Agenda

Planning Committee Meeting
Thursday 4 April 2019

held at
Harvard Room, Tweed Heads Administration Building, Brett Street, Tweed Heads
commencing at 5.30pm
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - Section 4.15 Evaluation

(1) Matters for consideration—general
In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:
   (i) any environmental planning instrument, and
   (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
   (iii) any development control plan, and
   (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and
   (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
   (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),
that apply to the land to which the development application relates,

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations, (e) the public interest.

Note. See section 75P(2)(a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

(2) Compliance with non-discretionary development standards—development other than complying development.
If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

(a) is not entitled to take those standards into further consideration in determining the development application, and

(b) must not refuse the application on the ground that the development does not comply with those standards, and

(c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards,

and the discretion of the consent authority under this section and section 4.16 is limited accordingly.

(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:
(a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and

(b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Note. The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).

(3A) Development control plans
If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

(c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, standards include performance criteria.

(4) Consent where an accreditation is in force
A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.

(5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).

(6) Definitions
In this section:

(a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and

(b) non-discretionary development standards means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.
# Items for Consideration of the Planning Committee:

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REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

1 [PR-PC] Development Application DA18/0864 for Alterations and Additions to Existing Caravan Park at Lot 4 Sec 1 DP 31209; No. 10 Cypress Crescent; Lot 1 Sec 1 DP 29748; Lot 2 Sec 1 DP 29748; Lot 3 Sec 1 DP 29748; No. 2-6 Tweed Coast Road Cabarita Beach

SUBMITTED BY: Development Assessment and Compliance

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2 Making decisions with you
2.1 Built Environment
2.1.2 Development Assessment - To assess development applications lodged with Council to achieve quality land use outcomes and to assist people to understand the development process.

ROLE: Provider

SUMMARY OF REPORT:

A development application was received by Council on 18 October 2018 seeking development approval for alterations and additions to an existing caravan park at Nos. 10 Cypress Crescent and 2 - 6 Tweed Coast Road, Cabarita Beach, formerly known as Cabarita Beach Caravan Park.

Though described in the application as ‘alterations and additions’, the proposal is essentially a redevelopment of the site with the applicant having cleared the site of all existing development (landscaping and an amenities block) and seeking consent for the following works:

- Alterations to the site layout to amend the internal road layout and to modify the number of sites from 25 sites (10 long term caravan sites, 15 short term caravan sites, 0 camp sites) to 23 sites (9 camping sites, 14 short term caravan sites, 0 long term caravan sites);
- Provision of new unisex toilets and shower facilities in a converted shipping container and a reception block with reception/park administration area, staff room and equipment storage room in two (2) converted shipping containers with an associated deck area;
- Provision of a new multi-purpose structure with communal kitchen, laundry facilities and attached toilet and a camp cookout/communal kitchen in converted shipping containers with an associated deck area;
• Provision of two new bin storage areas (screened) adjoining the Cypress Crescent frontage;
• Provision of access gates at accesses from Tweed Coast Road (1) and Cypress Crescent (2), with access to Tweed Coast Road to be restricted to emergency access only;
• Provision of seven (7) visitor car parking spaces on site, including one (1) accessible space, one (1) car wash bay; and
• Erection of two (2) signs on Cypress Crescent and one (1) sign on Tweed Coast Road frontage (attached to boundary fence).

The application was lodged by North Shore No 1 Pty Ltd with the premises to operate as 'The Hideaway Cabarita Beach'.

The site is zoned R3 Medium Density Residential where the use of the land for a caravan park is a prohibited use. As such, the applicant is relying on the Existing Use Rights provisions of the Environmental Planning and Assessment Act 1979 (EP&A Act). In accordance with Clause 43 of the Environmental Planning and Assessment Regulation 2000 (EP&A Reg), development consent is required for any alteration or extension of a building or work used for an existing use.

The operation of the site as a caravan park and the placement of tents or caravans on the site is subject to an approval under the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 - LG (Caravan Parks) Reg.

The application as initially submitted sought a number of variations to the criteria for caravan parks in the LG (Caravan Parks) Reg including those relating to the provision of adequate visitor car parking on site, minimum setbacks of structures to boundaries and sites and access requirements. In response to a Request for Further Information, the applicant submitted revised proposal which substantially address these issues, though this has been a protracted process.

An assessment of the amended proposal against the LG (Caravan Parks) Reg is set out in this report and it is concluded that the proposal generally meets with the criteria with the exception of the minimum specified site area (1ha) having a site area of 2,814sqm. However as the applicant is relying on Existing Use rights and has demonstrated that a caravan park has operated on the site since 1962, for the purposes of this development application it is considered that site area is insufficient grounds for refusal of the application.

The site is located on bushfire prone land with the use of the site for tourist accommodation designated as a Special Fire Protection Purpose under Section 100B of the Rural Fires Act 1997. The applicant is relying on an Asset Protection Zone (APZ) in the adjoining Cudgen Nature Reserve to the north of the subject site. Though the asset managers of Cudgen Nature Reserve (National Parks and Wildlife Services - NPWS) initially refused to accept liability for the maintenance of an APZ for the redeveloped caravan park, following a prolonged negotiation process between NPWS and the applicant, the Rural Fire Service (RFS) issued a deemed bush fire safety authority with appropriate conditions.

The application was referred to Council’s Environmental Health Section, Building Unit, Water & Waste Water Unit and Traffic Unit. The Environmental Health Section initially raised serious concerns with the non-compliance with the LG (Caravan Parks) Reg however following the
modification of the application, the amended layout is supported subject to appropriate conditions.

The application was advertised from Wednesday 31 October 2018 to Wednesday 14 November 2018. During this period a total of five (5) submissions were received. Four (4) of these submissions were objections, with one (1) indicating general support for a redevelopment of the site but with some concerns in relation to impacts (traffic and car parking).

The main issues raised in the submissions were the potential future use of the site for ‘glamping’ and associated noise issues, potential use of the site as a function centre (hosting weddings, conferences, etc) and impacts associated with such a use, demand for on-street car parking and its impact on the amenity of adjoining residents.

Other issues raised included:
- More intensive use of the site with camping and associated impacts of more traffic, less noise attenuation from site and increased demand for car parking;
- Significant deviations from the criteria set out in the LG (Caravan Parks) Reg, including reduced setbacks, inadequate visitor car parking and the adverse visual impact associated with the use of containers for amenity buildings rather than masonry structures as specified in the Regulations;
- Insufficient details on operation and management with no indication that there would be an onsite manager accommodated on site;
- Impact on Cudgen Nature Reserve in terms of overlooking, noise and light spill and potential vegetation removal to facilitate bushfire protection;
- Universal access to caravan facilities’;
- Insufficient landscaping, specifically on the boundary and screening the containers;
- Concerns in relation to potential signage;
- Serious concerns raised with the due process in terms of the unauthorised activity on site and the question of whether the extent of redevelopment can be classified as ‘alterations and additions’ and whether Council can legitimately approve the application as such; and
- Construction Impacts – no signage during construction to noise, noise and vibration impacts, asbestos removal from site.

Following the notification of the application, there have been a number of verbal and written complaints received in relation to unauthorised development/activity on the site, with the applicant having cleared the site, demolished the existing amenities block, reconstructed internal roads, landscaped the site, installed containers on the site, constructed decks and at one point erecting tents on the site.

These matters are addressed in more detail in the report. In summary:
- Reducing the site sizes, nine (9) sites have been nominated as camp sites (being of insufficient size for caravan sites), though the applicant may also use designated caravan sites for tents (as has previously been the case on the site);
- The applicant has advised that it is intended to operate the premises as a ‘glamping’ site with pre-erected tents and retro caravans installed on the site for patrons to hire. However this is within the remit of the operations as a caravan park;
While the application relates to the use of the site as a caravan park (with camping) only, information available on the applicant’s website (https://www.hideawaycabaritabeach.com.au/) indicates that the site is being marketed as being available for (or use ancillary to) the hosting of functions, weddings, events, conferences and team building.

The application does not seek to use the site as a function centre and any approval to operate issued under Section 68 of the LG (Caravan Parks) Reg would preclude such a use. Nevertheless, any consent issued should include conditions that clearly prohibit the use of the site as a function centre or for the hosting of functions, weddings, events, conferences and team building;

- Given the reduction in the number of caravan sites and the increase in onsite visitor car parking spaces (which now meets the minimum required), there is not anticipated to be an increase in traffic volumes accessing the site;

- There are no proposals for an onsite manager to reside on the site, as is typically the case for a caravan park/campsite, with no requirement for same in the Regulations.

The applicant has advised however that an onsite manager will be employed at all times and that the proponents have rented the property immediately to the east as a manager’s residence. To manage potential impacts on the adjoining residential amenity, any consent issued should include conditions requiring the approval of an operation plan of management which should include details of a complaints management system, noise management and the process of patrons accessing the site out of office hours; and

- The applicant has undertaken substantial works on the site including the erection of boundary fences, the formation of internal roads, landscaping, construction of decking and placement of containers on the site. The applicant was issued with numerous verbal and written warnings/instructions to cease works during the assessment period.

In acknowledgment of the applicant’s clear disregard for the planning process and the requirement for Council to issue numerous instructions to cease works before these were heeded, it is recommended that the applicant be issued with the maximum penalty applicable.

RECOMMENDATION:

That:

A. ATTACHMENT 1 is CONFIDENTIAL in accordance with Section 10A(2) of the Local Government Act 1993, because it contains:-
   (d) commercial information of a confidential nature that would, if disclosed:
       (i) prejudice the commercial position of the person who supplied it, or
       (ii) confer a commercial advantage on a competitor of the council, or
       (iii) reveal a trade secret.

B. Development Application DA18/0864 for alterations and additions to existing caravan park at Lot 4 Sec 1 DP 31209; No. 10 Cypress Crescent; Lot 1 Sec 1 DP 29748; No. 2 Tweed Coast Road; Lot 2 Sec 1 DP 29748; No. 4 Tweed Coast Road; Lot 3 Sec 1 DP 29748; No. 6 Tweed Coast Road Cabarita Beach be approved subject to the following conditions:
GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by North Shore No 1 Pty Ltd and dated October 2018 and the following plan prepared by North Shore 1 Pty Ltd, except where varied by the conditions of this consent:
   - Site Plan Dwg 001 Rev 3 dated 13 March 2019;
   - Site Plan Dwg 001 Rev 3 dated 13 March 2019 - with site designation (as annotated by Council);
   - Ablution/reception floor plan Drg CB001 Rev 1 dated 22 February 2019;
   - Multi-purpose building / communal kitchen floor plan Drg CB002 Rev 1 dated 22 February 2019;
   - Ablution/reception elevations plan Drg CB003 Rev 1 dated 22 February 2019;
   - Ablution/reception elevations plan Drg CB004 Rev 1 dated 22 February 2019;
   - Multi-purpose building / communal kitchen elevations plan Drg CB005 Rev 1 dated 22 February 2019; and

2. All signage proposed to be illuminated is to be fitted with necessary devices capable of permitting the change in intensity of illumination of the sign in order to regulate glare or other like impacts.

3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

4. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property. Any necessary adjustment or modification of existing services is to be undertaken in accordance with the requirements of the relevant authority, at the Developer’s expense.

5. The owner is to ensure that the development complies in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

6. A minimum 3.0 metre easement shall be created over the existing sewer on the lot.
7. While the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities, the applicant must have regard to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia.

8. An application is to be lodged together with any prescribed fees including inspection fees and approved by Tweed Shire Council under Section 68 of the Local Government Act for all water, sewerage drainage works inclusive of such works carried out without Council Approval. This application is to include work as executed drainage plans and certification in respect of AS 3500 by a licenced plumber.

9. The caravan park shall be constructed and operated in accordance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

10. The total number of sites shall not exceed 23, comprising of 14 short term sites and 9 camping sites in accordance with Cabarita Beach Caravan Park Site Plan (Dated 13/03/2019, Drawing Number 001, Rev.3).

11. Only tents or campervans may be installed on camp sites.

12. Caravans and tents shall not be placed closer than 2 metres to the boundary of the caravan park.

13. Only a moveable dwelling that is ordinarily used for holiday purposes may be installed on short term sites.

14. The camp kitchen area and multi-purpose building shall not be used for the commercial preparation of food.

15. Ten (10) on-site parking spaces are to be provided, generally in accordance with the Site plan Drg 001 Rev 3 dated 13 March 2019, with seven (7) spaces signposted and reserved visitors and three (3) spaces allocated to camp site numbers 7, 8 and 9.

16. This consent does not authorise the site perimeter fencing shown on Site Plan Dwg 001 Rev 3 dated 13 March 2019.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

17. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Certificate of Compliance" signed by an authorised officer of Council.
BELOW IS ADVICE ONLY

The Section 64 Contributions for this development at the date of this approval have been estimated as:

Water: NIL
Sewer: NIL

18. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include (but not limited to) engineering plans and specifications undertaken in accordance with Councils Development Design and Construction Specifications for the following required works:

(a) Widening the vehicular accesses to Cypress Crescent to a minimum of 7m at the site boundary.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following:

- Road works/furnishings;
- Stormwater drainage;
- Water and sewerage works;
- Sediment and erosion control plans;
- Location of all services/conduits; and
- Traffic Control Plan (as applicable).

19. Where any existing sewer junctions are to be disused on the site, the connection point shall be capped off by Council staff. Applications shall be made to Tweed Shire Council and include the payment of fees in accordance with Councils adopted fees and charges.

20. If the development is likely to disturb or impact upon water or sewer infrastructure (eg: extending, relocating or lowering of pipeline), written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

Applications for these works must be submitted on Council's standard Section 68 Application form accompanied by the required attachments and the prescribed fee. The arrangements and costs associated with any adjustment to water and wastewater infrastructure shall be borne in full by the applicant/developer.

The Section 68 Application must be approved by Council prior to the associated Construction Certificate being issued.
21. Prior to release of the Construction Certificate:

(a) A Building Information Certificate is to be obtained from Tweed Shire Council in respect of the following:

- Building 1. Ablution Block;
- Building 3. Office/reception; and
- Building 5. Storage building and associated works.

The Building Information Certificate application is to include a contract price in respect of all subject buildings, as built survey report identifying all buildings and setbacks from subject boundaries, a comprehensive BCA Compliance Report including all relevant certification to demonstrate BCA compliance, and certification in respect of compliance with the General Terms of Approval from the NSW Rural Fire Service dated 5 February 2019.

These reports are to be produced by an appropriately qualified building surveyor, building practitioner or bush fire consultant to the satisfaction of Tweed Shire Council.

Any remedial works will be subject to a construction certificate, and

(b) A Comprehensive BCA Compliance Report including all relevant certification to demonstrate BCA compliance, and certification in respect of compliance with the General Terms of Approval from the NSW Rural Fire Service dated 5 February 2019 is to be submitted to and approved by the nominated PCA in respect of the remaining works and rectification works on the site including but not limited to the following buildings:

- Building 2. Multi-Purpose Building and associated works; and
- Building 4. Communal Kitchen Area and associated works.

