in early 2014 can only be described as a tokenistic tick and flick exercise by management:

- i) No record was kept of who attended or issues raised.
- ii) Multiple answers were given to the same questions;
- iii) Management acknowledged the non compliance of proposed development on the foreshore in the Terrace caravan park, and
- iv) There was a deliberate effort by management to mislead the community in regard to foreshore access and boundary issues

BHPA has sent countless reports and submission to Crown Lands, NCHP/NCAT , NSWCHPT & BSC detailing issues and concerns with park management practices. Response has been negligible or tokenistic.

No serious effort has been made to negotiate a satisfactory outcome that has both BSC and community support.

Crown Lands has remained determined to pursue their preferred development goals and financial outcomes without regard for the environmental impacts or the public interest.

5. MANAGEMENT ISSUES.

a. Crown Lands operates as the land owner, developer, administrator, regulator and arbitrator in contempt of Council's legislative and regulatory power to determine operational boundaries, conditions and compliance.

b. In pursuit of its business model, which presents as a land grab for the foreshore, NCHP/NCAT and NSWCHPT has adopted a range of highly questionable management practices including:

North Coast Accommodation Trust/North Coast Holiday Parks leveraged the 2007 license to:

- (i) Locate a "temporary" amenities block in the southern section of Terrace park in 2008. It exists to date in that location.
- (ii) Operate the encroached area 24/7 for camping and short term sites
- (iii) Put in power and water
- (iv) Pruned severely the lower limbs of the WW1 Memorial Pines to accommodate large mobile homes and caravans
- (v) Adopted a 'management strategy' for the Memorial Pines and Endangered and Threatened Species to date that can only be described as a strategy to bring into question their 'structural integrity' by:
 - (1) Compacting soil within a 5 metre radius of the critical root system
 - (2) Regularly mowing over the critical root system
 - (3) Allowing clientele to discharge untreated grey water over the critical root system

All of the above is in defiance of NCAT and NSWCHPT's consultant's reports to the POM 2010 and 2014 wherein a tree management strategy was recommended. This practise continues in spite of the fact that NSWCHPT is well aware the Memorial Pines are listed on the National Trust of Australia, as a war memorial with the NSW State Library and are part of the Northern Region Biomass of Threatened and Endangered Species. The only 'improvement' in community consultation is advice of pending pruning/removal of these pines.

- (i) Failure to do environmental impact statements for the park expansion or acquisition of road reserve lands for operational use.

c. No Indigenous or European Cultural Heritage Reports. These reports are mandatory in the preparation of POMs. This omission meant that the WW1 Memorial Coastal Cypress Pines (also known as Memorial Pine Park), located on the Terrace

Crown Reserve planted by returned soldiers from Gallipoli and the Western Front had been included in the POM.

Identification, marking and labelling of remaining midden sites known by locals to exist were omitted in the POM.

d. In clear breach of the Road Act, Park management closed Riverside Crescent without any public notification or Council permission.

e. Recent POMs (2010 under NCAT & 2014 under NSWCHPT) relocated the foreshore boundary to the Mean High Water Mark - adopting the boundary of the Crown Reserve as the holiday park boundary to avoid/sidestep the legal requirement for a 3m buffer zone/10m building setback along the riverfront – in a blatant attempt to undermine Council's licensing resolutions that were known to Crown Lands.

f. No effort has been made to address the well documented range of compliance issues within the parks since Byron Shire Council's dismissal in 2006.

g. Crown Lands/NSWCHPT continues the misappropriation of the LGS 1986 Ordinance 71 savings and exemption provisions to sites that did not exist in 1986 i.e. appropriation of exemptions provisions to long term sites on the riverbank that did not exist in 1986. The history of the long term sites has been ignored in the approved POM and continues to be ignored by NSWCHPT. That history is outlined below:

(i) 1988 POM sought the consolidation of permanent sites from Ferry (RTA gazetted route for the upgrade of Pacific Highway took out Ferry caravan park) and Massy Greene to Terrace Park. Location on the foreshore of Simpson's Creek and on-selling rights was used as an inducement to relocate to Terrace. The sites offered along the riverbank did not exist as long term sites.

(ii) At that time, legislation provided for 30% of permanent sites in **each** caravan park. Byron Shire Council's attempts to consolidate all permanents from Massy Greene and Ferry were not permitted by Crown Lands.

(iii) The 30% provision for permanent sites was dropped in revised Act in 2005.

