

Joint Regional Planning Panel (Southern Region) – 2 December 2010

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| JRPP Reference No. | 2009STH014 |
| DA No. | RA09/1003 - Alterations and Additions to the Lake Conjola Entrance Tourist Park |
| Property: | Lot 486 DP 861543, Lake Conjola Entrance Road, Lake Conjola |
| Applicant | Holiday Haven Tourist Parks (Shoalhaven City Council) |
| Report By: | Peter Johnston, Shoalhaven City Council |

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

Reason for Consideration by Joint Regional Planning Panel

The submitted development application (DA) has been referred to the Joint Regional Planning Panel (JRPP) pursuant to the State Environmental Planning Policy (Major Development) 2005 as the development will provide additional accommodation for 10 persons or more on a parcel of land that is partly in a sensitive coastal location outside the metropolitan coastal zone.

Proposal

The DA, as amended, seeks approval to:

- a) convert thirty six (36) existing camping sites into short term moveable dwelling sites;
 - b) create seven (7) new short term moveable dwelling sites;
 - c) create twelve (12) new camp sites; and
 - d) erect one (1) new relocatable amenities building
- within an existing caravan park known as the Lake Conjola Entrance Tourist Park.

Permissibility

The site is part zoned 6(a) (Open Space-Recreation “A” (Existing) Zone) land pursuant to the Shoalhaven Local Environmental Plan 1985 (SLEP 1985). The proposal is a permissible use in the zone with development consent.

Main Issues

Bushfire, threatened species, flooding and compliance with the Local Government (Manufactured Home Estate, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

RECOMMENDATION

It is recommended that RA09/1003 (JRPP Reference 2009STH014) be approved subject to the conditions contained in Attachment ‘A’.

ASSESSMENT REPORT

1. Background

The following provides details on pre-lodgement discussions, post lodgement actions and general site history:

Pre-lodgement: A pre-lodgement meeting (i.e. Development Advisory Unit meeting) was had with Council staff prior to the applications lodgement on 3 September 2009.

Post Lodgement: The DA was lodged on 2 November 2009. Council officers during the assessment of the application requested additional information and/or provided advice as overviewed below:

- 5 November 2009: request to provide a valuation details for proposed work and an accurate site map locating the proposed amenities building;
- 9 November 2009: request details in relation to caravan regulations requirements;
- 27 January 2010: request revised bushfire report for re-referral to Rural Fire Service (RFS) as RFS had imposed extensive Asset Protection Zones (APZ) along the southern boundary of the existing caravan park that would require the removal of vegetation identified as "Coastal sand forest" and "Bangalay sand forest of the Sydney Basin and south east corner endangered ecological communities (EEC)";
- 18 June 2010: requested flora and fauna report as revised comments from RFS retained a lesser APZ impacting on EEC;

The applicant submitted all requested information by 24 August 2010.

The current application is seeking retrospective consent for the use of some of the sites that form part of this application. This application is therefore seeking to rectify the existing situation so that all sites have approval, comply where required with the Local Government Regulations and are subsequently licensed. A review of the past approvals has indicated that limited supporting information in relation to the number and location of camping, short term and long term sites is available.

2. Subject Site and Surrounds

The subject site:

- Is located on the south eastern bank of Lake Conjola, approximately 13km north of Ulladulla and 7km east of the Princes Highway ;
- Has a legal description of Lot 486 DP 861543, Lake Conjola Entrance Road, Lake Conjola;
- Is adjoined to the east and south by predominantly undeveloped crown land zoned 6(a) and to the west by low density residential land zoned 2(e) village;
- Is zoned part 6(a) (Open Space-Recreation "A" existing under SLEP 1985;
- Has a total area of 14.87 hectares;

- Presently contains a caravan park currently known as the Lake Conjola Entrance Tourist Park, which has been used as a caravan park for more than 60 years and managed by Council from 1974;
- Is identified as bushfire prone and flood prone land and containing an Endangered Ecological Community (i.e. “Coastal sand forest” and “Bangalay sand forest of the Sydney Basin and south east corner”). Refer to **Attachment ‘B’** for additional details on the site’s location.
- The tourist park is currently licensed for 260 short term sites and 71 camping sites for a total of 331 sites.

3. Proposal

The submitted DA proposes to formally:

- a) convert thirty six (36) existing camping sites into short term moveable dwelling sites;
 - b) create seven (7) new short term moveable dwelling sites;
 - c) create twelve (12) new camp sites; and
 - d) erect one (1) new re-locatable amenities building
- within the existing caravan park which, if approved, will result in a total of 350 sites composed of 303 short term sites and 47 camping sites. Refer to **Attachment ‘C’** for a copy of the site plan that shows the location of the proposed new and converted sites.

The changes (except for installation of the amenities building and sullage) as proposed, have already been undertaken. In addition works have been undertaken to provide a number of the changed/new sites with power and reticulated water. As such the current application is seeking retrospective consent for the use of the sites.

4. Community Consultation

The DA was notified in accordance with Council’s Community Consultation Policy.