All remaining and remedial works are to be identified and BCA compliant designs submitted.

22. Prior to the issue of the Construction Certificate, details of the proposed boundary fencing on the site perimeter and the proposed screening to amenity buildings/site facilities shall submitted to the satisfaction of the General Manager or his delegate. All fencing and screening shall comply with the requirements of Appendix 5 of ‘Planning for Bush Fire Protection 2006’ and be constructed of non-combustible materials. The use of colorbond fencing is not permitted on the Tweed Coast Road frontage or Cypress Crescent frontage.

[PCCNS02]

[PCCNS03]
PRIOR TO COMMENCEMENT OF WORK

23. The proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

[PCW0005]

24. An application is to be made to Council to temporarily “cap off” the existing building sewerage house drainage from Council's sewerage system, prior to any further demolition work commencing. A Plumbing and Drainage Works on Private Land <http://www.tweed.nsw.gov.au/Controls/Forms/Documents/SewerSepticForm.pdf> application form shall be submitted to Tweed Shire Council and payment of fees in accordance with Council's adopted fees and charges.

[PCW0045]

25. The erection of a building in accordance with a development consent must not be commenced until:

(a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier; and

(b) the person having the benefit of the development consent has:

(i) appointed a principal certifying authority for the building work; and

(ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case; and

(c) the principal certifying authority has, no later than 2 days before the building work commences:

(i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment; and

(ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and

(d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:

(i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved; and

(ii) notified the principal certifying authority of any such appointment; and

(iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]
26. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

27. Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
   (a) showing the name, address and telephone number of the principal certifying authority for the work; and
   (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
   (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

28. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

29. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the modification of the existing driveway access (or modification of access).

Applications for consent under Section 138 must be submitted on Council’s standard application form and be accompanied by the required attachments and prescribed fee.

DURING CONSTRUCTION

30. All proposed works are to be carried out in accordance with the conditions of development consent, any approved Management Plans, approved Construction Certificate, drawings and specifications.

31. During construction, all works required by other conditions or approved management plans or the like shall be installed and operated in accordance with those conditions or plans.

32. Should any Aboriginal object or cultural heritage (including human remains) be discovered all site works must cease immediately and the Tweed Byron Local Aboriginal Land Council (TBLALC) Aboriginal Sites
Officer (on 07 5536 1763) are to be notified. The find is to be reported to the Office of Environment and Heritage. No works or development may be undertaken until the required investigations have been completed and any permits or approvals obtained, where required, in accordance with the National Parks and Wildlife Act 1974.

33. Commencement of work, including the switching on and operation of plant, machinery and vehicles is limited to the following hours, unless otherwise permitted by Council:
   Monday to Saturday from 7.00am to 6.00pm
   No work to be carried out on Sundays or Public Holidays
   The proponent is responsible to instruct and control subcontractors regarding hours of work.

34. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

35. Building materials used in the construction of the building are not to be deposited or stored on Council’s footpath or road reserve, unless prior approval is obtained from Council.

36. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 6.6 of the Environmental Planning and Assessment Act 1979.

37. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.

38. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from:
   - Noise, water or air pollution.
   - Dust during filling operations and also from construction vehicles.
   - Material removed from the site by wind.

39. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the
Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.

40. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.

41. Pursuant to the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility.

42. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils Development Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

43. The developer/contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

44. The builder must provide an adequate trade waste service to ensure that all waste material is suitably contained and secured within an area on the site, and removed from the site at regular intervals for the period of construction/demolition to ensure no material is capable of being washed or blown from the site.

45. All waste shall be collected, stored and disposed of in accordance with the provisions of Tweed Shire Council Development Control Plan Section 15 - Waste Minimisation and Management.

46. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:
   (a) internal drainage, prior to slab preparation;
   (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
   (c) external drainage prior to backfilling; and
   (d) completion of work and prior to occupation of the building.
47. Plumbing
   (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
   (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.

48. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

49. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:
   * 45ºC for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
   * 50ºC in all other classes of buildings.

   A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

50. Prior to issue of an Occupation Certificate, all works/actions/inspections etc required at that stage by other conditions or any approved Management Plans or the like shall be completed in accordance with those conditions or plans.

51. A noise management plan shall be prepared and submitted to the satisfaction of the General Manager or his delegate which details how noise from onsite activities will be managed and controlled, so as to prevent the generation or emission of intrusive noise. Such management plan shall be submitted and approved prior to the issue of the occupation certificate.

52. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 6.9 and 6.10 unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).
53. A final occupation certificate is not to be issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been assessed by a properly qualified person and was found, when it was assessed, to be capable of performing to at least the standard required by the current Fire Safety Schedule for the building.

54. A final occupation certificate must be applied for and obtained within 6 months of any Interim Occupation Certificate being issued, and all conditions of this consent must be satisfied at the time of issue of a final occupation certificate (unless otherwise specified herein).

55. The lots are to be consolidated into one lot under one title. The plan of consolidation shall be registered with the Land and Property Information (LPI) (formerly the Lands Titles Office), prior to issue of an Occupation Certificate.

56. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including (but not limited to) the following:
   (a) Easements for sewer, water supply and drainage over ALL public services/infrastructure on private property.
   Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

57. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

58. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met.

59. Prior to the issue of the Occupation Certificate, an Operational Plan of Management to be submitted to the General Manager or his delegate for approval. This plan shall reflect the approved site layout and traffic management measures and shall address, but not be limited to, the following matters:
   (a) Hours of operation including standard check-in/check-out period, details of access gate closure, etc.
   (b) Staffing and management arrangements.
   (c) Maintenance if a resident and guest register which is to be made available to Council on request.
   (d) Traffic and pedestrian management measures including allocation of car parking spaces on site, details of pedestrian and vehicular access afterhours, etc.
(e) Noise management measures for the use of communal kitchen, multi-purpose building and ablutions block.

(f) Establishment of a Complaint Management System for complaints in relation to the operation of the caravan park, which includes details of the following:

- All hours contact details for site manager to be provided to adjacent residents;
- Process for recording, investigating and reporting on complaints; and
- Maintenance of a complaints register which is to be stored on the site and made available to Council on request.

[POCNS01]

60. The occupation certificate is to be issued concurrently with the Approval to Operate a Caravan Park or Camping Ground under Section 68 of the Local Government Act.

[POCNS04]

61. Prior to the issue of an occupation certificate evidence is to be submitted to Tweed Shire Council demonstrating the signage has been secured appropriately.

[POCNS05]

USE

62. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

63. The $L_{Aeq, 15\, \text{min}}$ noise level emitted from the premises shall not exceed the background noise level ($L_{A90}$) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends.

[USE0165]

64. All externally mounted air conditioning units and other mechanical plant or equipment are to be located so that any noise impact due to their operation which may be or is likely to be experienced by any neighbouring premises is minimised. Notwithstanding this requirement all air conditioning units and other mechanical plant and or equipment is to be acoustically treated or shielded where considered necessary to the satisfaction of the General Manager or his delegate such that the operation of any air conditioning unit, mechanical plant and or equipment does not result in the emission of offensive or intrusive noise.

[USE0175]
65. The use of community amenities (communal kitchen & multipurpose building) is restricted to the hours of 7.00am to 10.00pm on any day.

66. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light or glare creating a nuisance to neighbouring or adjacent premises.

67. Upon receipt of a noise complaint that Council deems to be reasonable, the operator/owner is to submit to Council a Noise Impact Study (NIS) carried out by a suitably qualified and practicing acoustic consultant. The NIS is to be submitted to the satisfaction of the General Manager or his delegate. It is to include recommendations for noise attenuation. The operator/owner is to implement the recommendations of the NIS within a timeframe specified by Council's authorised officer.

68. All commercial / industrial / residential wastes shall be collected, stored and disposed of in accordance with any approved Waste Management Plan or to the satisfaction of the General Manager or his delegate.

69. The development shall operate in accordance with the Plan of Management approved under this consent.

70. The land is not to be used for any commercial purpose other than a caravan park. This exclusion includes the use of the site as a function centre or for the hosting of events.

71. The speed limit applicable to an access road:
   (a) must not exceed 15 kilometres per hour; and
   (b) must be indicated by means of conspicuous signs.

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

Asset Protection Zones

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
Water and Utilities

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions shall apply:

2. Water, electricity (new) and gas are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

3. Internal access shall comply with the following requirements of section 4.2.7 of ‘Planning for Bush Fire Protection 2006’:
   - internal roads are two-wheel drive, allweather roads;
   - traffic management devices are constructed to facilitate access by emergency services vehicles;
   - a minimum vertical clearance of four metres to any overhanging obstructions, including tree branches, is provided;
   - curves have a minimum inner radius of six metres and the minimum distance between inner and outer curves is six metres;
   - crossfall of the pavement is not more than 10 degrees;
   - roads do not traverse through a wetland or other land potentially subject to periodic inundation (other than flood or storm surge);
   - roads are clearly signposted and bridges clearly indicate load ratings;
   - the internal road surfaces and bridges have a capacity to carry fully loaded firefighting vehicles (15 tonnes).

4. Any gate / lock system on the Tweed Coast Road access is to be provided in consultation with the local NSW Rural Fire Service.

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

5. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006', including the preparation of an emergency / evacuation plan consistent with the NSW RFS document titled 'A guide to developing a bush fire emergency management and evacuation plan'. A copy of the plan shall be provided to the consent authority and the local Bush Fire Management Committee prior to commencement of the development. The plan shall include, but is not limited to, the following:
   - short-term sites are not to be occupied on days with an ‘extreme’ or ‘catastrophic’ fire danger rating;
   - contact details for the local Rural Fire Service office;
• procedures for co-ordinated evacuation of the site in consultation with local emergency services.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:


Landscaping

8. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

C. That a Penalty Infringement Notice ($6,000) be issued to the owners of the site being North Shore No 1 Pty Ltd for undertaking development without consent.
REPORT:

Applicant: North Shore No 1 Pty Ltd
Owner: North Shore No 1 Pty Ltd
Location: Lot 4 Sec 1 DP 31209; No. 10 Cypress Crescent; Lot 1 Sec 1 DP 29748; No. 2 Tweed Coast Road; Lot 2 Sec 1 DP 29748; No. 4 Tweed Coast Road; Lot 3 Sec 1 DP 29748; No. 6 Tweed Coast Road Cabarita Beach
Zoning: R3 - Medium Density Residential
Cost: $215,000

Background:

Application details

The applicant is seeking consent to undertake alterations and additions to an existing caravan park to:

- Alter the site layout to amend the internal road layout to reduce the number of internal roads from three (3) to two (2) to optimise the land usage;
- Modify the number of sites from 25 sites (10 long term caravan sites, 15 short term caravan sites, 0 camp sites) to 23 sites (9 camping sites, 14 short term caravan sites, 0 long term caravan sites);
- Provide new toilets and shower facilities in a converted shipping container consisting of:
  - three (3) unisex toilets
  - three (3) unisex showers with W/C
  - one (1) male shower with urinals
  - one (1) female shower with W/C
  - one (1) accessible unisex shower with W/C.
- Provide a reception block with reception/park administration area and staff room in a converted shipping container, adjoining a storage room in a separate container near to the Cypress Crescent access to the park;
- Provide a multi-purpose building with communal kitchen, laundry facilities and attached toilet in a converted shipping container to the north of the site adjacent to the Cudgen Nature Reserve boundary;
- Provide a camp cookout/communal kitchen in a converted shipping container;
- Construct a raised deck around the amenities and facilities buildings;
- Provide two (2) bin storage areas (screened) adjoining the Cypress Crescent frontage;
- Provision of access gates at accesses from Tweed Coast Road (1) and Cypress Crescent (2), with access to Tweed Coast Road to be restricted to emergency access only;
- Provision of seven (7) visitor car parking spaces on site, including one (1) accessible space, one (1) car wash bay, and three (3) car parking spaces for three (3) of the camp sites which do not have direct vehicular access; and
- Erection of two (2) signs on Cypress Crescent and one (1) sign on Tweed Coast Road frontage (attached to boundary fence).

The plans for stamping currently before Council are not the same as those originally lodged with the application, with the applicant initially seeking approval to retain 25 sites and to provide only two (2) visitor car parking spaces. The location of the camp cookout/communal kitchen to the north has also been relocated slightly to increase the setback from the Cudgen Nature Reserve (to address fire protection concerns).
The amenities container has a Gross Floor Area (GFA) of approximately 33.5sqm and a building height of 2.9m. It contains three (3) unisex W/C, one (1) accessible unisex shower/WC, one (1) female shower/WC, 1 male toilet & urinals and 3 unisex shower/WC. The reception/storage block consists of two attached shipping containers and has a total GFA of approximately 26sqm and a building height of 2.9m. It is located adjacent to the western access from Cypress Crescent, outside of the caravan park gates.

The multi-purpose building has a GFA of approximately 56sqm and it fitted out as a non-commercial kitchen, laundry, store and toilet. The container has a height of 2.9m to the roof of the container. The structure is located to the north of the site, approximately 5m from the boundary of the Cudgen Nature Reserve. The multi-purpose building incorporates two steel shutters on hydraulic struts that would enable the structure to open up onto a hard-surfaced area overlooking the reserve to the north.

The camp cookout is located to the north west of the multi-purpose building and has a GFA of approximately 13.5sqm and a building height of 2.9m. The structure is fully enclosed with a shutter on the northern and eastern elevations. It is located approximately 3m from the boundary of the Cudgen Nature Reserve.

Proposed Operation

The applicant describes the proposed operation as follows:

It is relevant to note that the proposed operation is squarely aimed at the continuation of the site as a caravan park (inc. camping sites), albeit with the initial primary focus being to provide both tents and caravans to guests as opposed to them bringing their own. Guests will still park on their allocated site and given that the focus is on luxury camping for couples, there is very little chance of a site accommodating more than four (4) guests (this is a point of difference to the previous caravan park, where a 12 man tent could potentially accommodate just that, likewise for a large family sized touring caravan).

The proposed viability of this new style of caravan park very much relies on the principle of ‘less is more’, with the commercial fallback option being (relative to the original park) a reduced version of the previous operations, albeit with insulated amenities, communal facilities, car parking, fencing, adequate services and on site security and management. Council must buy in to the proposed improvements if it were to prioritise the public interest benefits resulting from the improved operations.

There is no intention to operate the park as a function centre.

It is also important to recognise that the proponent’s initial focus is to make the site viable with a focus on ‘glamping’ and the use of restored/retro caravans (a significant number of which have been purchased and are being restored off site). It is also expected that guests will be permitted to stay (on a commercial basis) with their own caravans/camping trailers from time to time and particularly where it is not peak holiday periods. A flexible approach to the park operations is proposed.’

