

Submission
No 91

INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

Organisation: Save the Jack Evans Boat Harbour

Date received: 21 July 2016

Inquiry into Crown land

Submission on behalf of the Save the Jack Evans Boat Harbour Committee

Introduction

The Save the Jack Evans Boat Harbour (JEBH) committee consists of residents and rate payers from around the Tweed Shire in northern NSW. The committee was formed when it became aware that the Tweed Shire Council intended to provide a letter of support for a company known as Aquasplash to install an inflatable fun park in the JEBH.

The committee strongly objects to any change to the Crown Land Act that will increase the likelihood that access to public land will be restricted or eliminated as a result of the sale or lease of public land for commercial purposes.

The case study presented here describes how without any community consultation and in conflict with many existing council management plans, the Tweed Shire Council provided the letter of support which has now resulted in the JEBH being put to tender for commercial purposes. The attached report was prepared by the Save the JEBH committee and was presented to Crown Lands as part of the licence assessment process. The report describes in detail why this type of development is completely unsuitable for location in the JEBH.

This submission summarises the key points in the report as well as the process to date. The information provided in this submission shows that the installation of the aqua park in the JEBH is likely to result in the entire area of the northern beach and foreshore being for the exclusive use by Aquasplash and its customers. If this was to occur it would show a blatant disregard for the rights of the existing users of this public land by both the Tweed Shire Council and Crown lands.

The Jack Evans Boat Harbour

The Jack Evans Boat Harbour is a small harbour in the Tweed River estuary. This is a tidal body of water of some 12 ha in size and which is immediately adjoining the Tweed Heads city centre and close to the NSW/Qld border at the mouth of the Tweed River. The water body is largely bordered by public parkland, residential properties and in close proximity to some environmentally sensitive habitat.



The Jack Evans Boat Harbour

The area is Crown Land managed by Tweed Shire Council. It is dedicated public open space suitable for passive and low impact use. Tweed Shire Council in the current Lower Tweed Estuary Management Plan, 1991, recommends enhancing passive usages. The Plan mentions that the boat harbour is used as a point of disposal for storm water and that the seagrass beds provide an important habitat for juvenile fish. The harbour is also a home to migratory birds, turtles and dolphins. The JEBH is currently used extensively by locals and visitors for various water based activities.

Aquasplash



Aquasplash is a fun park that consists of a number of large, connected, inflatable objects that are retained within a floating boundary as indicated in the picture. Some of the inflatable objects are up to 4-5m high. There are several of these structures located in Queensland and several more have been approved for other locations in NSW. The structure proposed for the JEBH will be approximately 25m x 50m and will be located about 75m from the beach as

shown in the picture. Aquasplash have indicated that they expect to operate from 7am to 8pm on a daily basis from November to March. Attendance at the fun park is estimated by Aquasplash to be in the vicinity of 270 patrons per hour.

The Process

The Tweed Shire Council at a meeting on 21.04.16 passed a motion to provide a letter of support for Aquasplash, to install an inflatable fun park in the JEBH. This motion was passed even though hundreds of residents objected to council once they found out what was proposed. The proposal was also opposed by the Tweed River Committee as well as the Tweed Byron Aboriginal Land Council.

Attached to the letter of support was a recommendation that “Council will need to conduct a tender process to provide an equitable opportunity for other commercial proponents to use Jack Evans Boat Harbour”. Tenders have now been called and close on 20.07.16. This has effectively put the JEBH (Crown Land) up for sale to commercial operators without any community consultation or involvement into the process.

Aquasplash applied to Crown Lands for a licence to install the fun park in JEBH on 05.04.16 and the application was processed at the Grafton office which advised that it was intended to offer a “short term investigative licence” to Aquasplash. Again this process has not involved any input from the residents and current users of the JEBH. The Save the JEBH presented to Crown Lands a critique (attached) of the Aquasplash application (obtained by GIPA) indicating that the project was entirely unsuited to the JEBH fragile environment. This critique was ignored by Crown Lands as have several other documents that had been previously presented to Crown Lands objecting to this proposal.

Responses from Crown Lands and staff at the Tweed Shire Council could only be described as adversarial, uncooperative and unproductive.