5. Statutory Considerations

The following planning instruments and controls apply to the proposed development:

- i) Environmental Planning and Assessment Act 1979 (EP&A Act);
- ii) State Environmental Planning Policy (Major Development) 2005;
- iii) State Environmental Planning Policy No.21 – Caravan Parks;
- iv) State Environmental Planning Policy No.71 – Coastal Protection;
- v) Illawarra Regional Environmental Plan;
- vi) SLEP 1985 (as amended);
- vii) Shoalhaven City Council Section 94 Contribution Plan (as amended); and
- viii) Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005

Additional information on the proposal’s compliance with the above documents is detailed in the following section of this report.

6. Statement of Compliance /Assessment

The following provides an assessment of the submitted application against the matters for consideration under 79C of the EP&A Act.

(a) Any planning instrument, draft instrument, DCP's and regulations that apply to the Land

- i) **EP&A Act:** The provisions of Part 1, Section 5A and Part 4, Division 5, Section 90, Section 91 and Section 91A of the EPA Act are applicable to the proposed development. The matters contained in each of the above that have relevance to this application are overviewed below:

a) Part 1 (Preliminary):

Section 5A (Significant effect on threatened species, populations or ecological communities, or their habitats): A flora and fauna assessment report prepared by, EcoLogical Australia (ELA) dated 23 August 2010, was submitted to provide an APZ assessment of impacts for the clearing of native vegetation for the required, which concluded that the proposal would not have a significant effect. This position is supported by Council's threatened species officers as detailed later in this report.

b) Part 4 (Development Assessment);

- Section 90: As the DA has not been made by or on behalf of the Crown, the requirements of Division 5 apply to the proposed development;
- Section 91: The proposed development in order to be carried out, requires development consent and an approval listed within this section (i.e. approval under the Rural Fires Act 1997 - authorisation under section 100B in respect of bush fire safety for development of land for special fire protection purposes). As such, it is classified as "integrated development" in accordance with the provisions of this section;
- Section 91A: General terms of approval (i.e. bushfire safety authority) have been sought from the RFS.

In summary, the proposed development does not conflict with the applicable provisions of Part 1, Section 5A and Part 4, Division 5 of the EPA Act.

- ii) **State Environmental Planning Policy (Major Development) 2005 (SEPP 2005):** The provisions of SEPP 2005 apply to the proposed development. The clauses/matters contained in SEPP 2005 that have relevance to this application are overviewed below:

Clause 13C: In accordance with the requirements of Clause 13C(a)(i), as the development site is partly located within a „sensitive coastal location' outside the

metropolitan coastal zone and will provide additional accommodation for 10 persons or more the submitted application is classified as „regional development’ with the determining authority for the application being the JRPP.

In summary, it is considered that the proposed development does not conflict with the applicable provisions of SEPP 2005 so long as it is referred to the JRPP for determination.

iii) State Environmental Planning Policy No.21 – Caravan Parks (SEPP 21): An assessment has been undertaken and the development generally complies. In summary, the proposed development does not conflict with the aims and applicable provisions of SEPP 21.

vi) State Environmental Planning Policy No.71 – Coastal Protection (SEPP 71): The provisions of SEPP 71 apply to the site as it is located within the ‘coastal zone’ and partly within a ‘sensitive coastal location’ as defined by the SEPP. SEPP 71 requires Council to take certain matters into account when determining a development application that is located within the coastal zone. The clauses/matters contained in the SEPP71 that have relevance to this application are overviewed below:

- a) Part 2, Clause 7: In accordance with subclause (b) as SEPP 71 applies to the site, the matters in Clause 8 are to be taken into consideration in determining this application;
- b) Part 2, Clause 8: The proposal is consistent with the requirements of this clause as:
 - It is not inconsistent with the aims of the policy (i.e. (a) to (l) in Clause 2);
 - It does not impact or impinge on public access to or along the coastal foreshore;
 - No existing access points are being blocked/closed and no new access points are proposed;
 - It will not lead to excessive overshadowing of foreshore areas or loss of views from a public place due to the existing natural topography;
 - It will not diminish the scenic qualities of the area/adjacent coast;
 - It will not have an adverse impact upon flora and fauna as detailed elsewhere in the report ;
 - It will not impact upon wildlife corridors;
 - It will not impact upon items of heritage, archaeological or historical significance;
 - It will not lead to a conflict between land based and water based coastal activities;
 - It will not impact upon the water quality of coastal waterbodies; and
 - It is considered to be suitable development having regard for existing land uses however, any consent issued should restrict the erection of cabins, manufactured homes or permanent holiday vans on any

proposed short term sites in accordance with the directions provided by the NSW Land and Property Management Authority (LPMA) letter (dated 25 February 2010) which states:

“the proponent must not establish, locate or allow manufactured homes, cabins or unregistered moveable dwellings within the precinct subject to this Regional Development Application 09/1003.

Guidance Note: This precinct is only for the use of mobile homes, campervans and camping, no holiday van sites and no cabins.”

- c) Part 4 Clauses 14: The proposed development will have no impact upon public access to or along the coastal foreshore given the proposal maintains all existing access points to or along the coastal foreshore;
- d) Part 4 Clause 15: Effluent disposal is proposed as part of this application via an existing reticulated system and, as such, it will not have a negative impact on water quality of the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform; and
- e) Part 4 Clause 16: The proposed development will not result in untreated stormwater being discharged into the sea, a beach, an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform. All new short term sites will be connected into the existing stormwater drainage system.