The applicant has advised that the caravan park will operate as per the standard caravan park operations and that check-ins will primarily occur between 2pm and 6pm with
checkouts to occur no later than 11am to allow for cleaning prior to the next patron check-in times.

On 14 February 2019, a website for The Hideaway Cabarita Beach which refers to a ‘Boutique Outdoor Hotel’ at the corner of Cypress Avenue and Tweed Coast Road (being the subject site) issued a press release that the ‘glamping retreat’ on the site would soon launch, though no date was specified.

Despite the applicant’s comments in the Further Information submitted that there is no intention to operate the park as a function centre, it is noted that the website for the caravan park is marketing the site for events such as weddings, event conferences and team building venue, with the site being available for both accommodation and as a function space. Attached in Appendix 2 is the brochure which has been downloaded from this website. The applicant was invited to clarify the intent of this brochure and to confirm that there was no confusion as to the prohibition on using the site as a function centre.

In response, the applicant advised that while they would review of information being provided on the website, it is the clear intention of the proponents, wherever possible, to maximise the opportunities to sell the accommodation of the premises on a group booking basis and if that group were to congregate and celebrate, participate in group games or catered activities, etc, that this would be entirely ancillary to the principal purpose (being the accommodation element).

The applicant advised that the proponents are acutely aware of their restrictions as a ‘standalone function centre’, however they advised that the proponents are also acutely aware of their own rights in respect of the operation of an accommodation facility. Notwithstanding this, the applicant indicated that they did not in any way intend to ‘push the boundaries’ with respect to Council’s interpretation of function centre permissibility.

Site details

The subject site is legally described as Lot 4 Sec 1 DP 31209, Lot 1 Sec 1 DP 29748, Lot 2 Sec 1 DP 29748 and Lot 3 Sec 1 DP 29748 with a street address of 10 Cypress Crescent and 2-6 Tweed Coast Road, Cabarita Beach.

The site has a total area of approximately 2,814sqm and is located on a corner block with one (1) access to the Tweed Coast Road and two (2) access points to Cypress Crescent. The site has an approval for 15 long term residence sites and 10 short term residence sites under an existing Section 68 Caravan Park Approval.

The site was cleared on the date of the initial site inspection, though the Statement of Environmental Effects advises that prior to this, the site was developed with a site caravan office, clothes washing/drying facilities and an amenities block (total of 8 toilets, 4 handbasins, 4 showers, 1 washing machine, 2 washing tubs and 200m of clothes line.

The site is identified as bushfire prone land being located within a buffer area associated with the Cudgen Nature Reserve.

Surrounding Area

The site is surrounded by low density residential development to the west, south and east with Cudgen Nature Reserve located to the north of the site. Cabarita Beach village is
located approximately 500m to the south with the foreshore located approximately 100m to the east. Refer to aerial photograph over.

Planning history

D95/0137 – Development Application for additions to caravan park. The proposal included use of part of the adjoining Crown Land in conjunction with the caravan park. The application was withdrawn on 2 May 1996 prior to determination.

DA10/0642 - (Department of Planning Major Project Application MP09_0016) – Development Application for three storey mixed use tourist and residential development comprising 24 accommodation units including:

- 3 x 3 bedroom tourist/residential units,
- 3 x 3 bedroom residential units,
- 12 x 2 bedroom tourist/residential units and
- 6 x 2 bedroom residential units.

The application was approved by the Minister for Planning on 25 September 2012, however the consent was not activated, and has subsequently lapsed.

CP00003 – The Cabarita Caravan Park is approved under Section 68 of the Local Government Act 1993 (LG Act) with the most recent licence issued on 27 September 2016 with an expiry date of 30 June 2019. The approval is for 10 long term residence sites and 15 short term residence site – No camp sites or dwelling sites were approved under this licence.

Figure 1: Community Plan
There appears to have been a number of non-compliances with the operation of the caravan park over the years with correspondence from the Department of Local Government & Cooperatives to Council raising issues with non-compliances with the *Local Government (Approvals) Regulation 1993* and the *Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993* and ongoing operations despite licences/approvals having expired. Though it is noted that this was prior to the acquisition of the site by the current owners.

**Unauthorised development**

Council received a complaint from a concerned member of the public in early November 2018 (at the start of the notification period) to advise that work was underway on the site and that the site was being cleared. The site was inspected and it was confirmed that the site had been cleared and that the applicant had moved containers onto the site, though the applicant confirmed that these were only being stored on the site and were not fitted out or connected.

On 12 November 2018, Council received a written submission to the application which advised that the site was being developed prior to approval of the DA and that there had been constant works undertaken on the site over the previous months. The applicant was verbally advised to cease all unauthorised works.

On 29 November 2018, the applicant was issued with correspondence advising that the application as submitted was not supported and was advised to withdraw the application with information on the deficiencies in the application. The applicant was requested to confirm what consents/approvals were in place for the demolition of the former structures on site.

On Saturday 8 December 2018, Council received a written complaint in relation to unauthorised activity /development on the subject site with construction and earthworks being undertaken. It was also brought to Council’s attention that the applicant was advertising online that they are taking group bookings for weddings, corporate functions and the like.

The applicant was directed in writing on 11 December 2018 to cease all unauthorised activity/development on the site immediately. He was advised that only works which are exempt under SEPP (Exempt and Complying Development Codes) 2008 or work for which there was a valid complying development certificate development consent should be undertaken on the site.

The site was inspected by Council staff on 14 December 2018 and it was confirmed that development on the site had progressed significantly from the previous inspection and that the applicant had erected tents on the site and had connected the containers into the underground site services. The applicant was verbally advised by telephone from the site to cease all works immediately. The applicant indicated verbally and in writing on the same date that all works on the subject site had ceased. In response, he was instructed in writing that no further unlawfully work was to be undertaken on site.

Council received a written complaint on 18 December 2018 that work was again underway on the site. The applicant was contacted by telephone and he advised that all work was to cease. On 20 December 2018, the applicant was requested to confirm in writing that all work
on the site has now ceased and that work will not re-commence and the caravan park would not commence operation without the appropriate approvals.

The applicant submitted additional information for the application on 21 December 2018 and confirmed that all bookings taken in anticipation on the caravan park reopening had been cancelled.

On the same date, Council received a written complaint that work on the site had still not ceased and that it had been going on all week in a reduced capacity. Concern was expressed that given the applicant’s disregard of Council’s cautions to date, that the applicant would operate over the Christmas period. Council staff visited the site and noted that there a tradesperson on site and the structures appeared to be in the positions proposed on the submitted DA plans.

Formal notification was issued to the applicant on 21 December 2018 advising that work which had been carried out at the site (including but not limited to demolition, construction of decks and concrete slabs, plumbing, installation of tents, installation of shipping containers and the fitting of the containers for amenities, drainage, fencing and internal roads) was not considered to have been carried out lawfully. The applicant was requested not to carry out or instruct the carrying out of any further work and the use of the site was not occur without the required approvals in place.

In response, the applicant again confirmed on 21 December 2018 that all works had ceased, with the exception of those works necessary to secure, weatherproof and mothball the site for the immediate term to address potential theft and vandalism.

The applicant advised that the only works carried out on site after his recent undertaking to cease works were limited to the following:

- Boarding of openings;
- Weatherproofing of all exposed elements;
- Watering of plants;
- Mowing of lawns; and
- Securing (in situ) and removal and storage of those tents and other facilities that were recently erected for the purposes of a community day/ publicity photography.
The applicant advised that there had been no guests on site.

On 14 January 2019, Council received a telephone and written complaint that work was underway on the site with fence palings being removed. The applicant was advised of the complaint and indicated in response that a gap in the fence was being repaired following a theft from the site and that the workman carrying out this work had since been instructed to cease all work.

The site was inspected on 15 March 2019 and it was observed that there has been a significant amount of building and plumbing works carried out illegally. Details in this regard are set out later in this report.

While the applicant has shown a clear disregard for the planning system in undertaking works on the site without consent and continued to work despite written warnings from Council to cease works, the assessment of this application must be based on the merits of the proposal. However it is recommended that the applicant be issued a penalty infringement notice.
FIGURE 4: SITE LOCATION

Site Plan
DA18/0864
Alterations and Additions to Cabarita Beach Caravan Park
10 Cypress Avenue and 2-6 Tweed Coast Road, Cabarita

Site Location

Cabarita Beach
Pottonville Beach
Hastings Point
Bogangar

Site Plan

1:1,000
1:50,000

GBA

Site Plan

Alterations and Additions to Cabarita Beach Caravan Park
10 Cypress Avenue and 2-6 Tweed Coast Road, Cabarita
FIGURE 5: AERIAL PHOTOGRAPH
Figure 7: Site Plan

PROPOSED SIGNAGE:
(REFER TO GATE SIGNAGE DRAWINGS FOR DETAILS)

SIGN 1 NW AND SW LOCATIONS

SIGN 2 TO BE LOCATED ON FENCE WEST OF G1

Figure 8: Signage Details
Figure 9: Floor Plan – Ablution block, office/reception and storage

Figure 10: Floor Plan – Multi-purpose building and communal kitchen area
Figure 11: Elevations – Ablution block, office/reception and storage

Figure 12: Elevations – Ablution block, office/reception and storage
Figure 13: Elevations – Multi-purpose building and communal kitchen

Figure 14: Elevations – Multi-purpose building and communal kitchen
Figure 15: Fencing details
Considerations under Section 4.15 of the Environmental Planning and Assessment Act 1979:

(a) (i) The provisions of any environmental planning instrument

**Tweed Local Environmental Plan 2014**

The *Tweed Local Environmental Plan (TLEP) 2014* defines a *caravan park* as meaning:

‘land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.’

A *camping ground* is defined as:

‘an area of land that has access to communal amenities and on which campervans or tents, annexes or other similar portable and lightweight temporary shelters are, or are to be, installed, erected or placed for short term use, but does not include a caravan park.’

A *moveable dwelling* is defined as:

(a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or
(b) a manufactured home, or
(c) any conveyance, structure or thing of a class or description prescribed by the regulations (under the Local Government Act 1993) for the purposes of this definition.

A caravan park and a camping ground is prohibited in Zone R3, in which the subject site is located.

As such the applicant is relying on existing use rights as set out in Division 4.11 (Part 4 Development Assessment and Consent) of the *Environmental Planning and Assessment Act 1979 (EP&A Act)* and Part 5 of the *Environmental Planning & Assessment Regulation 2000 (EP&A Reg)*.

**Environmental Planning & Assessment Act 1979**

**Definition of existing use**

As set out on Section 4.65 of the Act, existing use means:

(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and

(b) the use of a building, work or land:
   (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and
(ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.

As there is no consent for the use of the land for a caravan park, the applicant is relying on subsection (a) above. The Tweed Interim Development Order (Tweed IDO) was gazetted on 29 May 1964 and to benefit from existing use rights, the applicant needs to demonstrate that the use commenced prior to this date.

The applicant has advised that the site commenced operations in 1962. This is supported by a letter from the previous site owner dated 30 June 2009 (submitted as part of a previous development application on the site - DA10/0642) that states that the caravan park was built and developed in 1962 with the amenities block and other concrete slabs laid in this year. Earlier correspondence on file from the previous owners (dated 7 June 1989) advised that a caravan park had been in operation on the site for the previous 27 years, which would indicate a commencement date in 1962.

Historic images on Council’s Geographical Information System (GIS) show the site undeveloped in 1962, however the site appears to have been cleared and to be in the process of being developed. The next available aerial photograph is dated 1970, when it is evident that the site has been developed.

![Figure 16: Aerial image dated 1962](image-url)
The applicant has also submitted legal advice (Confidential Attachment 3).

Continuance of and limitations on existing use

As set out in Subsection 4.66(1) of the EP&A Act, except where expressly provided in the Act, nothing in the Act or an environmental planning instrument prevents the continuance of an existing use. However, as set out in subsection (2) nothing in subsection (1) authorises:

(a) any alteration or extension to or rebuilding of a building or work, or
(b) any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used immediately before the coming into operation of the instrument therein mentioned, or
(c) without affecting paragraph (a) or (b), any enlargement or expansion or intensification of an existing use, or
(d) the continuance of the use therein mentioned in breach of any consent in force under this Act in relation to that use or any condition imposed or applicable to that consent or in breach of any condition referred to in section 4.17 (1) (b), or
(e) the continuance of the use therein mentioned where that use is abandoned.

(3) Without limiting the generality of subsection (2) (e), a use is to be presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.

Therefore the current proposal for alterations and additions requires development consent. Though the site has been cleared and the previous structures demolished, this is not taken as an abandonment of the use, given the receipt of this development application, which clearly signals the applicant’s intent to continue the use. However, the removal of the structures now results in a situation, where even the reinstatement of the site ‘as it was’ would require development consent.
Part 5 of the EP&A Reg makes provision for the carrying out of alterations/ extensions to, or the rebuilding of, a building or work being used for an existing use.

**Environmental Planning & Assessment Regulation 2000**

As set out in Clause 41(1) in Part 5, an existing use may:
(a) be enlarged, expanded or intensified, or
(b) be altered or extended, or
(c) be rebuilt, or
(d) be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or
(e) if it is a commercial use—be changed to another commercial use (including a commercial use that would otherwise be prohibited under the Act), or
(f) if it is a light industrial use—be changed to another light industrial use or a commercial use (including a light industrial use or commercial use that would otherwise be prohibited under the Act).

In accordance with Clauses 43 and 44 development consent is required for any alteration or extension of a building or work used for an existing use, or for any rebuilding of a building or work used for an existing use.

In both cases, the alteration/extension or rebuilding work:
(a) must be for the existing use of the building or work and for no other use; and
(b) must be erected or carried out only on the land on which the building or work was erected or carried out immediately before the relevant date.

As set out earlier, TLEP 2014 defines a caravan park as land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed. Therefore recognising the existing use of the site as a ‘caravan park’, acknowledges that sites within the caravan park may be used for the purposes of accommodation caravans or tents.

The 1962 and 1979 aerial photographs on file are not of sufficient quality to determine the precise geographical extent of the caravan park or development works associated with same those times. The oldest records on Council’s files relating to the registration of a caravan park on the site is 7 January 1987 (PF1180-510 PT99) which relation to a caravan park licence for 30 sites and included the 4 lots currently identified.

As such the current application for alterations and additions of an existing use can be considered on its merits.

**North Coast Regional Plan 2036 (NCRP)**

The North Coast Regional Plan 2036 is a 20-year blueprint for the future of the North Coast. The NSW Government’s vision for the North Coast is to create the best region in Australia to live, work and play thanks to its spectacular environment and vibrant communities, with four goals for the region:

- The most stunning environment in NSW
- A thriving, interconnected economy
- Vibrant and engaged communities
- Great housing choice and lifestyle options
In terms of creating a thriving and interconnected economy, the NCRP seeks to promote the growth of tourism. The plan recognises that tourism can both benefit and increase pressure on the environment and smaller communities, with Tweed Heads, Ballina, Byron Bay, Coffs Harbour and Port Macquarie identified as prime tourism development areas. It is acknowledged that medium-to-smaller-scale nature-based and coastal tourism accommodation can be provided outside these prime tourism areas.

