

Submission
No 87

INQUIRY INTO CROWN LAND IN NEW SOUTH WALES

Organisation: Brunswick Heads Progress Association

Date received: 21 July 2016



ISSUES RELATING TO THE MANAGEMENT AND OPERATION OF TERRACE, MASSY GREENE AND FERRY HOLIDAY PARKS, BRUNSWICK HEADS.

1. The above 3 holiday parks are located on Crown Reserves adjoining the foreshores of the Brunswick River and its estuary, Simpson's Creek. They are currently managed by NSW Crown Holiday Parks Trust (NSWCHPT). The long standing management issues of these caravan parks can be summed as:

- a. failure to reinstate a buffer zone cum unfettered public walkway along the top of the riverbank of Simpson's ;
- b. failure to adhere to Council's operational boundaries and conditions of operation, including a 10m setback from the top of the riverbank to all built structures; and
- c. compliance with parent legislation

2. In June 1988 Byron Shire Council (BSC) as the then Reserve Manager and in response to changes in the Local Government Act 1986 identified over 16,200sqm of illegal encroachments outside the approved operational boundaries. The 1988 Plan of Management (POM) and Council's subsequent license to operate did not include the identified encroachments. The 1988 POM and the operational boundaries remained in force until NSW Crown Holiday Park's POM were approved by the then Minister in June 2014. In the interim period, particularly from 2000 onwards, successive POM had failed to get ministerial approval. The preparation and subsequent approval of the 2014 POM violated Council's s68 Resolutions and fails to have community support as evidence by the Council's resolutions August 2012 to date.

3. In May 2012 Crown Lands used compulsory acquisition over Council land to bring most of the illegal encroachments into the Crown Reserves. Without Council's approval they remained outside the operational boundaries of the caravan parks. Park management continues to operate on them in what can only be described as wilful defiance of Council's legislative authority

4. All holiday parks are currently operating without BSC's Section 68 Part F2 of the LGA 1993 Approval to Operate (ATO). The license to operate Ferry expired 30.6.2007 and those for Massy Green and Terrace on 30.6.2012.

5. BSC is the legislative and regulatory authority, as recognised by the ICAC and the Minister for Primary Industry, to determine the operational boundaries of the holiday parks.

BSC resolved the operational boundaries and license under s68 on 9th August 2012 (Resolution 12-627) for the 3 caravan parks with subsequent amendments on 20 December (12-995) and 14 February 2014 (Resolution 13-25). These resolutions were specifically given in context of the preparation of POM for the caravan parks.

6. An interim license was issued in Resolution 13-237 on 9 May for Massy Green and Terrace to allow the caravan parks to continue to operate in the intervening period. That Resolution did not carry with it a determination for the interim AtO to become the operational boundaries in the pending POM or to replace Resolutions 12-627,12-995 and 13-25. Minutes of 9 May 2013 Report 12.2 stated BSC's intent. Point 4 reads "park activities strictly within boundaries as defined in Council's resolutions 13-25, 12-995 and 12-627. It is unequivocal that that decision was reaffirmed in Resolution 13-237.

7. The preparation of the POM ignored Council's resolutions. The POM were subsequently approved in June 2014. However, POM do not determine operational boundaries. That decision-making remains with Council.

8. BSC's Resolution 15-323 of 16 July 2015 and Resolution 15-651 of 10 December 2015 reaffirm Council's long held legislative decision-making power to determine the operational boundaries. NSWCHPT appears to be wilfully dismissing Council's directions to date.

9. In the approved POM there is blatant evidence of the misappropriation of the LGS 1986 Ordinance 71 savings and exemption provisions to sites that did not exist in 1986 i.e. long term sites along the foreshore of Simpson's Creek in the 1988 POM were short term sites.

10. There is evidence of breach of setback requirements in the 2014 POM. Buffer zones, as required under legislation are omitted along parts of the foreshore of Simpson's Creek. In particular and highly contentious is the failure in the 2014 POM to reinstate the former buffer zone cum unfettered public walkway along the top of the riverbank.

11. No Indigenous or European Cultural Heritage Reports were done as part of the approved POM. These reports are a mandated in POM. 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 has been included in the POM. The appalling tree management practises in place since the dismissal of BSC in 2006 attest to the deterioration of and removal of some of the extant trees.

12. In conclusion, the management history 1988 to date of the caravan parks located on Crown Reserves in Brunswick Heads is poor with blatant disregard for the legislative and regulatory power of Council.

13. Attached are the documents submitted by this Association. to the ICAC and the Department of Planning's exhibited changes to legislation relating to Manufactured Homes Estates and Holiday Parks.

14. The Association is also making a complementary submission on the foreshore parklands with specific reference to Banner, Terrace and Torakina parks in Brunswick Heads.

Yours sincerely,

Secretary
17.7.16