In summary, the proposed development does not conflict with the aims and applicable provisions of SEPP 71.

vii) Illawarra Region Environmental Plan (IREP): The subject land is affected by the provisions of IREP. An assessment against the requirements of the IREP has indicated that the subject land is not identified as a wildlife corridor, land of prime crop and pasture potential, land supporting rainforest vegetation, land containing extractive materials, land containing coal resources, land affected by a service corridor, land that is part of the sub regional commercial centre or land with landscape or environmental attributes. The proposal does not conflict with the relevant provisions of the IREP and will achieve the applicable outcomes.

viii) SLEP 1985 - as amended: The provisions of SLEP 1985 apply to this site. The clauses/matters that have relevance to this application are overviewed below:

- a) Clause 2: The submitted proposal satisfies the general aims and objectives of this clause.
- b) Clause 9: The subject land is zoned 6(a) (Open Space-Recreation “A” (Existing) Zone) land under SLEP 1985. In terms of the objectives, the proposal while not being a recreational land use, has had prior development consents issued for its existing use and will not compromise the provision of future facilities in that the current application proposes no

expansion in the existing developed land area. It is therefore considered to be consistent with objectives of the zone. In terms of permissibility, a „caravan park’ is listed as a permissible use with development consent within land zoned 6(a). The term „caravan park’ is defined under *SEPP 21* as meaning land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed. The currently proposed development satisfying the requirements of this definition.

- c) Clause 26: The proposed development is located in an area which has sewer and water services/infrastructure and therefore satisfies the requirements of this clause. In addition, the development will not adversely impact upon public health, surface water, groundwater or community amenity and, as such, will not conflict with the requirements of this clause.
- d) Clause 37A: The submitted application was notified in accordance with Council’s Community Consultation Policy. Refer to Section 4 (Community Consultation) for further details.
- e) Clause 51: The development site is currently being used as a caravan park and, as such, the proposed development conforms with the sites existing use.

In summary, the proposed development does not conflict with the aims and relevant provisions of SLEP 1985.

xi) Shoalhaven City Council Section 94 Contribution Plan (as amended): The provisions of Council’s Section 94 Contribution Plan apply to this site. Having regard for the works proposed, the following Section 94 projects are applicable to the application:

| Project | Description | Rate | Quantity | Total |
|----------------------------|------------------------------------|----------|----------|------------------|
| CWFIRE0001 | Citywide Fire & Emergency services | \$161.25 | 4.75 | \$765.94 |
| CWFIRE0002 | Shoalhaven Fire Control Center | \$211.11 | 4.75 | \$1,002.77 |
| CWMGMT2001 | Section 94 Administration | | | \$176.60 |
| Total Contributions | | | | \$1945.31 |

The calculation of contributions is based upon the number of new short term sites proposed resulting in an equivalent tenement (ET) requirement of 4.75 (19 x .25). The total contribution applicable to the proposed development is \$1945.31. If the application is approved, any issued development consent should be conditioned to reflect the above.

x) Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005:

An assessment of the proposal against the regulation has been completed and the proposal either complies with the regulations or requires conditions of consent as indicated in the following table:

| Clause No. | Requirement | Proposal compliance |
|------------|---|--|
| 83 | Caravan park not less than 1 hectare | Yes |
| 84 | At least 10% for recreation | Yes |
| 85 | Short-term site at least 65 square metres Camp sites at least 50 Square metres | Yes |
| 86 | Sites to be identified and boundaries delineated | Condition of consent proposed |
| 87 | Sites must have vehicle access | Yes |
| 88 | Community buildings to be setback at least 10m from park boundary and site boundary. | Not 10m but permitted to be down to 5m if adequately screened – condition proposed. |
| 89 | Sites to be more than 10m from public road Sites to be more than 3m to park boundary | Yes |
| 96 | Resident carparking - onsite | Yes |
| 97 | Visitor carparking – 1 per every 20 ST sites & 1 for every 40 Camp sites = 4 | Yes |
| 98 | Disabled visitor carparking | Condition of consent proposed |
| 102 | Sewerage/Sullage | Condition of consent proposed for provision of sullage disposal point for each short term site |
| 103 | Drainage – sites adequately drained | Site drainage adequate |
| 107 | Showers and toilets (2 camp sites = 1 dwelling site, | Yes |
| 108 | Facilities for people with disabilities | Yes |
| 111 | Proximity to shower blocks | Yes. |
| 125 | Community map | Yes |
| 128 | Fire hydrants | Condition required to confirm compliance |
| 129 | Fire hose reels | Yes |
| 130 | Car/boat wash | Yes |

(b) Likely impact of that development on the natural and built environment and social and economic impacts in the locality.

i) Threatened Species: A flora and fauna assessment report prepared by, ELA dated 23 August 2010, was submitted to provide an assessment of impacts for

the clearing of native vegetation required to meet the RFS bushfire APZ requirements of 15m for the proposed commercial additions to the tourist park.