It is a direction of the plan (Direction 8.5) to:

‘preserve the region’s existing tourist and visitor accommodation by directing permanent residential accommodation away from tourism developments, except where it is ancillary to existing tourism developments or part of an area otherwise identified for urban expansion in an endorsed local growth management strategy.’

The continued use of the site as a caravan park and upgrading of the facilities is considered to be generally in accordance with the goals and directions of the plan.

**State Environmental Planning Policies**

**SEPP No. 21 - Caravan Parks**

The aim of this Policy is to encourage:

(a) the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and

(b) the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community; and

(c) the provision of community facilities for land so used, and

(d) the protection of the environment of, and in the vicinity of, land so used.

In accordance with **Clause 8 (Development consent required for caravan parks)**:

(1) Development for the purposes of a caravan park may be carried out only with the development consent of the Council.

(2) Before granting development consent to the use of land for the purposes of a caravan park, a Council must determine:

(a) the number of sites (if any) within that land that the Council considers are suitable for long-term residence, within the meaning of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993, and

(b) the number of sites (if any) within that land that the Council considers are not suitable for long-term residence, but are suitable for short-term residence, within the meaning of that Regulation.

The applicant is proposing 23 short term sites only, with no long term site proposed.
Based on an assessment of these sites against the criteria set out in LG (Caravan Park) Reg, the site is considered to be suitable for short-term residence, with those sites with an area of less than 65sqm being suitable as camp sites only.

(3) A Council must not grant development consent to the use of land for the purposes of a caravan park unless it imposes as a condition of that consent a condition specifying the maximum number of sites (if any) within that land that may be used for long-term residence.

In the event that a consent is issued, it will be subject to a condition that no sites are to be used for long term residence.

(4) The holder of an approval under Part 1 of Chapter 7 of the Local Government Act 1993 to operate a caravan park or camping ground on land must not, without the development consent of the Council, allow a person to occupy a site within that land:
   (a) for a continuous period of more than 3 months, except as provided by paragraph (b), or
   (b) for a continuous period longer than the period (if any) for which the person is allowed to be accommodated within the land by an extension that has been granted under clause 19 (6) of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993, if such a use of that site was not lawful under the Environmental Planning and Assessment Act 1979 when this Policy commenced.

This can be managed by condition on any consent issued.

(4A) Except as provided by subclause (4), nothing in this Policy or any other environmental planning instrument requires separate development consent to be obtained for the installation or placement of a moveable dwelling on land on which development for the purposes of a caravan park is being lawfully carried out.

Noted.

(5) This clause does not apply to any land that is authorised to be used for the purposes of a manufactured home estate by a development consent granted pursuant to State Environmental Planning Policy No 36—Manufactured Home Estates or dedicated or reserved under the National Parks and Wildlife Act 1974.

N/A

10 Matters to be considered by Councils

A Council may grant a development consent required by this Policy only after it has considered the following:

(a) whether because of its location or character, the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence.
This application is for alterations and additions to an existing caravan park with the applicant relying on existing use rights. While the use of Zone R3 land for the purposes of a caravan park is prohibited, there has been a caravan park in operation on the site since 1962, and as such the established character of the site is that of a caravan park.

The site is surrounded by residential development to the west, south and east, though only one boundary directly adjoins a residential property (8 Cypress Crescent). The site is located approximately 150m from the Cabarita Beach with the commercial area located approximately 210m to the site. Therefore notwithstanding the prohibition under the current zoning, having regard to the existing use of the site, the proximate to tourist attractions and local services, the site is considered to be suitable for continued use for tourist accommodation.

(b) whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence,

As above, this application is for alterations and additions to an existing caravan park with the applicant relying on existing use rights. The applicant is seeking to remove all long term sites (10) and to increase the number of short term sites from 15 sites to 23 sites.

(c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,

As above, this application is for alterations and additions to an existing caravan park with the applicant relying on existing use rights. The applicant is removing the 10 long term sites which have most recently been licensed on the site.

Given the limited facilities which were previously available on the site (limited WC/shower facilities, no kitchen, no site boundary fencing) and the lack of screening between the long term sites, it is questionable as to whether the site in its previous layout provided a sufficient level of residential amenity for long term residential use. As such the cessation of the use of sites for long term use is not a significant loss to the low cost housing sector in the area.

(d) whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park,

The applicant is seeking to upgrade the existing facilities in the caravan park to provide for an upgraded ablution block and reception and a new multi-purpose structure containing a laundry and a non-commercial kitchen and a separate camp cookout/non-commercial kitchen block.

The applicant has advised that the multi-purpose structure is to be used for general relaxation with a reading area (library area), games areas for kids and an area where guests can site and relax and eat meals.
The site is located approximately 200m from the Local Centre zoning (B2) with local services within walking distance.

(e) any relevant guidelines issued by the Director, and

There are no relevant guidelines.

(f) the provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993.

The Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993 have been superseded by the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 (LG (Caravan Parks) Reg).

The proposal has been assessed against the provisions of LG (Caravan Parks) Reg and is found to be acceptable. An assessment is in Appendix 1. In summary:

- The area of the site is 2,814sqm, less than the minimum of 1ha, specified in the Regulation. However the caravan park is relying on existing use rights. Given that the area of the site will be unchanged, it would not be reasonable to refuse the application on the basis that the site area is inadequate.
- The minimum setbacks for a community building with the use of approved screening are 5m from dwelling sites or campsites and 3m from the park boundary. The multi-purpose building is located 5m from a dwelling site/camp site and 5m from the caravan park boundary. The camp kitchen is 5m from a dwelling site/camp site and 3m from the caravan park boundary. The ablutions block and reception/store are also located a minimum of 5m from a dwelling site/camp site and 3m from the caravan park boundary. Council’s Environmental Health Unit (who will be responsible for the assessment of any future S68 application) have reviewed the screening proposals and have raised no objection to the reduced setbacks on the provision of same.
- The plans submitted do not comply with the requirement for a road that forms an entrance to or exit from a caravan park to be at least 7m wide, notwithstanding the applicant advising that ‘the site plan has been amended to show a minimum 7m wide entrance and exit to the Cypress Crescent openings. This is to be managed by a condition of consent on any development approval issued.
- Camp sites 7-9 do not have vehicular access, however these sites have been provided with off-campsite parking adjacent to the onsite visitor spaces.
- The minimum number of visitor spaces required is 4. The applicant is proposing 7 visitor spaces (including one accessible space).
- The applicant is proposing some unisex facilities. However the Environmental Health Section have reviewed the applicant and consider this to be acceptable.
- The Regulation specifies that except as otherwise provided by the approval for the caravan park, the shower/toilet facilities and laundry provided must be constructed of brick or concrete masonry block. The applicant has submitted that the proposed amenities blocks are a new commonly employed facility in several parks around Australia. The structures are constructed of a steel exo-skeleton and is lined with insulated aluminium panels. It is submitted that the
sound insulation properties of these structures would exceed a single skin brick or besser brick structure. All sites are set back 5m from the amenities and a screen fence is to be fixed to the deck surrounding the amenities. Council’s Environmental Health unit have reviewed the applicant and raised no objection to the use of converted shipping containers, subject to the provision of screening.

- The plans do not identify a minimum of two washing machines and one mechanical clothes dryer, however this can be managed by the conditions of any consent issued.
- The Regulation specify that a caravan park must not be used for any commercial purpose other than a caravan park or an associated purpose. A condition to this effect is to be included on any development consent issued.

SEPP No. 55 - Remediation of Land

SEPP No. 55 requires a consent authority to consider whether land is contaminated and if contaminated, that it would be satisfied that the land is suitable, in its contaminated state (or will be suitable after remediation). Further, it advises that if the land is contaminated and requires remediation, that the consent authority is satisfied that the land will be remediated before the land is used for that purpose.

- Council’s GIS shows that there are no dip-sites in the immediate area or within 200 metres of the subject site.
- An examination of the topographical map [ref: Cudgen 9641-3-N. Dated 1986] did not indicate any known contaminating activities.
- An examination of the aerial photos dated [1944 & 1970] did not show identifiable potentially contaminating activities on the site except a small section of heavy mineral sand mining on the north of the site. It is noted that the site has been subjected to development for a caravan park, which has resulted in substantial disturbance to the site in the past. It is considered likely that this area of mineral sands has been substantially disturbed over the years that the site has been used for a caravan park.
- Contamination is not considered as a constraint.

SEPP (Coastal Management) 2016

State Environmental Planning Policy (Coastal Management) 2018 guides development in coastal areas, including land adjacent to beaches, estuaries, coastal lakes, coastal wetlands and littoral rainforests. It promotes appropriate and sensitive development in our coastal areas, recognising they are some of the most socially, environmentally and economically valuable lands in NSW.

The site is mapped as being within the Coastal Environment Area and the Coastal Environment Area.

13 Development on land within the coastal environment area

(1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:

(a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
(b) coastal environmental values and natural coastal processes,
(c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
(d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
(e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
(f) Aboriginal cultural heritage, practices and places,
(g) the use of the surf zone.

(2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
(a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

14 Development on land within the coastal use area

(1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
(a) has considered whether the proposed development is likely to cause an adverse impact on the following:
   (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
   (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
   (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
   (iv) Aboriginal cultural heritage, practices and places,
   (v) cultural and built environment heritage, and
(b) is satisfied that:
   (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
   (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
   (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.

Located approximately 150m from the high water mark, it is not considered that the proposal will impact on the integrity or resilience of the biophysical, hydrological (surface and groundwater) and ecological environment, the coastal environmental values and natural coastal processes, the water quality of the marine estate, marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms, existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, Aboriginal cultural heritage, practices and places, or the use of the surf zone.

The site has been in operation as a caravan park since 1962. On a number of occasions since this time, it has been reported that camping associated with the caravan park encroached in to the Nature Reserve to the north. As part of this application, the applicant has erected a fence on the boundaries, providing a clear demarcation from the Nature Reserve and preventing campers from encroaching into this area.

The proximity of the multi-purpose structure and kitchen block to the Nature Reserve and the potential impact on fauna has been raised as a concern in one of the objections. However, having regard to existing use of the site as a caravan park and the imposition of conditions on any consent issued in relation to light spill and noise management, potential impacts on the Cudgen Nature Reserve are not considered to be an issue.

The proposed structures will not result in any overshadowing, wind funnelling or loss of views from public places to foreshores.

A number of objections have raised concerns in relation to the poor visual amenity that will result from the use of prefabricated containers on the site as opposed to masonry structures. However, the site will be enclosed by a fence of up to 2.2m in height and the structures will not be visible in any public views of the coast.

It is considered that the proposal is consistent with the provisions of these clauses.

SEPP No. 64 – Advertising and Signage

This Policy aims:
(a) to ensure that signage (including advertising):
   (i) is compatible with the desired amenity and visual character of an area, and
   (ii) provides effective communication in suitable locations, and
   (iii) is of high quality design and finish, and
(b) to regulate signage (but not content) under Part 4 of the Act, and
(c) to provide time-limited consents for the display of certain advertisements, and
(d) to regulate the display of advertisements in transport corridors, and
(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

The applicant is proposing to erect three (3) signs:

Sign 1 (2 signs): A square wall/fence sign measuring 1.5m x 1.5m (2.25sqm) with a seashell logo to be erected on the boundary fence on the Tweed Coast Road with a second sign on the Cypress Crescent fence.
Sign 2: The wording ‘The Hideaway’ to be white or copper spray painted on the gate on the Cypress Crescent frontage. Wording to be approximately 2.5m wide and 300mm high.

The proposed signage generally complies with the aims of the policy and the assessment criteria set out in Schedule 1.

<table>
<thead>
<tr>
<th>Assessment Criteria</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Character of the area</strong></td>
<td></td>
</tr>
<tr>
<td>• Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</td>
<td>Yes - The proposed signage is relatively discreet and considered appropriate to the residential setting.</td>
</tr>
<tr>
<td>• Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</td>
<td>N/A - There is no specific theme adopted for the area, however the signage is considered appropriate to the residential setting.</td>
</tr>
<tr>
<td><strong>2. Special areas</strong></td>
<td></td>
</tr>
<tr>
<td>• Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</td>
<td>No - The proposed signage is to be attached to the boundary fence and will not be highly visible from the surrounding residences.</td>
</tr>
<tr>
<td><strong>3. Views and vistas</strong></td>
<td></td>
</tr>
<tr>
<td>• Does the proposal obscure or compromise important views?</td>
<td>No - The proposed signage is to be attached to the boundary fence.</td>
</tr>
<tr>
<td>• Does the proposal dominate the skyline and reduce the quality of vistas?</td>
<td>No. - The signs will be below the fence line.</td>
</tr>
<tr>
<td>• Does the proposal respect the viewing rights of other advertisers?</td>
<td>No.</td>
</tr>
<tr>
<td><strong>4. Streetscape, setting or landscape</strong></td>
<td></td>
</tr>
<tr>
<td>• Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?</td>
<td>Yes - The scale and proportion of the signs is considered appropriate for the residential setting of the site.</td>
</tr>
<tr>
<td>• Does the proposal contribute to the visual interest of the streetscape, setting or landscape?</td>
<td>Yes - The proposed signs are relatively discreet and will not detract from the streetscape.</td>
</tr>
<tr>
<td>• Does the proposal reduce clutter by rationalising and simplifying existing advertising?</td>
<td>N/A</td>
</tr>
<tr>
<td>• Does the proposal screen unsightliness?</td>
<td>N/A – The signage is to be attached to a fence</td>
</tr>
<tr>
<td>• Does the proposal protrude above buildings, structures or tree canopies in the area or locality?</td>
<td>No - The signage is below the fenceline.</td>
</tr>
<tr>
<td>Assessment Criteria</td>
<td>Comments</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>• Does the proposal require ongoing vegetation management?</td>
<td>No</td>
</tr>
<tr>
<td>5. <strong>Site and building</strong></td>
<td></td>
</tr>
<tr>
<td>• Is the proposal compatible with the scale, proportion and other characteristics</td>
<td>Yes - The signage is compatible with the scale of the development and size of the site.</td>
</tr>
<tr>
<td>of the site or building, or both, on which the proposed signage is to be located?</td>
<td></td>
</tr>
<tr>
<td>• Does the proposal respect important features of the site or building, or both?</td>
<td>N/A.</td>
</tr>
<tr>
<td>• Does the proposal show innovation and imagination in its relationship to the</td>
<td>The signage is contemporary in style and appropriate having regard to the nature of the development.</td>
</tr>
<tr>
<td>site or building, or both?</td>
<td></td>
</tr>
<tr>
<td>6. <strong>Associated devices and logos with advertisements and advertising structures</strong></td>
<td>No.</td>
</tr>
<tr>
<td>• Have any safety devices, platforms, lighting devices or logos been designed as</td>
<td></td>
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<tr>
<td>an integral part of the signage or structure on which it is to be displayed?</td>
<td></td>
</tr>
<tr>
<td>7. <strong>Illumination</strong></td>
<td></td>
</tr>
<tr>
<td>• Would illumination result in unacceptable glare?</td>
<td>N/A – The applicant has not identified any illumination and a condition is to be included on any consent issued in relation to the regulation of same.</td>
</tr>
<tr>
<td>• Would illumination affect safety for pedestrians, vehicles or aircraft?</td>
<td>No</td>
</tr>
<tr>
<td>• Would illumination detract from the amenity of any residence or other form of</td>
<td>A condition is to be included on any consent issued in relation to the regulation of any sign lighting.</td>
</tr>
<tr>
<td>accommodation?</td>
<td></td>
</tr>
<tr>
<td>• Can the intensity of the illumination be adjusted, if necessary?</td>
<td>As above</td>
</tr>
<tr>
<td>• Is the illumination subject to a curfew?</td>
<td>No</td>
</tr>
<tr>
<td>8. <strong>Safety</strong></td>
<td></td>
</tr>
<tr>
<td>• Would the proposal reduce the safety for any public road?</td>
<td>No</td>
</tr>
<tr>
<td>• Would the proposal reduce the safety for pedestrians or bicyclists?</td>
<td>No</td>
</tr>
<tr>
<td>• Would the proposal reduce the safety for pedestrians, particularly</td>
<td>No</td>
</tr>
</tbody>
</table>
Assessment Criteria

children, by obscuring sightlines from public areas?

