

JRPP No:	2009STH016
DA No:	RA09/1004
Proposed Development:	Alterations and Additions to the Crookhaven Heads Tourist Park Lot 99 DP 821450 Prince Edward Avenue, Culburra Beach
Applicant:	Holiday Haven Tourist Parks (Shoalhaven City Council)
Report By;	Andrew Lissenden, 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 clause 13 C (a) (i) of 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 fourteen (14) existing camping sites into short term moveable dwelling sites; and
- b) create twelve (12) new short term moveable dwelling sites

within an existing caravan park known as the Crookhaven Heads Tourist Park.

Permissibility

The site is part zoned 6(a) (Open Space-Recreation "A" (Existing) Zone) and part uncoloured land pursuant to the Shoalhaven Local Environmental Plan 1985 (SLEP 1985). The proposal as amended is a permissible use in both zones with development consent.

Consultation

The application was notified in accordance with Council's Community Consultation Policy on two (2) separate occasions. No submissions have been received during the notification periods.

Main Issues

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

RECOMMENDATION

It is recommended that RA09/1004 (JRPP Reference 2009STH016) 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:

- a) Pre-lodgement: A pre-lodgement meeting (i.e. Development Advisory Unit meeting) was had with Council staff prior to the applications lodgement on 2 September 2009.
- b) Post Lodgement: The DA was lodged on 2 December 2009. Council officers during the assessment of the application have requested additional information and/or provided advice on four (4) occasions as overviewed below:
 - 15 December 2009: Request to provide a Flora and Fauna Assessment, an amended site plan that accurately showed the number of sites and location of permanent structures, clarification of statements in the Statement of Environmental Effects (SEE) and a response to concerns/questions raised by the Land and Property Management Authority (LPMA);
 - 19 January 2010: Advice provided that separate approval under the Native Vegetation Act 2003 may be required if any clearing of remnant native vegetation or protected re-growth is to be undertaken.
 - 18 February 2010: Request to provide additional information to demonstrate compliance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations 2005;
 - 8 March 2010: Request to provide a response to the concerns raised by the LPMA (i.e. objection to the creation of an asset protection zone on the adjacent Crown Reserve); and
 - 1 April 2010: Request to provide additional information previously requested that at this date had not been received.

On 29 January 2010 the applicant amended the submitted application through an increase in the number of proposed new short term sites by four (i.e. from eight to twelve). The amended proposal now seeking approval for the conversion of fourteen (14) existing camp sites into short term sites and the creation of twelve (12) new short term sites.

The applicant has also submitted additional information to address the issues raised in Council's requests for additional information (refer to dot points above). This additional information was received by Council on 28 January 2010 (request to defer Flora/Fauna Assessment, amended site plan, clarification of statements in the SEE), 12 February 2010 (advice that Flora/Fauna Assessment was being undertaken), 8 March 2010 (information to demonstrate compliance with the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations 2005) and 20 April 2010 (amended bushfire report).

- c) Previous Applications: A review of Council's computer records/files has indicated that the subject parcel of land has had previous development and building applications lodged on it. An overview of the applications that have relevance to this current application is provided below:
 - DA92/1240 – Additional 80 camping/tent sites. Approved 7 May 1992;

- DA99/3026 – Additional 4 short term sites. Approved 21 December 1999;
- DA02/3157 - Additional 10 short term sites. Approved 18 October 2002; and
- DA04/2365 - Additional 10 short term sites. Approved 14 December 2004.