Council's threatened species officers reviewed the report and conducted several site visits from which they agreed with the recommendations of the environmental consultant, however, as clearing may result in destabilisation of the dune toe, which is a recognised coastal hazard, conditions of consent are required to demonstrate how the dune stability and integrity will be maintained by such works. Subject to this requirement, protection measures and the recommendations of the ELA report forming part of a consent, Council's threatened species officers can concur with the ELA conclusion of "non-significance". A crucial factor in reaching this conclusion was because all hollow bearing trees can be retained and the extent of the local occurrence of the EEC extends beyond the subject site over a large area of greater than 40 hectares. Refer to draft conditions of consent in **Attachment 'A'**.

- ii) **Traffic and Access:** The proposal is a minor extension to the existing caravan park and the current no traffic and access is satisfactory.
- iii) **Context and Setting:** The works proposed will result in the expansion of the existing caravan park. The expansion is a tourist related use which is compatible / consistent with the current use of the site. The conversion of 36 existing camp sites and the creation of 7 new short term movable dwelling sites as proposed is considered acceptable for transient caravans, campervans and tents. However, as short term movable dwelling sites it would be possible to apply to install more permanent structures under the Local Government Regulation, such as the installation of a manufactured home or associated structure. In relation to both flood impacts and visual impact in this location such permanent structures and even park or holiday vans that remain on the site permanently are not supported.

This position is further supported by LPMA advice and it is considered that a permanent built structure on any of the new short term sites proposed will have an adverse impact upon the visual setting and availability of the sites for transient tourist use. Conditions will be imposed in any issued consent to ensure that these impacts are minimised by limiting the proposed short-term accommodation on these sites to tents, caravans (including annexes) and campervans, and to prohibit any permanent structures. The applicant has been advised of the above and has raised no concerns.

- iv) **Social Impacts:** The proposed development will provide additional tourist accommodation within the area. Given the location of the site and the infrastructure that has been provided to support the existing development, the proposed development will have minimal adverse social impact on surrounding lands or the adjoining community.

- v) **Economic Impacts:** The proposed development will have a positive economic impact in that it will provide additional tourist accommodation which has the potential to provide additional financial benefits (i.e. increased patronage) to local businesses particularly during holiday periods.
- vi) **Sediment and Erosion Control:** Clearing works are proposed as part of this application for the creation of APZ. Erosion sediment controls will be required and are further detailed in comments on threatened species above. Appropriate conditions are included in the draft conditions of consent.

(c) The suitability of the site for the development

- i) **Bush Fire:** The RFS initially responded requiring an APZ of 100m along the southern developed boundary of the park which would have required the clearing of a significant area of threatened EEC vegetation that was not supported. Several reviews of the RFS position were requested which resulted in the RFS providing a s100B Bush Fire Safety Authority with a reduced APZ of 15m along the southern developed boundary of the park. The general terms of approval issued by the RFS have been incorporated into the draft conditions of consent.
- ii) **Flooding:** The park is subject to flooding and all areas below 2.7 m AHD are designated high flood risk precinct. Other areas in the park have low flood risk (i.e 2.7-2.9mAHD) or no flood risk (>2.9 m AHD). The high flood risk precinct is an area where high flood damages, potential risk to life or evacuation problems would be anticipated, or where development/activities would significantly and adversely effect flood behaviour.

As the proposal is for minor expansion of an existing caravan park that already has a Flood Emergency Management Plan and the proposal is only for camping sites and short term tourist sites without any permanent structures being permitted to remain on sites, the proposal is considered acceptable. Draft conditions have been proposed in accordance with Council's Draft Caravan Park Policy for Flood Prone Areas.

- iii) The proposed development is a permissible use within the lands current zoning, is consistent with the current approved use of the land and will not adversely impact upon adjoining lands. As such, that the site is suitable for the proposed development.

(d) Any submissions made in accordance with the Act or the regulations

The application was notified by way of a public notification:

- Individual property owners within a 200 metre radius of the site were notified of the proposal. The notification period was from 9/11/09 to 7/12/09;

- The proposal was advertised in the local press (Milton Ulladulla Times) on 25/11/09 and 2/12/09; and
- The application and supporting documentation were on display at Council's Ulladulla offices as well as on Council's website;
- No submissions were received by Council during this community consultation period. 1 submission was received well outside the notification period which raised issues consistent with this assessment apart from a request to relocate the public road within the park which is considered to be outside the scope of the current proposal.

(e) The public interest

Climate Change: No cumulative impacts are expected in regard to the proposed development that could further contribute to climate change as referred to in the flooding comment above, the nature of the proposed additions will not increase risks associated with climate change.

Climate change impacts likely in the location are sea level rise and an increase in rainfall intensity. These combined are likely to result in an increase in the predicted flood levels from catchment and storm surge flooding. The sites are to only be used for transient tourist use without any permanent structures on dwelling sites and no permanent occupation of sites. An Flood Emergency Management Plan exists for the site and the proposed tourist and camp sites would be evacuated in accordance with the existing triggers in the plan.