(iv) Park Rules and Regulations adopted by BSC in 1991 sought to minimize the impact of permanent sites along the riverbank by providing a buffer zone cum unfettered public walkway. However, under new manager (Mike Rodgers 1993-2002) Additions to permanent dwellings and non-compliant/unapproved works were undertaken – including verandahs, carports, screening & sheds, gardens, patios, private staircases, boat mooring, removal/damage to mangroves.

(v) Permanent residents also undertook and paid for new works to stabilize the eroding riverbank.

- (vi) Between 1995-2000 permanent residents on the foreshore engaged in a highly speculative capital gain market to on-sell their dwellings. During this time, modest caravans were replaced with much larger dwellings. It remains debatable whether the dwellings meet the definition of mobile or minimum compliance standards.
 - (vii) In 1997 Riverfront Sites 1-10a – Park Management blocked access to the ‘natural walkway’ along Simpson’s Creek with the construction of 10 concrete slabs (Sites 1-10a) within the 3m buffer zone/10m building setback for fixed/permanent structures.
 - (viii) Terrace Park Residents committee resigned in protest at parks non-compliant works program.
 - (iv) Re-instating the legislative required buffer outside the operational area of the caravan parks has been highly contentious. Council's resolutions provide for its reinstatement and a time frame for the relocation of permanent residents within the same park and compliance with a buffer zone and 10m setback from the top of the riverbank.
 - (x) BSC adopted a policy of ‘natural attrition’ for residents who were on the foreshore pre 2000, with Council given the first option to purchase permanent dwellings. On-selling required new owners to ensure compliance within six months of purchase. All buyers were informed of plans to relocate foreshore sites and BSC offered no guarantee they would retain their foreshore site.
 - (xi) .No further approvals for new or upgraded dwellings by BSC were permitted along foreshore sites between 2002-2006. Council purchased and removed around 6-10 old caravans prior to the takeover by NCHP/NCAT. (In June 2013, NSWCHPT replaced NCAT and had its first meeting in August 2013.)
 - (xii) Since 2006 NCHP/NCAT has used acquired vans for holiday rental and allowed new residents to purchase riverside vans.
 - (xiii) No POM has yet to include the relocation of permanent sites or reinstatement of public access buffer zone along the riverbank.
 - (xiv) An audit of the remaining 10 or 11 permanents along the riverbank will attest to the fact that 'natural attrition' will not see the reinstatement of the buffer zone cum walkway for 40+ years. The reason for this is the age of those who have bought dwellings on the foreshore. Not only is this a case of 'buyer beware', some of the residents were advised of potential relocation when they purchased and now claim 'rights' to remain. Others bought dwellings in full knowledge of the controversy and were blatant in saying they were prepared to 'take the risk'. Others have refused offers for their dwelling and have subsequently had it renovated.
- h. There’s a widely held perception that the holiday park fee structure has led to a significant increase in street camping be it by tourists or the homeless.
 - i. Crown Lands is the only developer that does not have to put in a DA for its works. As a consequence infrastructure has been completed and remains non-compliant e.g.

the amenities block in the Terrace and Massy Greene, cement slabs on the riverbank in the Terrace, power and water heads in Massy Greene, and siting of cabins in Massy Greene. In fairness, the siting of this infrastructure pre-dates NSWCHPT taking over management of the caravan parks. However, the siting of the short term sites on the riverbank are included in the approved POM as is the non-compliant amenities block near Nana Street. In spite of the allegations of improving community consultation by NSWCHPT, it has been community members contacting NSWCHPT's then media person to find out what works had started. The media person had no knowledge of what was happening. This has occurred on a number of occasions. It should be an embarrassment to NSWCHPT that middle management has repeatedly failed to keep NSWCHPT's media person up to date on capital works.

6. CONCLUSION

The management history 1988 to date of the caravan parks located on Crown Reserves in Brunswick Heads can only be described as aggressive and belligerent in their attempt to take prime public parkland for commercial purposes. Since Byron Shire Council was dismissed in 2006 that management has deteriorated to such an extent it warrants dismissal and return of management to Council.

PART 2 FORESHORE PARKLANDS

1. INTRODUCTION

Brunswick Heads is fortunate to have simple, open, grassy parks along most of the banks of the Brunswick River and its southern arm, Simpsons Creek. These foreshore parklands give Brunswick Head a truly nostalgic feel, harking back to simpler times in the 1950's. The community understands the importance of these parklands to the uniqueness of our town and their significance both historically and culturally. The community has made it clear that they want to maintain the low key feel of these parks and reject the introduction of major structures proposed by NSWCHPT.