Comments

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

As the applicant is relying on existing use rights, draft LEPs which would derogate from the existing use rights do not apply.

(a) (iii) Development Control Plan (DCP)

As the applicant is relying in existing use rights, the provisions of the Tweed Development Control Plan cannot be applied.

(a) (iiiia) Any planning agreement or any draft planning agreement under section 7.4

There is no planning agreement or draft planning agreement relating to the site or the proposal.

(a) (iv) Any Matters Prescribed by the Regulations

Clause 92(1)(b) Applications for demolition

It is considered that the demolition of the former toilet block required consent, however the applicant has already undertook this work without the benefit of consent. The applicant has submitted an Asbestos Clearance Certificate.

Clause 93 Fire Safety Considerations

This clause is not applicable as there is no change of use of an existing building.

Clause 94 Buildings to be upgraded

This clause is not applicable as there is no upgrading, alteration or extension of an existing building.

(a) (v) Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979),

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire’s 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. The site is approximately 150m from the coast and not located within a specific area identified under that Plan. The site is not located adjacent to any coastal estuaries covered by this plan.

Tweed Coast Estuaries Management Plan 2004

The site is not located adjacent to any coastal estuaries covered by this plan.

Coastal Zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting)
The site is not located with the Cobaki or Terranora Broadwater areas to which this plan applies.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

Context and Setting

Notwithstanding the prohibition of a caravan park in Zone R3, it is accepted that there is an existing caravan park in operation on the site since 1962 and that this is an established use. The current S68 approval to operate a caravan park on the site allows for 25 sites (10 long term caravan sites, 15 short term caravan sites, 0 camp sites). The applicant is now seeking to reduce this to 23 sites (9 camping sites, 14 short term caravan sites, 0 long term caravan sites).

Access, Transport and Traffic

Access
The applicant is retaining the existing three access points to the site, though the Tweed Coast Road access is to be used for emergency purposes only (as required by the RFS). The applicant is erecting access gates on the Cypress Crescent accesses. The applicant has also made provision for a forecourt measuring 20m and had inset the access gates at the Cypress Crescent access to allow for vehicles to access two (2) visitor spaces outside the gates and to allow for a caravan to stand between the gate and the road edge.

The Regulations require that a road that forms an entrance to or exit from a caravan park is to be at least 7m wide. The plans submitted do not comply with the requirement for, notwithstanding the applicant advising that ‘the site plan has been amended to show a minimum 7m wide entrance and exit to the Cypress Crescent openings’. This is to be managed by a condition of consent on any development approval issued.

The applicant is proposing a one-way internal traffic system.

Car Parking
It is considered that the proposal (as modified in the plan submitted as Further Information) now provides for adequate onsite visitor car parking, with the applicant proposing seven (7) spaces where a minimum of four (4) is required.

Trip generation
The Tweed Road Contribution Plan (TRCP) – Plan No 4 does not specify a trip generation rate for a caravan park. In the absence of a traffic report from the applicant, the number of predicted trips is therefore calculated on the basis of similar developments set out in Table 3.6.1A of the TRCP.

The daily trip rate for a ‘self-contained dwelling with onsite community facilities (community meeting rooms, recreation/sports facilities, library/reading rooms etc)’ is 2.5 trips per dwelling.
The daily trip rate for a ‘self-contained dwelling with NO onsite community facilities (apart from communal laundry, washing)’ is 3 trips per dwelling.

The daily trip rate for a ‘tourist resort’ is 2.48 trips per room/unit plus 12 trips per 100sqm Gross Lettable Area of restaurant floor space.

Given the campsites and caravan sites will be reliant on communal toilets (and as such are not self-contained), it is considered reasonable to calculate the number of trips as 2.48 trips per site.

With 23 sites proposed, the proposed trip generation is 57.04 trips.

The applicant is reducing the number of sites from 25 to 23 sites, with eight of the sites now identified for camping. The applicant has advised that the site is to be set up with tents and renovated retro caravans which would be hired to guests as opposed to the more standard practice of patrons bring their own accommodation.

Concern has been raised in a number of the submissions with regard to the potential increase in traffic as a result of the redevelopment of the site. However, having regard to the reduction in number of the overall sites, the introduction of camp sites (reducing the number of caravans accessing the site) and the fact that the caravan sites could previously have accommodated tents (with up to 12 persons), it is not anticipated that there will be an increase in traffic associated with the development.

Flora and Fauna

One of the submissions has raised concerns that the proposal would impact on flora and fauna in the adjoining Nature Reserve. However it is considered that the proposal represents an improvement to the current situation. The applicant has fenced the site with a boundary fence now restricting access directly from the site to the Reserve. In the past, there has been instances of campers encroaching into the reserve. With the clear demarcation of the site and the erection of a fence this will no longer be an issue.

The area of the Nature Reserve immediately to the north of the site is maintained by National Parks and Wildlife Services (NPWS) as a fire trail. The proposed development seeks to rely on this area as an Asset Protection Zone (APZ), however this will require no greater vegetation removal than is currently required to maintain the fire trail.

Noise Impacts

A number of submissions has raised concerns with potential noise impacts, given the introduction of camp sites (with tents proving less sound insulation than caravans or the like) and the potential for the site to be used for hosting of events – wedding, functions, etc.

The nearest dwelling is 8 Cypress Crescent which is located immediately to the east of the site and which the applicant has indicated will be rented by the proponents as a manager’s residence. The dwellings to the south of Cypress Crescent are a
minimum of 20m from the site, with the dwellings to the west of Tweed Coast Road approximately 46m from the site boundary.

Though the applicant has advised that the site is not to be used as a ‘function centre’, and this application does not seek approval for same, it is noted that information provided by the proponents on their website, does indicate that they may seek to facilitate group bookings on the site with the intent that associated celebrations may also be hosted on the site.

Any consent issued needs to clearly exclude the use of the site for hosting of events such as weddings, functions, etc. In addition, a plan of management is to be required, which includes the establishment and maintenance of a complaints management system. Conditions restricting noise are also to be imposed on any consent issued.

The Environmental Health Section have reviewed the application and raised no objection subject to the imposition of appropriate conditions on any consent issued.

Unauthorised development / Construction

A site inspection was undertaken by an officer from Council’s Building Unit on 15 March 2019 who advised that:

- Treated pine fencing has been erected along the eastern side boundary, part of the northern boundary and fronting Cypress Avenue and Tweed Coast Road which exceeds 2m in numerous places.
- The eastern most driveway located in Cypress Avenue is setback 1.6m from Cypress Avenue and contains 2.7m wide gates which currently swing over Council’s road reserve.
- There are unauthorised plumbing works on the site.
- The newly installed fire hose reels have no tags to confirm compliance.
- Construction certificate(s) and sewer approval is required for the amenities building, multi-purpose building and camp cookout & storage building. These buildings have been placed on site.
- There has been a significant amount of building and plumbing works carried out illegally. In particular;
  a. Building 1 - Ablution Block has been erected on site with attached decking though the facilities have not all been completed.
  b. Building 2 – Multi-purpose building has been placed on sleepers with attached treated pine decking. Fitout has not been completed.
  c. Building 3 - Office/reception has been erected on site with attached decking which has not been completed.
  d. Building 4 - Communal Kitchen Area has been placed on sleepers and is located within 900mm of the northern boundary in lieu of 3m as shown on the plans for stamping.
  e. Building 5 – Storage building has been erected on site with attached decking which has not been completed.
The Building Unit officer has advised that should consent be issued that a construction certificate will be required in respect of all outstanding work; i.e. completion of fitouts, relocation of building 4, erection of screens, remedial BCA compliance work and compliance work to satisfy RFS General terms of Approval.

It is noted the fencing and screening comprising predominantly of treated pine which has been recently erected without Council approval is not in accordance with the NSW Rural Fire Service requirements dated 5 February 2019. In particular there is a requirement to comply with the principles of Appendix 5 of “Planning for Bush Fire protection 2006” which requires fencing and the like to be non-combustible. Therefore much of the fencing and screening will need to be replaced.

Any consent issued will also need to require that:

a. A Building Information Certificate is to be obtained from Council in respect of the following:
   • Building 1 - Ablution Block;
   • Building 3 - Office/reception; and
   • Building 5 - Storage building and associated works.

Any remedial works will be subject to a construction certificate.

b. A comprehensive BCA Compliance Report including all relevant certification to demonstrate BCA compliance, and certification in respect of compliance with the General Terms of Approval from the NSW Rural Fire Service dated 5 February 2019 is to be submitted to and approved by the nominated PCA in respect of the remaining works and rectification works on the site including but not limited to the following buildings:
   • Building 2 - Multi-Purpose Building;
   • Building 4 - Communal Kitchen Area; and
   • Associated works.

All remaining and remedial works are to be identified and BCA compliant designs submitted.

c. A sewer application will be required inclusive of work as executed drainage plans and certification in respect of AS 3500 by a licenced plumber. Certification in respect of backflow devices are required.

(c) Suitability of the site for the development

Surrounding Landuses/Development

Notwithstanding the prohibition of a caravan park in Zone R3, there is an existing caravan park on the site with the applicant relying on existing use rights to redevelop the site.

Bushfire

The site is identified as bushfire prone land, and as such the application is integrated and was referred to the Rural Fire Services (RFS). The RFS have issued a deemed safety authority. More details on this is provided below under public authority consultation.
Any submissions made in accordance with the Act or Regulations

Community submissions

The application was advertised from Wednesday 31 October 2018 to Wednesday 14 November 2018. During this period a total of five (5) submissions were received. The issues raised in the submissions can be summarised as follows:

Use of the site

- Though there is no reference to ‘flash camp’ in the proposal, two of the submissions have made reference to a sign for a company referred to as ‘flash camp’ which was alleged erected on the site. This has raised concerns with neighbours with regard to the use of the site for camping, hosting functions and numbers of guests on the site.
- What is the intended use of the site as advertising for ‘Flash Camp’ (providing a venue for weddings, corporate events & the like) has been displayed on the temporary fencing (now removed) for several months?
- What type of accommodation is proposed eg caravan, camper trailer or tent sites?
- No camping should be allowed as the current approval does not include tent sites.
- The approval on the site is only for caravans however this now includes tent sites which will increase:
  - The number of people on the site
  - Noise as patrons will be in tents not enclosed caravans
  - Demand for car parking on and off site
- Is there a maximum no. of persons permitted to be accommodated on the site?
- What is the intended purpose/use of the rooftop deck over the proposed kitchen area?
- If the caravan park licence has expired, the caravan park use should be removed and the site redeveloped with permanent accommodation which is more in keeping with the area.
- The layout of the development appears to include a ‘party space’ – The proposed cook out facilities are excessive and appear to be designed for parties or functions.
- Any consent issued should include a condition that prevents functions on the site, the sale of alcohol and that limits noise.
- Application should have been accompanied by a noise assessment.
- People should not be allowed to come and go at all times of the day or night – Impact on adjacent residents.
- The development is not in the public interest.

Response

The applicant has acknowledged that the site is proposed to be used for ‘glamping’ with tents and caravans to be pre-installed on the site and available for hire with associated bedding. Though the current Section 68 approval on the site identified short and long term sites, this did not preclude the erection of tents on these sites, and as such this applicant does not represent a change of use from a caravan park to campsites – it remains a caravan park, though 9 of the sites can now only be used for camping (<66msq).
The plans have been amended to remove the roof top deck which was originally proposed for the multi-purpose building.

**Car Parking**

- The application refers to ‘no more than 12 persons being permitted to each site’, but with 25 sites that is up to 300 guests – where are they going to park?
- There is no enough parking on site for visitors – One (1) visitor & one (1) accessible car parking space is not sufficient for this proposed development.
- There is no dedicated car parking spaces for tent sites – The proposed eight (8) tent sites at 40sqm should have 8 spaces located within 30m of the site.
- The applicant has not demonstrated that a car space can be accommodated on each of the proposed camp/caravan sites – it should be demonstrated that there is sufficient capacity on each site for a modern campervan, trailer and vehicle.
- Applicant should be requested to submit a plan identifying the car parking spaces on the sites with a restriction on this space being used for camping (physically constrained).
- No car parking spaces have been allocated for the care taker, staff or cleaners.
- Parking associated with the development should all be accommodated on site with no overflow onto adjoining streets.
- A reduction in visitor car parking should not be allowed as:
  - The regulations require a minimum of four (4) visitor spaces and the application should be assessed against current standards, not a previous approval which is being amended.
  - No traffic report has been submitted to support a reduction in car parking.
  - The use of tents will increase the number of vehicles on site as guests will be arriving separately and not towing a caravan.
  - No provision has been made for site caretakers, staff or cleaners parking.
  - Visitor parking should be provided on site and not in the surrounding residential street such as Cypress Crescent, which is already under pressure for on-street parking as a result of beach users – This proposal will only increase the demand for parking in Cypress Crescent.
  - Past experience of residents in the area with the "old" park was in holiday time (summer/Easter/Australia day/weekends) onsite parking does not come close to catering for visitors when one factors in vans on spaces and the limited on site space available for each site.