7. Referrals

Internal:

- **Environmental Health Officer:** Initial advice provided raised concerns with the developments compliance with the Local Government (Manufactured Home Estate, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. Additional information provided which was re-referred for comment. Revised advice provided which raised no objection to the proposal subject to the imposition of recommended conditions on any issued development consent which have been included in the draft conditions;
- **Shoalhaven Water:** No objection to the proposal subject to the imposition of recommended conditions (i.e. compliance with all required requirements prior to the use of the sites as approved under this application).
- **Flood Section:** Advice provided in relation to flood information for the site and suitable conditions in accordance with Draft Caravan Park Policy for Flood Prone Areas.

External:

- **RFS:** General Terms of Approval were provided by the RFS as detailed elsewhere in this report

- **LPDMA:** The department requires that for reasons of visual amenity that the proponent must not establish, locate or allow manufactured homes, cabins or unregistered moveable dwellings within the subject precinct.

This position is consistent with Council's assessment and is also relative to consideration of flooding impacts and draft conditions have been included to require compliance with this requirement.

8. Options

The JRPP may:

- a) Resolve to approve the application subject to conditions (i.e. adopt the recommendations of this report including the draft conditions of consent provided or modify the provided conditions); or
- b) Resolve to refuse the application (i.e. on the grounds determined by the Panel); or
- c) Write to the applicant requesting them to amend/modify the proposal.

9. Conclusion

This application has been assessed having regard to the Matters for Consideration under Section 79C of the EP&A Act 1979. Following a detailed assessment, it is considered that Development Application No RA09/1003 should be supported subject to suitable conditions being imposed on any issued development consent.

10. Recommendation

RECOMMENDED that, in respect of RA09/1003 for the proposed Alterations and Additions to the Lake Conjola Entrance Tourist Park at Lot 486 DP 861543 Lake Conjola Entrance Road, Lake Conjola, the application be approved as an operational development consent subject to conditions as contained in Attachment 'A'.

Signed: Peter Johnston

Date: 18 November 2010

DRAFT CONSENT CONDITIONS

DEVELOPMENT CONSENT

**Environmental Planning and Assessment Act, 1979
RA09/1003**

TO:

Holiday Haven Tourist Parks
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

**being the applicant(s) for RA09/1003 relating to:
Lot 486 DP 861543, Lake Conjola Entrance Road, Lake Conjola.**

APPROVED USE AND OR DEVELOPMENT:

Conversion of 14 existing camping sites into short term movable dwelling sites, the creation of 7 new short term movable dwelling sites and the creation of twelve new camping sites resulting in a total of 350 sites within the existing caravan park (26 camping sites, 324 short term movable dwelling sites) and the installation of one new relocatable amenities building.

DETERMINATION DATE:

Pursuant to the Section 81 of the Act, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM:

CONSENT TO LAPSE ON:

DETAILS OF CONDITIONS

The conditions of consent and reasons for such conditions are set out as follows:

PART A

CONDITIONS OF A GENERAL NATURE, INCLUDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT

General

1. This consent relates to the **conversion of 36 existing camping sites into short term movable dwelling sites, the creation of 7 new short term movable dwelling sites and the creation of 12 new camping sites resulting in a total of 351 sites within the existing caravan park (48 camping sites, 303 short term movable dwelling sites) and the installation of one new relocatable amenities building** as illustrated on the plans and documents with the following references stamped with reference to this consent, as modified by the following conditions. The development shall be carried out in accordance with this consent:

| Document | Version | Prepared By | Dated |
|------------------------------------|---------------|------------------------------|-----------|
| Site Plan | 1282.38 | SCC | 25/8/2009 |
| Site Dimensions | 1282.42 | SCC | 25/8/2009 |
| Ensuite Unit | 907.1-2 | Art House | July 2009 |
| Statement of Environmental Effects | 200813J | Planscapes | Aug 2009 |
| Bushfire Assessment | PS_HHTP180608 | Geospatial Integrity Pty Ltd | 17/4/2010 |
| Flora & Fauna Assessment | 10SGBECO-0044 | Eco Logical Australia | 23/8/2010 |

Notes:

- *Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development application. No works, **other than those approved under this consent**, shall be carried out without the prior approval of Council.*
- *Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions shall prevail to the extent of that inconsistency.*

2. The approved development shall not be occupied or the use shall not commence until all relevant conditions of development consent have been met or unless other satisfactory arrangements have been made with council (i.e. a security).

PART B

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE USE COMMENCING/ OCCUPATION OF THE APPROVED ADDITIONAL SITES

Shoalhaven Water (Water and/or Sewer Contributions and related issues)

3. Prior to the approved development/use commencing all conditions listed on the Shoalhaven Water Development Application Notice under the heading "PRIOR TO OCCUPATION/USE OF THE APPROVED SITES" must be complied with and accepted by Shoalhaven Water. In addition, a Certificate of Compliance must be obtained from Shoalhaven Water prior to the occupation/use of the approved sites. This shall also apply to approved staged developments.

Note: Relevant details, including **monetary** contributions (where applicable) under the Water Management Act 2000, are given on the attached Notice issued by Shoalhaven Water.

For further information and clarification regarding the above please contact Shoalhaven Water's Development Unit on (02) 4429 3111.