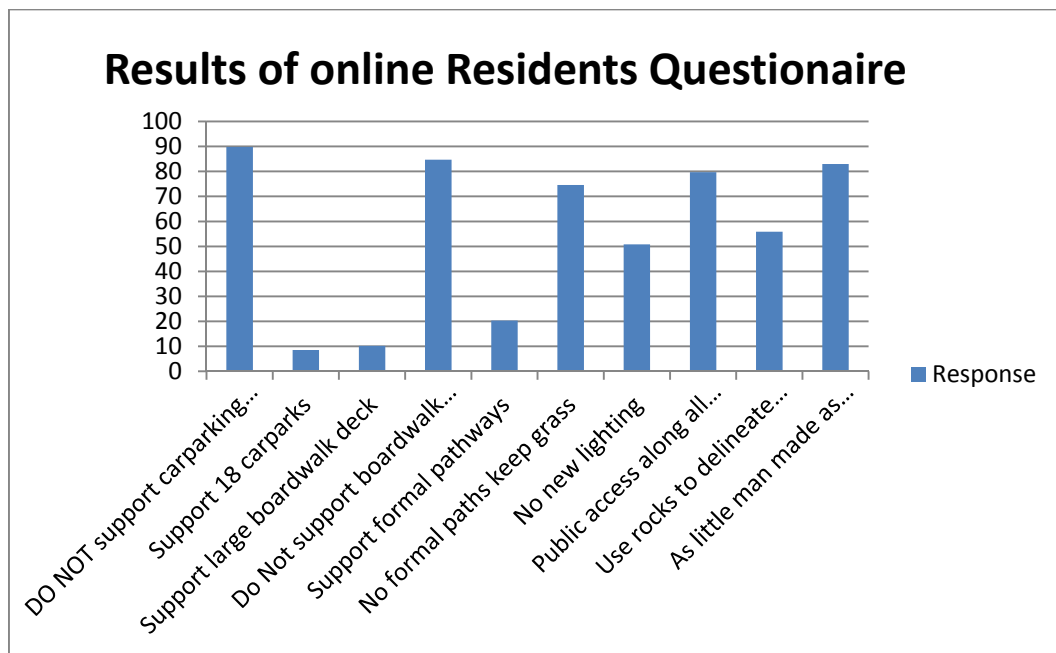
2. COMMUNITY CONSULTATION

In the preparation of 2014 POM for Brunswick Heads Public Foreshore Reserves, NSWCHPT had only one stakeholders meeting with six people present. The meeting took place on 23rd April, 2012 with NCHP personnel, Nev Green and Russell Chaplin also attending. There were no resident representatives invited to this meeting and as a result residents had no input into the draft POM. Only after pressure from the community were two informal information sessions organised. Request for a formal meeting to inform the community was denied.

NSWCHPT did not "ensure the local community were informed of their plans". Glossy brochures letter dropped to residents were full of self promotion but contained no details of

their plans. It was left to the Progress Association to inform the community through letter drop and public meetings. Data collected at the meeting from over 200 feedback sheets and a further 100 online surveys are tabled below:

ISSUES	Sample size 201	YES	NO	UNDECIDED
CONSULTATION WITH RESIDENTS ADEQUATE	RESIDENTS (156)	9%	85%	6%
	NON RESIDENTS (45)	0%	93%	7%
SUPPORT 18 SPACE CARPARK INSIDE TORAKINA	RESIDENTS	3%	94%	3%
	NON RESIDENTS	4%	91%	5%
SUPPORT DECK AND BOARDWALK BANNER PARK	RESIDENTS	4%	92%	4%
	NON RESIDENTS	0%	87%	13%
SUPPORT NETWORK OF PATHWAYS	RESIDENTS	13%	67%	20%
	NON RESIDENTS	15%	76%	9%
SUPPORT NEW LIGHTING	RESIDENTS	18%	67%	15%
	NON RESIDENTS	15%	67%	18%



3. PLAN OF MANAGEMENT ISSUES:

To date the collation and reporting on responses to the exhibited POM has not been accepted by the community. It is strongly argued that the methodology used had a predetermined outcome. Outcomes ignored the priority ranking of issues raised in relation to the parklands. The approved POM for the foreshore parklands bears no relationship with what the community wants. The process was flawed.