**Response**

The applicant has increased the onsite visitor parking to seven (7) spaces, which is in excess of that required under the Regulation. The sites all meet the minimum size requirements to accommodate on-site parking. Camp sites without vehicular access are provided with off–camp site spaces, which are located within the overall site boundary.

There is no requirement in the Regulation for car parking spaces to be provided onsite for staff.
Traffic Impacts

- Increase in traffic as a result of use of tent sites with more traffic entering and existing the site than typically associated with a traditional caravan/car combination where the car (being attached to the caravan) is stationary – impact on residents on Cypress Crescent as a result of traffic noise and on-street parking.
- The off-site overflow experienced in the past has created parking issues adjacent to and on residential properties on Cypress Crescent property, especially given the subject site’s corner block nexus with Tweed Coast Road and vans trying to enter the site when vehicles often “choking” both sides of Cypress Crescent.
- Restrictions on on-street parking (yellow line) should be introduced adjacent to access/exit driveways to adjacent properties to ensure their access is not restricted as a result of on-street parking.
- Application should have been accompanied by a traffic assessment. No assessment has been undertaken on in the increase in traffic and whether it is safe for traffic turning off the Tweed Coast Road into Cypress Crescent or queuing to enter the site (which will be gated).
- The application does not address how people will enter the site and where they will park before checking in - Cypress Crescent? Or the Cypress Crescent driveway and street?
- Will the access be gated resulting in people queuing out onto Cypress Crescent or Tweed Coast Road? Insufficient room has been provided for the entry and exit of guests wholly within the site.
- Why are there still so many accesses to the site? There should be only one (1) access from Cypress Crescent to reduce impact on residents.
- The applicant has not demonstrated that caravans can manoeuvre into site and around the internal road network

Response

As set out earlier, it is not anticipated that there will be an increase in traffic with the number of sites being reduced. As such a traffic impact assessment is unwarranted.

The applicant is seeking to retain the three existing access, though the access from Tweed Coast Road is to be used for emergency access only. Patron access and exit to the site will be from Cypress Crescent. Given the increase in onsite parking, it is not anticipated that there will be a demand for on-street parking.

The applicant is to be required (by condition) to increase the width of the accesses from Cypress Crescent to 7m.

Design

- The proposal is an overdevelopment of the site – insufficient setbacks, insufficient car parking spaces, no forecourt, designated carwash bay, etc.
- The applicant should be required to provide a forecourt, car parking spaces, a washbay (which can accommodate a campervan) as required by the regulations.
- The applicant has not submitted specific plans that shows that each site:
  - meets the minimum size
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- has setbacks/separation distances/forecourts that comply with the regulations
- will have an allocated unencumbered car parking spaces or
- that cars and caravans can move around the internal road network.

- The submitted plans do not provide adequate detail to determine that:
  - Visitor car parking and disabled compliance car paring has been provided in accordance with the division
  - Required sludge pump out point for caravans is provided and is separated/screened from caravan/tent sites
  - Wash down bay
  - Buffers/setbacks to roads and the nature reserve
  - Landscaped areas
  - Stormwater treatment area – quality and quantity and
  - Access and entry points that enable vehicles to check in, pass, and exit site in a forward gear so as not to impact on the surrounding road network

- As this is a new approval and reconfiguration of the site, the layout should comply with the regulations in terms of separation distances between toilets and community building and sites (10m). Compliance with the controls will ensure occupants are not subject to increased noise, overlooking and proximity to garbage bins.

- Previous non-compliance with the regulations is insufficient justification for proposed non-compliances.

- As the site has been cleared, no uses should be located in the required setback areas.

- No separation of communal use areas has been incorporated into the design or screening so neighbours, residents and guests will be subjected to increased noise and lighting. Setbacks should provide for landscaping and screening.

- The proposed shipping containers are large and ugly, will be highly visible from the street and open space and are out of character with the area.

- Containers should not be allowed on the site as these are not moveable like caravans are - The site will appear like a slum.

- The structures should be of solid construction and provide adequate privacy for residents.

- The communal nature of the showers is wrong and segregated facilities should be provided.

- The multipurpose two storey building appears more like a function space and not what is required for a camp site/caravan park – The structure should be open sided and not a container. Further it is too close to the open space and is not sufficiently screened.

- Concern raised that the fence will be subject to graffiti.

Response
Following a request for further information, the applicant has substantially amended the layout to meet onsite car parking requirements, a forecourt area and the minimum site setbacks, etc. To support a layout which relies on the minimum specified setbacks from the amenities buildings (as opposed to the recommended 10m separation), the applicant has submitted proposed for screening, which the Environmental Health Unit have deemed to be acceptable.
The proponent is also seeking a departure from the requirement that the amenities structure be constructed of masonry. However it is noted that the Regulation to allow for this stating:

*Except as otherwise provided by the approval for the caravan park or camping ground, the laundry facilities provided for a caravan park or camping ground must be housed in a laundry block:  
(a) that is constructed of brick or concrete masonry block……*

The site will be fenced from view from the public road, and it is not considered that the converted containers will detract from the visual amenity of the site.

**Operation/Management**

- No details have been provided on whether an onsite manager will be accommodated on site. A permanent site connected to the services should be provided for on-site manager accommodation to ensure the noise and light impacts on neighbours are managed.
- With the potential for up to 300 people on the site, there should be a requirement for an onsite manager at all times.
- In recent times, due to the proliferation of short term rental opportunists, permanent residents have been subjected to intolerable behaviours by strangers being admitted to short term rental properties (direct neighbours) and they are concerned that similar problems of noise, unacceptable and anti-social behaviours, number of vehicles parked on the street limiting safe access and total lack of consideration may increase.

**Response**

There is no proposal for a manager to reside on site. The applicant has advised that the adjacent dwelling (8 Cypress Crescent) has been rented by the proponent and is to accommodate a manager – Though it is outside the remit of this application to require this by way of a condition. A condition is to be included in any consent issued that a plan of management be approved by the General Manager or his delegate prior to the use of the site.

**Impact on adjacent nature reserve**

- The proposal will impact on the adjacent nature reserve as a result of bushfire clearing – greater separation distances are required to avoid the need for vegetation removal for bushfire reduction.
- Impact on use of adjacent nature reserve in terms of overlooking of walkers/users of reserve.
- Impacts on fauna in nature reserve from noise impacts, light pollution/spill.

**Response**

The application seeks to rely on existing use rights and it is not considered that the site as redeveloped will have any greater impact on the Cudgen Nature Reserve. The applicant has erected a fence on this boundary, which will prevent encroachment of campers into this area. The roof-top deck which may have allowed from views into the Reserve has been removed from the plans.
Universal access
- The application is silent on equitable access around the caravan park, including arrival and parking spaces.
- The two story multi-purpose building should be accessible or alternatively the roof deck removed.

Response
This has been addressed in the amended plans.

Landscaping
- As a commercial use, the site should be appropriately landscaped with landscaping on site and in front of the boundary fence – This should include 1-2m high landscaping on the perimeter.
- Landscaping (design indents of setbacks along the fence) should be provided to screen the containers.
- Insufficient space has been provided for landscaping.

Response
The applicant has erected a 1.8m – 2.2m high fence on the boundary. There is existing landscaping/tree planting in the Tweed Coast Road reserve which screens this fence. To maintain sightlines on Cypress Crescent, additional planting in the road reserve would be undesirable.

Signage
- Signage should be minimal as this is a residential area.

Response
The proposed signage is limited to two (2) logo signs and a fence sign, and is considered to be in keeping with the residential character of the area.

Due Process
- This application is not alterations and additions to an existing caravan park – It is a whole new concept with a question as to whether the existing licence has expired – Council should get legal advice on whether it can determine the application.
- Is there an intention to submit an application for alterations to existing caravan park approval application if development approval is granted?
- The applicant has bulldozed everything on site so how can he states that the caravan park is being maintained in accordance with the approval?
- Why is the site being developed prior to approval of the DA being granted? There has been constant works being undertaken for the past several months and the site prepared to the extent as it stands to date.

Response
It is acknowledged that the applicant has shown blatant disregard for the planning system, proceeding to redevelop the site in advance of the determination of the application. In this regard, it is recommended that the applicant be subject to the maximum fine chargeable. However, the application must be determined on its merits regardless of the behaviour of the proponent.

Construction Impacts
• With the ongoing construction, there has not been any warning safety signage when power tools (eg nail gun) have been in use and no signage indicating that the property is a construction site.

• When the preparation of the new internal road system was underway the vibration from the compacting equipment was of cause for concern as it was vibrating adjacent dwellings substantially.

• There was an asbestos sheet storage shed which has been removed from the property which doesn’t appear to be on the DA for demolition or removal. Was this removed and disposed of according to the guidelines for disposal of asbestos?

Response
The applicant has submitted an asbestos clearance certificate for the removal of the amenities block.

Public Authority submissions

The site is identified as bushfire prone land. In accordance with Section 100B of the Rural Fires Act 1997 (Bush Fire Safety Authorities), the use of a site for tourist accommodation is a special fire protection purpose and requires a bush fire safety authority from the NSW Rural Fire Services. The bush fire safety authority authorises development for a special fire protection purpose to the extent that it complies with standards regarding setbacks, provision of water supply and other matters considered by the Commissioner to be necessary to protect persons, property or the environment from danger that may arise from a bush fire.

The application as originally submitted was accompanied by a Bushfire Threat Assessment Report dated October 2018 (author unknown). The report identified a fire trail in the Cudgen Nature Reserve (Cypress Radiation Trail) as an asset Protection Zone (APZ) for the proposed development.

On 27 November 2018, the RFS issued correspondence advising that additional information was required, included details from the relevant land manager confirming that the APZ would be managed in perpetuity to the benefit of the caravan park and confirmation of the ability to retain the Tweed Coast Road access for emergency services vehicles is to be provided.

The application was referred by Council to the NSW National Parks and Wildlife Service (NPWS), as the asset managers for the Cudgen Nature Reserve.

On 9 January 2019, the NPWS advised that, wherever practical, construction and maintenance of APZs around assets on private property should be on that private property, rather than relying on protective measures implemented on neighbouring lands. And that as per the RFS publication: Planning for Bushfire Protection (RFS 2006) for off-park development proposals adjoining a park, the onus is on the proponent to ensure that bushfire protection measures are contained within the development footprint.

NPWS acknowledged that the Planning for Bushfire Protection allows discretion in applying this requirement where exceptional circumstances apply and requested that the proponent investigate options for providing an APZ within their property prior to further consideration of the development application.
Following much direct correspondence between the applicant and NPWS, with the applicant submitting information in support of a case for exceptional circumstances, the NPWS advised that their position remained unchanged and that for off park new development proposal adjoining a park, the onus is on the proponent to ensure that bushfire protection measures are contained within the development footprint. However it was advised that the development application could consider the existing NPWS APZ as ‘managed land’ and that OEH/NPWS would continue maintaining the APZ to a width of at least 20m from the common boundary for the protection of Cudgen Nature Reserve.

On 5 February 2019, the NSW RFS issued a bush fire safety authority subject to conditions in relation to APZs, Water & Utilities, Access, Evacuation & Emergency Management, Design & Construction, and Landscaping.

In relation to the APZs, reference was made to only the subject site (entire property) being managed as an inner protection area (IPA). In relation to access, any gate / lock system on the Tweed Coast Road access is to be provided in consultation with the local NSW Rural Fire Service. The RFS conditions are to be imposed on any consent issued.

(e) Public interest

Consideration must be given to the public interest in the determination of the application.

The development of a caravan park in Zone R3 is normally prohibited. However the applicant is seeking to rely on existing use rights with the caravan park having been in operation since 1962. The proposal represents an improvement of the caravan park which previously operated on the site with the provision of upgraded shower/WC facilities and the provision of a multi-purpose building and communal kitchen. The proposal also reduces the number of sites but increases the onsite parking provision. The proposal removes the 10 long term dwelling sites from the layout, removing the potential for these sites to accommodate long term residents (being sites which would have provided poor residential amenity in terms of access to facilities, security and privacy.

The approval of the application also allows Council the opportunity to enforce appropriate conditions in relation to the operation and management of the caravan park.

Finally, the upgrading of an existing caravan park is also considered to be in the interests of the public in promoting tourism in the area.

Development Contributions

Section 64 Developer Contribution

Water = NIL
Sewer = NIL

Section 7.11 Development Contributions
As the application relates to alterations and additions to upgrade the existing caravan park and the applicant is seeking to reduce the number of sites from 25 to 23, it is not considered reasonable or fair to levy the applicant with development contributions. While the applicant has not paid development contributions for the existing development (no consent ever issued for same), it would not be reasonable to penalise the applicant for seeking to upgrade the existing facilities, which has been in operation since 1962.

OPTIONS:

1. Approve the application subject to conditions for the following reasons:

   The development proposal has been considered in accordance with the relevant provisions of the NSW Environmental Planning and Assessment Act 1979 and on balance is suitable to be determined by way of approval.

   Community views were considered as part of the assessment in accordance with Council’s Development Control Plan and the NSW Environmental Planning and Assessment Act 1979 requirements for public notification.

2. Refuse the application

Option 1 is recommended.

CONCLUSION:

The site is zoned R3 Medium Density Residential where the use of the land for a caravan park is a prohibited use. As such, the applicant is relying on the Existing Use Rights provisions of the EP&A Act. Though described as ‘alterations and additions’, the proposal is essentially a redevelopment of an existing caravan site with the applicant having cleared the site of all existing development (landscaping and an amenities block) and seeking consent for 23 sites (9 camp sites and 14 short term dwelling sites) and the provision of upgraded facilities.

The application as initially submitted sought a number of variations to the criteria for caravan parks set out in the LG (Caravan Parks) Reg including those relating to the provision of adequate visitor car parking on site, minimum setbacks of structures to boundaries and sites and access requirements, which attracted five (5) submissions. The main issues raised in the submissions were the potential future use of the site for ‘glamping’ and associated noise issues, potential use of the site as a function centre (hosting weddings, conferences, etc) and impacts associated with such a use, demand for on-street car parking and its impact on the amenity of adjoining residents.

In response to a Request for Further Information, the applicant submitted revised proposal which substantial address these issues, and an assessment of the amended proposal against the LG (Caravan Parks) Reg is set out in this report and it is concluded that the proposal generally meets with the criteria with the exception of the minimum specified site area (1ha).

It is considered that the proposal (as amended) can now be supported subject to the imposition of appropriate conditions. In acknowledgment of the applicant’s clear disregard for the planning process and the requirement for Council to issue numerous instructions to cease
works before these were heeded, it is recommended that the applicant be issued with the maximum penalty applicable.

COUNCIL IMPLICATIONS:

a. Policy:
   Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:
   Nil

c. Legal:
   The applicant has a right of appeal in the NSW Land and Environment Court in respect of any Council determination of this application.

d. Communication/Engagement:
   Consult - We will listen to you, consider your ideas and concerns and keep you informed.