Contributions for Additional Services and/or Facilities

4. This development will generate a need for additional services and/or facilities as described in Council's *Contributions Plan 1993*, as itemised in the following table.

| Project | Description | Calculation | Amount |
|----------------|------------------------------------|--------------------|-------------------|
| CWFire0002 | Shoalhaven Fire Control Centre | \$211.11*4.75 | \$1,022.77 |
| CWFIRE0001 | Citywide Fire & Emergency Services | \$161.25*4.75 | \$765.94 |
| CWMGMT2001 | Section 94 Administration | Max 10% | \$176.60 |
| | | | \$1,945.31 |

Contribution rates are adjusted annually on 1st July in accordance with the indexation formula indicated in the Contributions Plan (currently the implicit price deflator) and the total contribution levied **will be adjusted accordingly at the time of payment.** (i.e. contributions are calculated on the rate applicable at the date of payment, **not** the date of development consent.)

A total contribution currently assessed at the sum of \$1,945.31 (i.e. 2010/2011 rate) or as indexed in future years shall be paid to Council before the approved development/use commences. *Contributions Plan 1993* may be inspected at the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

Existing services and damage to public assets

5. Prior to the commencement of any work(s) associated with this development the developer or his agent must check that the proposed works are not affected by any Council, Integral Energy, telecommunications, gas service or other services. Any required alterations to services will be at the developer's expense.

Sullage Disposal - Section 68 Approval

6. a) An application pursuant to Section 68 of the Local Government Act 1993 is to be made for any plumbing/drainage works (i.e. water, sewerage and stormwater drainage) prior to the commencement of any works on site. In this regard detailed hydraulics plans/details and specifications are to be submitted to Council for assessment and approval.
b) No works (i.e. water, sewerage and stormwater drainage) are to commence until an approval is issued.

Operational Approval - S68 of the Local Government Act 1993

7. Prior to the occupation and use of the sites as approved by this Development Consent, the applicant must obtain Operational Approval under S68 of the Local Government Act 1993 to enable the on-going use of the subject sites and installation approval for the relocatable amenities building.

Caravan Park Requirements

8. .Prior to the occupation/use of the approved sites (i.e. 36 converted sites and 19 new sites), the following must be undertaken:
 - a. Sullage disposal must be provided to each approved site in accordance with the requirements of Clause 102 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005;
 - b. Visitor car parking must be provided in accordance with Clause 97 and 98 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005;
 - c. Each approved site must be clearly numbered and delineated;
 - d. Shower, toilet, laundry and other facilities must be provided in accordance with Division 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005;
 - e. Fire hydrants and fire hose reel must be installed in accordance with Division 3 of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005; and

Flood Risk Requirements

9. The Lake Conjola Entrance Tourist Park Flood Emergency Plan is to be updated in accordance with this consent to demonstrate that measures are in place to ensure the timely, orderly and safe evacuation of people from the area, prior to the issue of an updated Caravan Park Approval under the Local Government Act.
10. A site specific flood warning system is required to be provided and implemented in support of the Flood Emergency Plan.

Threatened Species Mitigation

11. All works to be carried out in accordance with the Flora & Fauna Assessment by Eco Logical August 2010.
12. An Environmental Management Plan (EMP) for the site is to be prepared by a suitably qualified environmental consultant and approved by the Shoalhaven City Council Director of Development and Environmental Services prior to the commencement of works that is to incorporate the following:
 - a) Protection of environmental values during APZ establishment including protection of the Bangalay Sand Forest EEC and soil stability incorporating the recommendations and mitigation measures detailed in the Flora and Fauna Assessment, *Flora and Fauna Assessment Lot 486 DP 861543 Holiday Haven Tourist Park, Lake Conjola, EcoLogical Australia* dated 23 August 2010
 - b) Ongoing vegetation management for the protection of the Bangalay Sand Forest EEC within the APZ and all areas indirectly impacted.
 - c) Management of ongoing disturbances including:
 - a. vegetation management within and ongoing maintenance of the APZ and landscaped areas
 - b. weed control
 - d) Soil stabilisation and erosion control requirements,
 - e) A schedule of works that provides
 - a. Initial works and ongoing maintenance and management actions required for the development and protection of environmental values
 - b. a timeframe for the completion of works
 - c. identification of persons/entity responsible for undertaking works
 - f) Monitoring and reporting requirements to ensure the EEC is not being affected by the proposal and so that changes can be made to the maintenance regime if dunes are becoming unstable.
13. All protection measures and specifications as specified in the approved EMP shall be in place prior to the commencement of any works.
14. Prior to the commencement of works the applicant shall provide site plans that show the locations of hollow bearing trees and other „clumps of vegetation in conjunction with the large hollow-bearing trees and old-growth banksia to be retained and that incorporate the impact mitigation measures in the “Recommendations” section of the ELA report (*Flora and Fauna Assessment Lot 486 DP 861543 Holiday Haven Tourist Park, Lake Conjola, EcoLogical Australia*) dated 23 August 2010.