The following submissions in response to the 2014 Draft POM for the Brunswick Heads Foreshore Public Reserves were ignored:

A petition of **156 signatures**

A petition of **2095 signatures** with over 700 individual comments

35 (the highest number of submissions) were for **no boardwalk and deck in Banner park**

29 (second highest number of submissions) submissions wanting **no carpark in Torakina Reserve**

21 submissions to **keep Torakina as natural as possible**

18 submissions wanting **no pathways in reserves**

18 submissions **no lighting or security cameras**

13 submissions on **maintenance and presentation of foreshore reserves**

12 submissions to **maintain public access to and along the foreshores**

7 submissions for **no upgrades of foreshore public reserves**

Despite overwhelming objections from the community listed above, NSWCHPT included the following in their approved 2014 POM:

- a. A **new access road and 18 space carpark** in Torakina open reserve. This car park would only generate an additional 5 car parks but would consume half of the most popular picnic areas in the town.
- b. A **new huge 400 sq metre raised timber deck** including fencing along the river's edge. Six existing Norfolk pines would be incorporated into the deck. Perfectly good steps to the river would be replaced. The size of the playground would be tripled and the large gum tree would be removed.
- c. A **new network of pathways** for **all** the foreshore parklands with **no** specifications in the plan, for the type of surface to be used in paths and/or the style and placement of any lighting.

NSWCHPT can save a lot of money, time and effort if it respects the well documented wishes of the Brunswick Heads Community. At this point, to the relief of the community, none of the above have eventuated.

4. MAINTENANCE ISSUES

Since the POM was approved North Coast Holiday Parks have demolished 2 large toilet blocks in their caravan parks in Brunswick Heads, one in the Terrace and the other in Ferry Reserve. They replaced them with large, brand new toilet blocks. Meanwhile not a cent has been spent on our public toilets even though the community has been complaining about them for years! This is a blatant example of commercial interest coming before public interest. Brunswick Heads has not seen any of the '\$6.7 M' contributed by NSWCHPT towards reserves last year.

The level of neglect in the foreshore parklands is staggering. Other than mowing and a bit of cracker dust, maintenance is nonexistent. Rock walls are subsiding, surfaces are denuded and uneven and litter is becoming more of a problem. There has been no maintenance of toilets in over 20 years. How can Crown Lands be so neglectful of our parks and get away with it for so long? There seems to be no accountability. All grassed surfaces need immediate attention: aeration of the soil, topdressing, surfaces evened out and all dips and holes filled, soft fall in the playground should be contained to stop erosion and the roots of all the Norfolk pines need to be covered with soil to protect them.

Crown Lands also need to consult with the community regarding reducing unnecessary and repetitive signage and choosing a range of park furniture, shelters, BBQ's, and bubbler styles to be used consistently throughout our town. Feedback shows support for simple wooden furniture by residents. Only last week a group of activists (not from Brunswick Heads) painted murals on all the picnic tables in crown reserves with environmental messages. Crown lands approved this action but did not consult with anyone in the community. As a result we are stuck with the impact of these murals on the visual amenity of our foreshore parks whether we like it or not.

5. FINAL STATEMENT

If it was not for the work of the Brunswick Heads Progress Association (the longest running residents group in NSW) the residents of our town would not have been aware of any plans being put forward for Crown Lands in our town. Public consultation by Crown Lands with the residents of Brunswick Heads has been token, if at all. By letter dropping all residents and holding town meetings we have informed and given residents a chance to have their say. All the data in our submission clearly shows that some of the major changes for our town on Crown Land are not supported by the community. A cookie cutter approach will not work in Brunswick Heads. Real consultation is needed to achieve the best outcomes for our beautiful, unique town. All plans for Crown Lands in Brunswick Heads must reflect the 'simple pleasures, low key' vision for our town. This vision sets us apart and makes our village truly unique. For good governance to exist in both theory and practice, the community must be empowered to participate in meaningful in the decision making processes. Crucial to this, is engaging the community from the outset. A state wide, Trust appointed, Community Advisory Board (CAC) cannot represent or speak on behalf of our community.

To date, all communication by residents with Crown Lands has largely been ignored. The community's only hope of saving Brunswick Heads from these unwanted changes and retaining our town's unique, unspoilt, beauty is this enquiry.

We thank you for the opportunity to represent the views of our community.