UNDER SEPARATE COVER/FURTHER INFORMATION:

(Confidential) Attachment 1. Legal Advice provided by applicant in relation to Existing Use Rights (ECM 5817219)

Attachment 2. Assessment against Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 (ECM 5817220)

Attachment 3. Development brochure (ECM 5817221)
2 [PR-PC] Planning Proposal PP19/0003 a Site-Specific Amendment to Lot 30 DP 820048 No. 751 Eviron Road, Eviron

SUBMITTED BY: Strategic Planning and Urban Design

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

1 Leaving a Legacy
1.4 Managing Community Growth
1.4.1 Strategic Land-Use Planning - To plan for sustainable development which balances economic environmental and social considerations. Promote good design in the built environment.

ROLE: Provider

SUMMARY OF REPORT:

The purpose of this report is to seek Council support for the preparation of a Planning Proposal to amend the Tweed Local Environmental Plan (TLEP) 2014 to enable the development of a Council pound (same meaning as in the Companion Animals Act 1998) on a Council owned site known as Lot 30 DP 820048 No. 751 Eviron Road Eviron.

By way of background, Council is currently advancing a Masterplan for the Stotts Creek Resource Recovery Centre (SCRRC) that will provide guidance on future development at the site (which adjoins the subject site). As part of a program of works identified through the Masterplan process, the relocation of the current Animal Pound facilities is required prior to a significant number of the early works being able to commence.

Staff are working towards a deadline of August 2019 to finalise the relocation of the current Pound and demolition of existing building and site facilities.

It is therefore envisaged that a development application would need to be prepared concurrent to the Planning Proposal for the subject site, to allow for the construction of the new facility. Given the tight deadline, it is likely that temporary impounding arrangements will be needed until the new facility is available.

The subject site is currently zoned RU2 Rural Landscape under the TLEP 2014 where the development of a pound is currently not a permitted land use. The proposed amendment would seek to introduce a site specific additional permitted use by way of a new Schedule 1 Additional Permitted Use for the purposes of a Council pound.

The nomination of this subject site is in addition to a site previously considered by Council on the adjoining No. 719 Eviron Road, which was also the subject of a planning proposal to
enable the use of a Council pound over this site, gazetted on 18 January 2019. Given possible impacts of the SCRCC on this site, it was considered that this site is not viable at this point of time.

In review, it has been determined that the subject site (Lot 30 DP 820048) is considered superior to the current site and any other alternative sites that have recently been considered on the basis that:

- the site is flood free;
- the site is surrounded on three sides by Council owned land;
- the site’s topography is conducive to the construction of the required facility which would include holding pens and car parking;
- there is opportunity for the existing dwelling on the site to be adaptively reused as the pound’s administrative functions; and
- the site has good access from Eviron Road.

Notwithstanding these site opportunities the site is subject to a number of environmental constraints that would require assessment during preparation of the planning proposal. These assessments would come at a cost to Council however the overall benefit of relocating the pound from its existing unsuitable site to this new site is justifiable.

RECOMMENDATION:

That Council endorse:

1. The preparation of a draft planning proposal seeking an amendment to the Tweed Local Environmental Plan 2014, by way of a new Schedule 1 Additional Permitted Use for the purposes of a Council Pound on Lot 30 DP 820048 No. 751 Eviron Road, Eviron;

2. Once finalised, the draft planning proposal is to be referred to the NSW Department of Planning and Environment for Gateway Determination, in accordance with s3.34 of the Environmental Planning and Assessment Act 1979;

3. On receipt of the Minister’s Gateway Determination Notice to continue, any Gateway conditions or other identified study or work is to be duly completed and included within the material for public exhibition;

4. Public exhibition is to occur for a period of not less than 28 days; and

5. Submissions received during public exhibition are to be reported to Council at the earliest time and detailing the issues raised and a recommended planning response.
REPORT:

Council is currently advancing a Master Plan for the Stotts Creek Resource Recovery Centre (SCRRC) that will provide guidance on future development at the site. As part of a program of works identified through the Master Plan process, the relocation of the current Animal Pound facilities is required prior to a significant number of the early works being able to commence.

Further, the current Pound site is considered a safety and liability risk in terms of its deteriorating state of buildings and services, susceptibility to being cut off from access during major weather and flood incidents as well as its general incompatibility of safety and welfare for both Council staff and volunteers and the impounded animals, as well as poor access and amenity for the public visiting the site.

Lot 1 DP 34555 No. 719 Eviron Road was previously identified as suitable for the relocation of the existing Animal Pound facilities at Stotts Creek and for a new Council Pound and Rehoming Centre. Planning Proposal PP18/0001 sought a Schedule 1 Amendment enabling the use of a Council pound on the site, which was formalised through LEP Amendment No. 10, gazetted on 18 January 2019.

Council has now identified a new superior potential site for the relocated Council Pound, however it is not a permissible use under the zoning table to Tweed LEP 2014.

It is proposed to bring about an amendment to the TLEP 2014 to allow the development and use of the alternative site for a new pound and rehoming facility by engaging the statutory planning proposal process. The planning proposal would seek an amendment to the Tweed LEP 2014 by introducing a new Schedule 1 clause allowing a “Council Pound” on the subject site, and amending the Tweed LEP 2014 “Additional Permitted Uses Map” to identify the subject site.

Council Pound would have the same meaning as in the Animal Companions Act 1998, which is:

a) A public or private pound established by a council under the Impounding Act 1993, or
b) Any other place approved by a council as a place for the holding of animals for the purposes of this Act”.

Subject Land

The site is legally described as Lot 30 in Deposited Plan 820048, No. 751 Eviron Road, Eviron and is owned by Tweed Shire Council. It is approximately 7 hectares in size, moderately sloped and vegetated. A single storey brick dwelling house in good condition is located at the highest point on the site. It is anticipated this building would be retained and re-purposed.

The site is zoned RU2 Rural Landscape. It is surrounded on three sides by Council owned land zoned SP2 Infrastructure, comprising the Tweed Cemetery to the east and an extensive tract of Council owned land (the subject of the SCRRC Master Plan) to the north and west (Figures 1, 2, 3). The site is bound to the south by Eviron Road and the Pacific Motorway is located approximately 400m to the east.
Figure 1 – Aerial photo identifying the subject site.
Figure 2 Zoning Map showing subject site zoned RU2 Rural Landscape and highlighted in blue, within the tract of SP2 Special Infrastructure land the subject of the Stotts Creek Resource Recovery Centre Master Plan.

Figure 3 Photos of site showing existing brick dwelling house, cleared land and vegetation.
**Land Use Compatibility Implications**

The site is considered superior for the relocation of the Council Pound and rehoming facility in terms of access, exclusion of flood zones and minimal potential for disturbance to neighbouring rural dwelling houses. However, it is subject to some environmental constraints and hazards that will require assessment prior to seeking Gateway, including an Aboriginal Cultural Heritage (ACH) due diligence assessment. It is noted that the entirety of the site is mapped as being Predictive under the Aboriginal Cultural Heritage Management Plan mapping. Whilst not a legislative requirement, best practises would necessitate a site assessment with recommendations from the Tweed Byron Local Aboriginal Land Council as to how to proceed. In this regard, an archaeological assessment may also be required.

In addition to ACH considerations there is a possibility that the conditions of Gateway Determination could require the preparation of additional studies and assessment of the following:

- Biodiversity;
- Vegetation and habitat;
- Bushfire risk (site mapped as Category 1 and 2 vegetation);
- Geotechnical assessment for required land forming;
- Traffic and Access assessment for impacts on Eviron Road and neighbouring allotments; and
- Potential noise impact assessment

Whilst the planning proposal would contemplate the land use of the pound and consideration of key site opportunities and constraints, it would not contemplate the future detailed design of the Council Pound facility. This level of assessment would be conducted at the development application stage. Any development proposal for the pound across the site would need to provide a thorough assessment of the potential environmental impacts and propose corresponding mitigation and management measures.

Notwithstanding the above, and pending appropriate management and design responses to alleviate as far as possible any environmental, cultural or social impacts, the subject site provides a logical planning outcome in response to the need for a new pound site. It is surrounded by Council owned land, for which the intended purpose is public infrastructure (waste facility), and is spatially buffered and removed from nearby rural dwelling houses.

Further, facilitating a pound on this site which is already owned by Council would remove the need for purchase of additional land, and would allow a rational use of a site that will in the future be encumbered by the adjoining waste resource facility in terms of possible future use.

**OPTIONS:**

1. Proceed with the recommendation provided in this report which is to endorse the proposed amendment to the Tweed Local Environmental Plan 2014 for a Gateway Determination; or

2. Do not proceed with the recommended Tweed Local Environmental Plan 2014 amendment.
CONCLUSION:

This report seeks Council support to prepare a planning proposal seeking an amendment to the TLEP 2014, in particular, to the additional permitted uses schedule, to allow a council pound at Lot 30 DP 820048, No. 751 Eviron Road, Eviron.

The amendment correlates with the need to enable the relocation of the existing Council pound through a logical planning outcome. Proceeding with the planning proposal will require adequate budget to facilitate its preparation, including the preparation of any required studies, however the overall benefit of relocating the pound from its existing unsuitable site to this new site in land use terms is considered justifiable.

COUNCIL IMPLICATIONS:

a. Policy:
Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:

Required budget allocation will be primarily based on the DPE’s Gateway Determination conditions in terms of the studies required in order to progress the planning proposal. These may include Aboriginal Cultural Heritage assessment, bushfire risk assessment, ecological and vegetation assessments, or engineering studies such as geotechnical, traffic or noise impact assessments.

Collectively these studies have the potential to result in significant budget implications beyond those normally considered for site works and construction costs for the new facility. Council would need to ensure appropriate funds are allocated and available in order for the planning proposal to proceed.

c. Legal:
Not Applicable.

d. Communication/Engagement:

Consult - We will listen to you, consider your ideas and concerns and keep you informed. Inform - We will keep you informed.

The draft planning proposal would be placed on public exhibition for a minimum of 28 days, Submissions received during public exhibition would be reported to Council with recommended planning responses to concerns raised.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.
SUMMARY OF REPORT:

The purpose of this report is to seek Council’s endorsement of the concept land rezoning detailed in the Wardrop Valley Master Plan (the “master-plan”) and supporting documentation as reviewed against the Wardrop Valley Workshop Outcomes Report October 2017 (the “outcomes report”) including the summary of principles.

The master-plan seeks to extend the existing Industry Central employment area over the subject site, identified as Area 6 within the Tweed Urban and Employment Land Release Strategy 2009, and was prepared on behalf of the land owner proponents. Tweed Shire Council is one of the land owners of the land over which the master-plan has been prepared.

The outcomes report and summary of principles has served to guide the master-planning design process and in planning and urban design terms is considered to embed and satisfy the intent of those guiding principles.

This report recommends Council endorse the master-plan, following which a planning proposal will be prepared to facilitate the rezoning of the site including the application of relevant development standards in alignment with the master-plan. The planning proposal process will also enact a finer grained review of the supplementary information supporting the master-plan and planning proposal request. The further assessment will only occur once a Cost Agreement has been executed between the Council and the proponent developer(s).

RECOMMENDATION:

That Council endorse:

1. The concept rezoning scheme as detailed in the Wardrop Valley Master Plan, prepared by RPS (January 2019 – Dwg.136593-05C), is supported for the purpose of informing a Planning Proposal to seek a rezoning of the subject lands;
2. The Proponent(s) must agree on a legally enforceable and binding approach, that is workable with the *Environmental Planning and Assessment Act 1979*, to ensure that future individual lots or buildings incorporate sustainable energy systems to provide or substantially supplement their energy demand that is consistent with the recommendations of the Master Planning Proposal, Solar Feasibility report prepared by ECL Power Services dated July 2018; and

3. A planning proposal over Area 6 in alignment with the endorsed master-plan be prepared and submitted for a Gateway Determination under Section 56 of the *Environmental Planning and Assessment Act, 1979*, describing the strategic intent and justification for the rezoning amendment and detailing the studies to be undertaken prior to any public exhibition of the proposal.
REPORT:

Tweed Shire Council in its capacity as a landowner entered into a joint venture agreement with a neighbouring private landowner (Dickinson Group) to undertake a rezoning and subsequent development of their combined lands, comprising “the Site”. The Site is identified in the Tweed Urban and Employment Land Release Strategy 2009 (Area 6 on Figure 16) as ‘Potential Employment Lands’ (refer Attachment 1).

The land-use investigation and zoning proposals have been ongoing for about 8 years with the previous concepts based on simply expanding the industrial zoning. Rather than accepting that request, an alternative process to undertake a one day workshop to facilitate an up-front collaborative strategic planning approach to determine the sites broader strategic direction, site urban design and land use opportunities, was undertaken with the assistance of the architectural and urban master-planning practice; Deicke Richards Pty.

The workshop was held over a 7 hour period on 13 September 2017 and was attended by Tweed Shire Councillors, TSC officers and land owner and consultant representatives for the Dickinson Group (the proponent developer). This ‘enquiry-by-design’ process included a site inspection, summary of the sub-regional needs and the constraints facing the expansion of the Murwillumbah Township and its locality. The design concepts that forged the key design principles came about by the group working on two independent and separate schemes working collaboratively through the Deicke Richards design facilitators and then a merging of ideas and concepts from the two group schemes, which were unsurprisingly very similar and importantly both schemes identified the need for a mixed use zoning, among other things.

As an outcome of that workshop, the Wardrop Valley Workshop Outcomes Report October 2017 (the ‘outcomes report’) was produced including the summary of principles. The intent of the outcomes report and summary of principles was to serve to guide the future master-planning design process and planning proposal process, which is now the subject of this report.

The outcomes report was reported to the Council Meeting (Confidential) of 16 November 2018 where it was resolved that:

1. Council receives and notes the Wardrop Valley Workshop Outcomes Report October 2017;

2. Council endorses the summary of principles (Wardrop Valley Workshop Outcomes Report October 2017 - Section 07) to serve to guide the future master planning design process and planning proposal process over the subject site;

3. A copy of the Council endorsed Wardrop Valley Workshop Outcomes Report October 2017 be forwarded to the Joint Venture Group (Tweed Shire Council and the Dickinson Group) to guide their planning and urban design consultants in the preparation of a master plan over the site known as ‘Area 6’; and

4. A further report detailing the master plan over ‘Area 6’ be prepared for Council endorsement prior to the preparation of a planning proposal over the site.

In consideration of resolution 4, a site master-plan with supporting documentation was prepared by RPS Pty Ltd and DAC Planning Pty Ltd has lodged a request for a planning
proposal on behalf of the Joint Venture Group (Tweed Shire Council and the Dickinson Group). The master-plan is depicted in Figure 1 ‘Proposed Structure and Zoning Plan’, below.