Pre- Clearing

15. Prior to the commencement of any clearing works the applicant shall provide written evidence to Shoalhaven City Council that a suitably qualified environmental consultant has been engaged to supervise the clearing works in accordance with the approved EMP, site plans and impact mitigation measures in the “Recommendations” section of the ELA report, *Flora and Fauna Assessment Lot 486 DP 861543 Holiday Haven Tourist Park, Lake Conjola, EcoLogical Australia*) dated 23 August 2010.

16. Prior to the commencement of any clearing works for the creation of the asset protection zone, the extent of the asset protection zone must be accurately measured and marked on the ground with temporary barrier fencing.
17. Prior to the commencement of any clearing works in the asset protection zone a suitably qualified environmental consultant must select trees to be retained, including the hollow-bearing trees identified in figure 3 of the ELA Flora & Fauna Report: Flora and Fauna Assessment Lot 486 DP 861543 Holiday Haven Tourist Park, Lake Conjola, EcoLogical Australia) dated 23 August 2010, within the asset protection zone where they comply with the conditions of the NSW RFS and standards for Asset Protection Zones (NSW RFS 2003)
18. Prior to the commencement of any clearing works the drip-line surrounding trees to be retained within the Asset Protection Zone must be clearly identified and protected with temporary barrier fencing to prevent mechanical damage of the tree trunk, mechanical disturbance to roots, or soil build-up around the base of the tree during and after clearing works

Clearing Works

19. All clearing works are to be supervised by a suitably qualified environmental consultant and undertaken in accordance with the approved EMP and approved site plans.
20. Creation of the asset protection zone must be carried out by persons with recognised qualifications in bush regeneration and supervised by a suitably qualified environmental consultant
21. The asset protection zone must be created by selectively removing vegetation with hand tools (chainsaws, brushcutters, etc is acceptable) as selected by the environmental consultant supervising the works.
22. A suitably qualified and appropriately licensed wildlife handler must be on site prior to, and during the removal of any trees or areas of potential habitat on the property, to rescue fauna.
23. All clearing works and the associated machinery and refuse must be contained within the building envelope or inner asset protection zone.
24. The parking of machinery and vehicles or the storing of building or landscaping materials, soil, spoil, or rubbish, within the fenced area around trees to be retained is not permitted.
25. Sediment erosion controls must be in place immediately following clearing and on the same day as clearing works commence.
26. Trees must be felled into the asset protection zone carefully so as not to damage or harm vegetation to be retained within and outside the APZ.

CONDITIONS RELATING TO THE APPROVED WORK, SITE MANAGEMENT AND ONGOING MANAGEMENT OF THE PROPOSED DEVELOPMENT

Habitat Modification, Removal and Management

27. There shall be no removal or disturbance of indigenous vegetation on the property, including canopy trees, understorey and groundcover vegetation, without the prior written consent of the Shoalhaven City Council Director of Development & Environmental Services, except in accordance with this consent.
28. There shall be no removal of hollow-bearing trees on the property without the prior written approval of the Shoalhaven City Council Director of Development & Environmental Services and the submission of reports detailing the outcome of targeted surveys for hollow-dependant fauna by a suitably qualified environmental consultant and the condition of the tree by a qualified arborist.
29. Management of the asset protection zone of the property must be in accordance with the approved environmental management plan.

Landscaping

30. The planting of plant species listed on the Weeds Australia NSW weeds list (www.weeds.org.au) is prohibited for the life of the development.
31. No exotic perennial grasses listed on the Final Determination of the NSW Scientific Committee for the key threatening process Invasion of native plant communities by exotic perennial grasses, shall be sown within the asset protection zone. Native grasses must be sown in these areas, as this is the interface between disturbed areas and the remaining native vegetation

Bushfire Requirements (Rural Fire Service – 100B Bushfire Safety Authority)

Asset Protection Zones- The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

32. At the issue of Caravan Park Approval and in perpetuity the property to the south of sites 3-15, 174-176, 178-192 and 314-320 to a distance of 15 metres 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.
33. At the issue of subdivision certificate and in perpetuity the property to the north of sites 3-15, 174-176, 178-192 and 314-320 to the property boundary 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.

Design and Construction - The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack.

34. The existing cabins and amenities within 100 metres of the bush fire threat are required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen. This includes any sub floor areas where applicable and eaves.

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.

35. An emergency/evacuation plan is to be prepared for the entire caravan park, consistent with the NSW Rural Fire Service Guidelines for the Preparation of Emergency/ Evacuation Plan, for implementation by the occupants in the event of a bush fire emergency.
36. The development shall be carried out and maintained in accordance with the recommendations in Section 17 of *Bushfire Assessment & Recommendations, Alterations to Lake Conjola Entrance Park 17 April 2010* prepared by Geospatial Integrity Pty Ltd PS-HHHP180608.

Flood Risk Requirements

37. No permanent structures to be installed or erected on dwelling sites and camp sites approved by this consent.

Caravan Park Requirements

38. The caravan park must operate in accordance with the relevant provisions specified in the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Moveable Dwellings) Regulation 2005.
39. The installation of manufactured homes, cabins and holiday or park vans on sites 259-290 and 330-333 as detailed on the approved site plan (Plan Reference 1282.38 (Lake Conjola Tourist Park-Site Plan), drawn: 25/8/2009 is prohibited. In this regard, the sites shall only be occupied by tents, campervans and caravans (and flexible or canvas annexes) on a short-term basis by tourists. No permanent structures are permitted.
40. Camp Sites within the park shall only be occupied by campervans or tents on a short-term basis by tourists. No permanent structures are permitted.