The currently submitted application is seeking retrospective consent for the use of some of the sites for which this current application is seeking approval. 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 licensed accordingly. 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 approximately 2.2km north east of the Culburra Commercial Centre;
- Has a legal description of Lot 99 in Deposited Plan 821450, Prince Edward Avenue, Culburra Beach;
- Is adjoined to the east and south by predominantly undeveloped crown land zoned 6(a) and to the west and north by Prince Edward Avenue;
- Is zoned part 6(a) (Open Space-Recreation “A” (Existing) Zone) and part uncoloured under the Shoalhaven Local Environmental Plan 1985;
- Has a total area of 7.778 hectares;
- Presently contains a caravan park currently known as the Crookhaven Heads Tourist Park. The subject land having been used as a caravan park since prior to the 1970’s; and
- Is identified as bushfire prone land and potentially containing an Endangered Ecological Community (i.e. coastal/bangalay sand forest)

Refer to **Attachment ‘B’** for additional details on the site’s location.

The development site is accessed via one access point off Prince Edward Avenue. The closest residential property is No.2 Prince Edward Avenue which is located approximately 241m from the development sites southern boundary (see **Attachment ‘B’**).

3. Proposal

The submitted DA (as amended by the applicant on 29 January 2010) proposes to formally:

- Convert fourteen (14) existing camping sites into short term moveable dwelling sites; and
- Create twelve (12) additional short term moveable dwelling sites

within the existing caravan park currently known as the Crookhaven Heads Tourist Park. The current application if approved resulting in a total of 351 sites (324 short term sites, 26 camping sites and 1 long term site). Refer to **Attachment ‘C’** for a copy of the amended site plan that shows the location of the proposed new and converted sites.

The changes as proposed under this application 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 currently submitted application is seeking retrospective consent for the use of the sites.

No new building works are proposed as part of this application, apart from the provision of disposal points for sullage to some of the new sites.

4. Community Consultation

The DA was notified on two (2) occasions in accordance with Council's Community Consultation Policy as follows:

a) First Notification:

- Individual property owners within a 500 metre radius of the site were notified of the proposal (106 letters sent). The notification period was from 9/12/09 to 8/01/10;
- The proposal was advertised in the Local Press (South Coast Register and Nowra News) on 9/12/2009, 17/12/09 and 23/12/09; and
- The application and supporting documentation were on display at Council's City Administrative Centre, Nowra as well as on Council's website.

No submissions were received by Council during this community consultation period.

b) Second Notification (Amended Proposal):

- Individual property owners within a 500 metre radius of the site were notified of the proposal (93 letters sent). The notification period was from 17/02/10 to 3/03/10;
- The proposal was advertised in the Local Press (South Coast Register) on 17/02/2010; and
- The application and supporting documentation were on display at Council's City Administrative Centre, Nowra as well as on Council's website.

No submissions were received by Council during either of the above community consultation periods.

5. Statutory Considerations

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

- i. Environmental Planning and Assessment Act 1979;
- ii. State Environmental Planning Policy (Major Development) 2005;
- iii. State Environmental Planning Policy No.21 – Caravan Parks;
- iv. State Environmental Planning Policy 55 – Remediation of Land;
- v. State Environmental Planning Policy No.62 – Sustainable Aquaculture;
- vi. State Environmental Planning Policy No.71 – Coastal Protection;
- vii. Deemed SEPP (Illawarra Regional Environmental Plan);
- viii. Shoalhaven Local Environmental Plan 1985 (as amended);
- ix. Development Control Plan No.18 – Car Parking Code;
- x. Development Control Plan No. 93 – Waste Not (Site Minimisation and Management);
- xi. Shoalhaven City Council Section 94 Contribution Plan (as amended); and
- xii. Council's Policy for the Assessment of Council's Own Development Applications.

Additional information on the proposal's compliance with the above documents is detailed in Section 6 (Statement of Compliance/Assessment) 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 Environmental Planning and Assessment Act 1979 (EP&A Act).