Aquasplash and the JEBH Environment

Aquasplash’s applications to Tweed Shire Council for a letter of support and to Crown Lands for a licence did not contain any environmental impact statement. It is inconceivable that neither organisation required this given the significance of the fragile environment in the

JEBH. The attached report details all of these issues and concerns. However, a summary of these is presented here:

1. The JEBH has significant areas of seagrass
2. The JEBH is a breeding ground for many species of fish
3. The JEBH has a significant bird population including some threatened species
4. The JEBH is regularly visited by green turtles and dolphins



Effect of Aquasplash on Public Access to Crown Land

Aquasplash proposes to install the fun park directly adjacent to the accessibility ramp that was constructed by Tweed Shire Council as part of the JEBH redevelopment several years ago. The large numbers of potential users at the facility will prevent the use of this ramp by the people it was designed to assist.

Of great concern is the location of the site office and the shade tent. These structures will be positioned between two sections of

the NSW Coastal Cycleway/Pathway (see photograph) which is currently used by hundreds of pedestrians and cyclists on a daily basis. Access to this area for the general public will be severely impeded. The coastal pathway which is used regularly by residents and tourists will be obstructed and so congested as to be unusable. Toilets are located on the western side of the pathway so that Aquasplash patrons will be constantly interacting with and impeding pedestrians, cyclists and disability users. The result of this installation will be that access to the beach and foreshore in this area of the JEBH will be for the exclusive use of Aquasplash patrons and not the general public as it was intended.

Indigenous People Issues

Despite its current usage and its status as Crown Land, JEBH and the parkland surrounding it remain significant sites within the country of an Australian Aboriginal clan; the Nganduwal, of the Bundjalung Nation. It is within the area of the Tweed Byron Local Aboriginal Land Council (LALC). The site has become a green and serene place that is special to the Indigenous community and is a place of cultural and educational significance. The location of a Gold Coast style commercial tourist facility such as Aquasplash, would not be in keeping with this serene place and its indigenous history.

To date there has been no consultation between Tweed Shire Council or Crown Lands and the Aboriginal Advisory Committee.

Social Impact on Residents

There are a number of residences directly adjacent to the JEBH where the Aquasplash facility is to be located. A significant amount of noise will be generated by patrons yelling and screaming as well as staff using whistles and possibly loud hailers to control the activity. The JEBH is effectively an amphitheatre which will project the sound into the residences and be magnified by reflection off the waters' surface. The structure itself will not be in harmony with the peaceful natural environment that currently exists in the JEBH (compare the initial 2 pictures).

Other Examples of misuse of Crown Lands (Crown Reserve 59360)

While the main focus of this submission has been on the commercialisation of the JEBH, there are other examples where this has occurred including the leasing of Crown Reserve 59360 to the Gold Coast Airport to allow for the extension to the existing runway. This has also been done without community consultation and has allowed development that is potentially damaging to the nearby salt marsh wetlands that are a fish breeding habitat, providing fish stock for nearby coastal reefs.

The runway extension proposal had twice been rejected because of the impact on the Crown Land which will include wholesale clearing of public land and protected vegetation and habitat. With the approval for the Instrument Landing System (ILS) by the federal government, no state laws apply and no further approval is needed by the state Minister for Crown Lands. There are community concerns as to whether the state approved lease was valid at the time of its approval.

Conclusion

The vast majority of the community are likely to see a commercial, inflatable fun park as having an adverse effect that will significantly change their environment. It is not in harmony with community desires and does not suit the demographic of the Tweed Heads area.

The natural setting of JEBH precinct promotes a distinctive visual character and provides public amenity and is valuable social space for all members of the community. It would be beneficial to protect and enhance the natural environment and its ecological values within public open space of the existing Crown Reserve, Jack Evans Boat Harbour.

The review committee can see from what has been presented here that unless greater control is placed on the commercial use of crown land, development of these precious and limited resources will see them lost for future generations.

Recommendations

The Save the JEBH committee requests that the following recommendations are considered for implementation as a result of the Inquiry in to Crown Lands:

1. Community consultation should be mandated as part of any request to use Crown Land for commercial purposes.
2. Development of Crown Land should only be allowed as part of an existing, site specific management plan.
3. A management plan should be prepared prior to any development if one is not already in existence.

4. Local authorities should not approve or support any development of Crown Land without community consultation
5. The JEBH should not be developed for commercialisation until all of these criteria have been implemented.