Waste Minimisation and Management

41. All waste must be contained within the site during construction and then be recycled in accordance with a Council approved Waste Minimisation and Management Plan (WMMP) that has been prepared in accordance with the requirements of Development Control Plan No.93 or removed to an authorised waste disposal facility. No waste shall be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site.
42. Compliance with the WMMP shall be demonstrated by the retention of relevant receipts. These must be submitted to Council, upon request.

Noise

43. Noise levels from the premises/approved development (measured using the L₁₀ noise level descriptor) must not exceed the background noise level in any octave band (measured using the L₉₀ noise level descriptor) by more than 5 dB(A) when measured at the closest affected dwelling.

PART C

REASONS FOR CONDITIONS

Conditions of consent have been imposed to:

1. Ensure the proposed development:
 - a) achieves the objects of the Environmental Planning and Assessment Act, 1979;
 - b) complies with the provisions of all relevant environmental planning instruments;
 - c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.
2. Ensure that the relevant public authorities and the water supply authority have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities.
3. Meet the increased demand for public amenities and services attributable to the development in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979.
4. Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.
5. Minimise any potential adverse environmental, social or economic impacts of the proposed development.
6. Ensure that all traffic, carparking and access requirements arising from the development are addressed.
7. Ensure the development does not conflict with the public interest.

PART D

ADVICE ABOUT RIGHTS OF REVIEW AND APPEAL

Development Determination under Environmental Planning and Assessment Act, 1979

Under section 82A of the Environmental Planning and Assessment Act, 1979 an applicant may request the council to review its determination except where it relates to a complying development certificate, designated development or integrated development. The request must

be made **within twelve (12) months** of the date of the receipt of the determination, with a prescribed fee of 50% of the original DA fee.

Section 97 of the Environmental Planning and Assessment Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised **within twelve (12) months** after receipt of this notice.

Approvals under Local Government Act, 1993

Section 100 of the Local Government Act, 1993 provides that an applicant may request Council to review its determination of an application.

Section 176 of the Local Government Act, 1993 provides that an applicant who is dissatisfied with the determination of the Council may appeal to the Land and Environment Court. The appeal must be made within **twelve (12) months** of the date of determination.

PART E

ADVICE ABOUT WHEN THIS CONSENT LAPSES

This consent is valid for five years from the date hereon.

In accordance with Section 95 of the Act, development consent of the erection of a building does not lapse if building, engineering or construction work relating to the building or work is physically commenced on the land to which the consent applies before the lapse date.

PART F

GENERAL ADVICE TO APPLICANT

Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a significant impact on

- a) A matter of national environmental significance (NES) matter; or*
- b) Commonwealth land*

without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation.

It is the proponent's responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of consent as notification to you that the Commonwealth Act does not have application.

The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

Disability Discrimination Act 1992

This application has been assessed in accordance with the Environmental Planning & Assessment Act, 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The Disability Discrimination Act covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act currently available in Australia.

Disclaimer – s88B restrictions on the use of land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under clause 37 of Shoalhaven Local Environmental Plan 1985 agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

NSW Native Vegetation Act 2003

The Native Vegetation Act 2003 requires consent for the clearing of remnant native vegetation or protected regrowth from the Southern Rivers Catchment Management Authority. In the Shoalhaven City Council area, this requirement generally applies to land that is zone Rural (Zone 1), Special Use (Zone 5), Open Space (Zone 6), Environment Protection (Zone 7) and Natural Hazards (Zone 9). If your development consent relates to land in such a zone then you may need to get a further separate approval from the Southern Rivers Catchment Management Authority for the clearing of remnant native vegetation or "protected" regrowth.

This development application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this development application has not involved any assessment of the proposed development in regard to the NSW Native Vegetation Act 2003.

It is the proponent's responsibility to consult the Southern Rivers Catchment Management Authority to determine the need or otherwise for their approval and you should not construe the granting of this development consent as notification to you that the NSW Native Vegetation Act does not apply. The NSW Native Vegetation Act 2003 may have direct application to your proposal and you should obtain advice about this matter directly from the Southern Rivers Catchment Management Authority. You can contact them on 4429 4446 or by email southern@cma.nsw.gov.au.

There are severe penalties for non-compliance with the Native Vegetation Act 2003.

Privacy Information

Personal information contained in this Development Consent and any associated documents, will be published on Council's website as required by the Government Information (Public Access) (GIPA) Act 2009.

Rural Fire Service

Whilst the Rural Fire Service acknowledges the proposed development already exists, it is non-compliant with asset protection zones and construction standards. The service has approved the development with conditions which will not make the facility compliant but will achieve a better outcome for bushfire protection for the site.

SIGNED on behalf of Shoalhaven City Council:

Signature

Name

**Senior Development Planner
Development & Environmental Services Group**

ATTACHMENT 'B'