Any planning instrument, draft instrument, DCP's and regulations that apply to the land

i) Environmental Planning and Assessment Act 1979 (EPA 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): The subject site contains and is adjoined by an Coastal/Bangalay Sand Forest which is identified as an Endangered Ecological Community (EEC) under the NSW Threatened Species Conservation Act 1995 (TSC Act). In addition, the Sooty Oystercatcher which is listed under the TSC Act as a vulnerable species inhabits the adjoining land. A 7 part test (Council pro-forma) to determine if the proposed development is likely to result in any significant effects on threatened species, populations or ecological communities, or their habitats has been undertaken. In this particular case, as the land use is existing, the land on which the use is being undertaken and proposed to be undertaken is cleared and no additional clearing is proposed as part of the amended proposal, it has been concluded that this development activity will not have a significant effect on any threatened species, populations or ecological communities, or their habitats.

b) Part 4 (Development Assessment), Division 5 (Special procedures for integrated development):

- Section 90 (Application of this Division): 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 (What is "integrated development"?): The proposed development in order for it 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 (Development that is integrated development): General terms of approval (i.e. bushfire safety authority) have been sought from the Rural Fire Service (RFS). The RFS subsequently advising Council (letter dated 18 January 2010 and 3 May 2010) that in relation to the amended proposal they are prepared to issue general terms of approval. If the application is approved any development consent will be conditioned in accordance with the general terms of approval provided by the RFS. In addition, when the application is determined Council will notify the RFS of the determination.

Other parts of Part 4, Division 5 do not apply to the proposed works.

In summary, it is considered that 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:

- a) Clause 13C (Coastal developments to which this part applies): 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 (i.e. one short term site under the Local Government Regulations has the legal ability to accommodate a maximum of 12 persons), the submitted application is classified as 'regional development' with the determining authority for the application being the Joint Regional Planning Panel (Southern Region).

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 Joint Regional Planning Panel for determination.

- iii) State Environmental Planning Policy No.21 – Caravan Parks (SEPP 21): The provisions of SEPP 21 apply to the proposed development. The clauses/matters contained in SEPP 21 that have relevance to this application are overviewed below:

- a) Clause 10 (Matters to be considered by Councils): Council may grant development consent only when it has considered the following:
- *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,*
The subject site currently contains a caravan park with a mix of camping sites, short-term sites and long-term sites. The proposed development relates to the conversion of camping sites to short-term sites and creation of additional short term sites, and does not propose any changes to existing long-term sites. The site being considered suitable in terms of its location and character;
 - *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,*
The existing facility based on information provided by the applicant has a high occupancy rate particularly at holiday times. No additional long term sites or changes to the existing provision of long term sites are proposed under this application and as such, the current proposal will not result in the displacement of tourist accommodation;
 - *Whether there is adequate low-cost housing or land available for low-cost housing, in that locality;*
This application (conversion of camping sites to short-term sites) will not compete with the availability of low-cost housing in the area. The existing long term site is not impacted upon by this application.
 - *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,*
It is considered that the existing caravan park provides adequate community facilities and services which are spaced through the site to provide reasonable access to the occupants.
 - *Any relevant guidelines issued by the Director,*
No relevant guidelines at this time could be located.

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

An assessment has been undertaken and it is considered that the development generally complies.

In summary, it is considered that the proposed development does not conflict with the aims and applicable provisions of SEPP 21.

- iv) *State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)*: The provisions of SEPP 55 apply to this site. The clauses/matters as contained in SEPP 55 that have relevance to this application are overviewed below:

- a) Clause 7 (Contamination and remediation to be considered in determining development application): Consideration has been given to whether the land on which the development is proposed is contaminated. In this regard, an initial evaluation of the subject site has indicated that:

- Council is not aware of any previous investigations about contamination on the land;
- A potentially contaminating activity has not been previously conducted on the land;
- The subject land is not currently used for an activity listed in the Managing Land Contamination Planning Guidelines;
- No records exist at Council to indicate/identify the land is contaminated;
- Council is not aware of information concerning contamination impacts on land immediately adjacent to the development site which could affect the subject land; and
- There is no land use restriction relating to possible contamination affecting the land.