In support of the master-plan a number of reports have also been submitted for consideration which have been listed in Table 1 below. Whilst the review of some of these reports are integral to this master-plan review process, others are more closely relevant to the planning proposal process. As such, the more detailed and co-ordinated consideration of these specialist studies across the various Council business units will be commenced once a Cost Agreement has been finalised between the Council and proponent developer and a Gateway determination notice is issued.

<table>
<thead>
<tr>
<th>Report submitted</th>
<th>Review for Master Plan</th>
<th>To be reviewed for Planning proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annexure 1 - Traffic Report</td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>Annexure 2 – Geotechnical report</td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>Annexure 3 – Ecological assessment</td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>Annexure 4 – Proposed Zone Plan</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Annexure 5 – Earthworks Plan</td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>Annexure 6 – Consent of the landowners</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Annexure 7 – Advice Re Land use</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Annexure 8 – Concept Plan of Subdivision</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Annexure 9- TSC Email Re: Sewer</td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>Annexure 10 – Cultural heritage Due Diligence</td>
<td></td>
<td>Yes</td>
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<tr>
<td>Request for Planning Proposal Report</td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>Urban Design Report RPS</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Structure Plan and Concept Plan</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Solar Feasibility – ECL Power Services</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Visual Impact Assessment</td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>Landscape Design Principles</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>TSC Memo Re: Visual Impact</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Email RPS – Intersection Design</td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>Master Plan Report – DAC</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Table 1 – Schedule of submitted reports and documents.
Figure 1 - Proposed Structure and Zoning Plan
Figure 2 - Proposed Subdivision Plan
Review of the Wardrop Valley Area 6 Master Plan

The defining summary principles as identified within the outcome report have served as the framework to review the submitted master plan. Each of the summary principles have been identified below with a planning comment against how the master plan has embedded or satisfied the intent of each of the principles.

Due to the relative ‘higher order’ nature of the guiding principles, the master plan review, at this stage of the planning process is limited to an assessment of the master-plan against each of the following considerations:

- Vision
- Land use
- Landform and Landscape
- Access and Movement
- Urban Structure
- Residential development

Vision

Wardrop Valley Workshop Outcomes Report

- The overall vision for expansion and development of the existing Industrial Central area is as a diverse employment generating precinct drawing together local and regional industry and cluster retail, commercial and business opportunities.

Master Plan Response

- Proposed zoning allows for a range of business and industry uses.
- Incorporates separation of key use areas.
- Encourages activation with a defined mixed use hub facilitating a diverse mix of uses directly adjoining a public domain (open) space.
- Provides for a range allotment sizes catering to a broad range of employment generating land uses. Diversity of scale allows for flexibility and clustering of uses, business lifecycle growth, and
- Opportunity for cluster businesses to take advantage of the growing artisan food and drink industries and their multi-faceted trading environment.

Planning and Urban Design Comment

The master-plan adequately addresses the key design criteria by focusing on industry diversification and allowing for the clustering of new and emerging artesian, food, beverage and lifestyle industries in a unique and highly attractive setting, which is new to the Tweed region; this is in keeping with the vision for the greater Murwillumbah locality.
Land use Principles

Wardrop Valley Workshop Outcomes Report

- Expand industrial subdivision to supplement the existing Industry Central light industrial precinct.

- Introduce additional and more diverse employment generating land uses which may include a small business park, smaller industrial units and an offer of retail and commercial uses to compliment and support the predominately light industrial land use.

- Consider bulky goods uses and food markets within the precinct which currently cannot be accommodated within the Murwillumbah Town Centre.

Master Plan Response

- Expands on the existing industrial subdivision to meet growing demand without jeopardising the opportunity to create a more vibrant and diverse centre for commerce. The master-plan proposes increased land use diversity including the mixed use hub which will also service the existing Industrial Central Precinct.

- Master-plan includes provision of a local centre, mixed use, business park, range of industrial sized allotments, large lot residential and open space areas.

- The diversity of uses and allotment sizes would support a wide array of uses at a more boutique scale which lends itself to emerging lifestyle business and which is consistent with the character and uniqueness of the Murwillumbah sub-region.

- Diversification supports rather than dominates the industrial aspects of precinct

- The proposed range of industrial allotment sizes provides the opportunity for larger floor plate bulky goods uses, processing or manufacture supported by a complimentary scale of business precinct, which can take advantage of the public domain and natural setting

- The proposed mixed-use precinct will allow for the areas expansion and for the Town to retain its scale and heritage character, which will be essential as it continues to position itself as true tourism destination
Planning Committee: Thursday 4 April 2019

Planning and Urban Design Comment

The master-plan responds well to the key principles through its complimentary range of zoning and sub-precincts, which will enable clustering and active, lifestyle driven, centres, which in turn will add diversity and opportunity for local employment and business opportunities.

Landform and Landscape

**Wardrop Valley Workshop Outcomes Report**

- Reduce the remaining Wardrop Valley Road ridgeline and fill the northern part of the site to form a broader continuous developable area with the existing Industry Central precinct.

- Create a flat easy to build-on industrial and employment generating subdivision capable of accommodating a range of lot sizes and business and industrial opportunities.

- Retain vegetation where possible as important ecological and landscape character elements which also provide physical/visual delineation between adjoining land uses.

**Master Plan Response**

- The landform is undulating with a pronounced ridgeline that will require regrading to enable usable land for industrial purposes, that has good connectivity and efficiently maximises the use of this scarce flood free land.

- A visual analysis has been completed that describes the need for complimentary screen planting – this will need to be critically assessed at the planning proposal and development application stages.

- The proposal achieves this objective.

- The proposal avoids excessive industrial development and regrading by incorporating other land-uses, for example large lot residential where the landform is both steep and vegetated.

- The proposal encourages the retention of vegetation where that is practicable and unavoidable when considering the demand for flat land and easy grades related to the serviceability of industrial land.

- The more significantly vegetated areas are proposed as large lot residential so as to avoid unnecessarily clearing significant vegetation.

- Supplementary vegetation planting will be required.
Planning and Urban Design Comment

The master-plan responds well to the landform and landscape principles, which balances the need to create usable land to accommodate larger floor plate buildings with the desire to retain existing trees, vegetation and landform to the south eastern portion of the site. Wardrop Valley Road would be realigned around the outside of the master-planned area and landscape buffers along its length as well as within the master-planned area would provide opportunity for vegetative screening to strengthen landscape character and mitigate visual impacts.

<table>
<thead>
<tr>
<th>Access and Movement</th>
<th>Master Plan Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Outcomes Report Principle</strong></td>
<td><strong>Master Plan Response</strong></td>
</tr>
<tr>
<td>• Relocate the existing Wardrop Valley Road as a new northern perimeter road providing access around, rather than through the site.</td>
<td>• The master-plan has adopted a simple and usable higher order permitter-based road network that responds to the existing network points and that maximises land efficiency (minimises unnecessary land wastage) capable of servicing a wide array of uses and scale.</td>
</tr>
<tr>
<td>• Consider linking Quarry Road through to intersect with Lundberg Drive/ Wardrop Valley Road intersection.</td>
<td>• Road design is premised on services larger industry lots, which would also be amenable to internal laneways or the like if the development lot / design supported this.</td>
</tr>
<tr>
<td>• Consider a new road link access off Reserve Creek Road to Lundberg Drive.</td>
<td>• The proposal includes a connection through to Quarry Rd at the intersection of Wardrop Valley Road and Lundberg Drive. This key intersection forms the gateway threshold and entry point to the Industrial Central Precinct activated by the defined activity hub which would include a range of local centre, mixed use, Business Park and open spaces uses.</td>
</tr>
<tr>
<td></td>
<td>• The site does not adjoin Reserve Creek Road and this connection does not form part of the master-plan however, this can be further interrogated during the planning proposal or development application phase.</td>
</tr>
<tr>
<td></td>
<td>• A new connection through to Thornbill Drive in the existing Industry Central is proposed.</td>
</tr>
</tbody>
</table>
Planning and Urban Design Comment

The master-plan responds well to the key access and movement principles through and the extension of the existing road network to provide new connections to Quarry Road, Lundberg Drive and Thornbill Drive. The realigned of Wardrop Valley Road which would delineate the sites northern perimeter would provide a higher order tree-lined connecting-through road.

Urban Structure

Outcomes Report Principle

- Form a precinct heart at the confluence of Lundberg Road and Wardrop Valley Road intersection as the gateway entry to the precinct.

- The heart should include an area of public domain and or small area of open space.

- The heart should capitalise on the view opportunities to the north and west towards Wollumbin (Mt Warning).

- Surrounding the mixed-use heart there are smaller industrial lots less than 2000sqm in area.

- The heart is connected with a gridded subdivision pattern capable of accommodating a range of lot sizes and required vehicular access and egress.

Master Plan Response

- The proposal establishes a zoning / business scheme and intersecting primary access that allows for the creation of ‘gateway’ to the business precinct.

- The gateway approach is supported by an early alternative route along the realigned Wardrop Valley Road that enables industry traffic to be filtered and separated.

- The proposal allows for a generous public domain space in the heart of the business precinct that can also be embellished by street planting and urban infrastructure.

- The location of public space capitalises on the generous view fields to the north, north-west toward Mt Wollumbin and the Caldera range.

- These spaces are ideally located for night use or weekend use in association with boutique artisan food and beverage industry, creating a lifestyle / recreational or cultural hub.

- There is a proposal to have smaller industry lots adjacent to the business centre precinct – these can be seen in the indicative lot layout concept plan in Figure 2 below.

- The proposed zoning / road pattern is a grid pattern

- The design lends itself to ease of movement and access
• Consider relocating the Council Depot to Quarry Road location (adjoining old tip site).

• Council is currently reviewing and considering preferred sites and opportunities for the depot relocation as a separate process.

Planning and Urban Design Comment

The master-plan responds well to the key urban structure principles by enabling a functional industrial heart to the overall business park, book ended by a large-lot residential precinct to the south-east and commercial-retail precinct to the north-west. The design allows for efficient business operations, encourages clustering and multi-use for a wider array business and activities. It is clearly geared to encouraging a more welcoming and attracting business environment than is evident in the Tweed’s more traditional industrial and commence and trades precincts.

Residential Development

Wardrop Valley Workshop Outcomes Report

• Consider opportunities for ‘shop-top’ housing development within the precinct centre where it forms part of a mixed-use development and supports employment outcomes.

Master Plan Response

• The commercial zones proposed with the business precinct will allow for shop-top housing.

• Housing can be incorporated in a SOHO format to integrate with the business use of the premises or delivered separately but providing prolonged activity periods and passive surveillance essential for security.

• The combination of zones and mixed-use will support a great range of employment opportunities.

• Consider a residential precinct to the south-east portion of study area which would form an interface between the rural character (south-east) and the industrial precinct (north-west).

Planning and Urban Design Comment

The master-plan responds well to the key principles by distributing the housing opportunities where they can best utilise the environmental and business (services) context, providing a unique housing opportunity that supports the natural environment on the one hand and that adds to the vibrancy and economic viability on the other.
OPTIONS:

Option 1 – Proceed with preparing a Planning Proposal for submission to the Gateway.

Option 2 – Defer consideration to seek further clarification on Council nominated issues.

Council officers recommend Option 1.

CONCLUSION:

A review of the submitted Wardrop Valley Master Plan has been undertaken against the Council endorsed summary of principles as identified within the Wardrop Valley Workshop Outcomes Report. The proposed master-plan, zoning and structure, is seen achieve the key principles and will facilitate a more modern style of business park that will meet the commercial retail needs of the wider area, as well as providing opportunity for larger industry and business. It provides flood free land which is also seen as one of the major benefits of this development, particularly given the devastation that occurred to local businesses during the March 2017 flood event, and will capitalise on a configuration and mix of zoning to enable the clustering of emerging lifestyle industry, such as the growing artisan food and drink industry.

This report recommends proceeding with the preparing a Planning Proposal for submission to the Gateway.

COUNCIL IMPLICATIONS:

a. Policy:
   Corporate Policy Not Applicable

b. Budget/Long Term Financial Plan:
   Progression of the planning proposal requires a Cost Agreement to be executed between the Council and the proponent developer and as such there would be no financial impact on the current budget or long-term budget estimates.

c. Legal:
   Not Applicable.

d. Communication/Engagement:
   Planning proposal will be exhibited in accordance with statutory requirements.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Attachment 1. Tweed Urban and Employment Land Release Strategy 2009 (Area 6 on Figure 16) as ‘Potential Employment Lands’ (ECM 5813746)
[PR-PC] Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards

SUBMITTED BY: Director

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

2 Making decisions with you
2.1 Built Environment
2.1.2 Development Assessment - To assess development applications lodged with Council to achieve quality land use outcomes and to assist people to understand the development process.

ROLE: Provider

SUMMARY OF REPORT:

In accordance with the Department of Planning's Planning Circular PS 08-014 issued on 14 November 2008, the following information is provided with regards to development applications where a variation in standards under SEPP1 has been supported/refused.

RECOMMENDATION:

That Council notes the March 2019 Variations to Development Standards under State Environmental Planning Policy No. 1 - Development Standards.
REPORT:

On 14 November 2008 the Department of Planning issued Planning Circular PS 08-014 relating to reporting on variations to development standards under State Environmental Planning Policy No. 1 (SEPP1).

In accordance with that Planning Circular, the following Development Applications have been supported/refused where a variation in standards under SEPP1 has occurred.

<table>
<thead>
<tr>
<th>DA No.</th>
<th>DA18/0884</th>
</tr>
</thead>
<tbody>
<tr>
<td>Description of Development:</td>
<td>staged proposal consisting of warehouse or distribution centre, light industry, industrial retail outlet and ancillary office premises and electricity generating works (solar energy system); and additional works (NRPP)</td>
</tr>
<tr>
<td>Property Address:</td>
<td>Lot 10 DP 1084319; No. 1 Wollenni Place; Lot’s 32, 33, 34, 35, 36, 41 &amp; 42 DP 1200182; Pacific Highway; Lot 1 DP 1011625; Parkes Drive Tweed Heads West</td>
</tr>
<tr>
<td>Date Granted:</td>
<td>01/03/2019</td>
</tr>
<tr>
<td>Development Standard to be Varied:</td>
<td>Clause 4.3 Heights of Buildings</td>
</tr>
<tr>
<td>Zoning:</td>
<td>B7 Business Park</td>
</tr>
<tr>
<td>Justification:</td>
<td>Variation to the maximum building height for Stage 2 building</td>
</tr>
<tr>
<td>Extent:</td>
<td>25% variation (increase) to the maximum building height</td>
</tr>
<tr>
<td>Authority:</td>
<td>Northern Regional Planning Panel</td>
</tr>
</tbody>
</table>

COUNCIL IMPLICATIONS:

a. Policy:
Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:
Not Applicable.

c. Legal:
Not Applicable.

d. Communication/Engagement:
Not Applicable.

UNDER SEPARATE COVER/ FURTHER INFORMATION:

Nil.