In addition, the current application does not involve a change in use of land as specified by the requirements of SEPP 55 and, as such, it is considered Council is not required to consider a Stage 1 Preliminary Contaminated Land Assessment/Investigation Report. Having regard for the above, there is no reason to suspect contamination and it is considered that the land is suitable from a contamination perspective for the proposed development/use.

In summary, it is considered that the proposed development does not conflict with the aims and applicable provisions of SEPP 55.

- v) *State Environmental Planning Policy No.62 – Sustainable Aquaculture (SEPP 62)*: The provisions of SEPP 62 apply to this site as the Crookhaven River which is in close proximity to the site contains a number of oyster leases. SEPP 62 requires Council to have consideration of the effects of the proposed development on oyster aquaculture. The clauses/matters contained in SEPP 62 that have relevance to this application are overviewed below:

- a) Section 3 (Aims etc of Policy): It is considered that the submitted application is not inconsistent with the aims of the policy;
- b) Part 3A (Consideration of effects of proposed development on oyster aquaculture), Clause 15A (Application of Part): This section applies to development on all land and, as such, is applicable to the proposed development;
- c) Part 3A (Consideration of effects of proposed development on oyster aquaculture), Clause 15B (Consultation with the Director-General of Primary Industries): The subject land is located within 5km of oyster leases within the Crookhaven River (i.e. around

Greenwell Point and Comerong Island). It is considered unlikely that the proposed works will have an adverse impact upon the oyster aquaculture areas including priority areas within the Crookhaven River or around Greenwell Point and Comerong Island as the soils at the site are sandy and drainage predominately infiltrates and does not run off into the Crookhaven River/adjoining waterways. In addition, the proposed development will result in minimal soil disturbance with no increase in nutrient runoff into adjoining waterways. As it is not suspected that the proposed development will have an effect on oyster aquaculture, no formal notice of the application has been given to the Department of Primary Industries;

- d) Part 3A (Consideration of effects of proposed development on oyster aquaculture), Clause 15C (Development consent may be refused if development adversely affects oyster aquaculture): As it is considered that the proposed development will not have an adverse impact, impede or be incompatible with oyster aquaculture development, the requirements of this clause are not applicable; and
- e) Part 3A (Consideration of effects of proposed development on oyster aquaculture), Clause 15D (NSW Oyster Industry Strategy to be considered): Consideration has been given to the *NSW Oyster Industry Sustainable Aquaculture Strategy* which it is considered will have no impact upon the works proposed under this application.

In summary, it is considered that the proposed development does not conflict with the aims and applicable provisions of SEPP 62.

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 (Matters for consideration), Clause 7 (Application of clause 8 matters): 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 (Matters for consideration), Clause 8 (Matters for consideration): It is considered that 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 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 proposed short term sites 22 to 27 inclusive and 117 to 120 inclusive. These sites only to be used for drive in, drive out tourist sites;
 - 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 subject to restricting the use of proposed short term sites 22 to 27 inclusive and 117 to 120 inclusive;
 - It will not have an adverse impact upon flora and fauna as the amended proposal proposes the removal of no vegetation;
 - 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
 - The proposal, in its amended form, will not impact upon known aboriginal heritage. Fencing exists between the site and the adjacent areas where aboriginal heritage exists (i.e. Aboriginal middens adjacent to the site's eastern boundary).
- c) Part 4 (Development Control) Clause 13 (Flexible zoning provisions): Flexible zoning provision clauses in the Shoalhaven Local Environmental Plan do not impact upon/apply to this development site;
- d) Part 4 (Development Control) Clauses 14 (Public access): It is considered that 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;
- e) Part 4 (Development Control) Clause 15 (Effluent disposal): Effluent disposal is proposed as part of this application via an existing reticulated system and, as such, it is not considered that it will 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
- f) Part 4 (Development Control) Clause 16 (Stormwater): It is considered that 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.

Other parts of SEPP 71 which relate to “significant coastal development” and “master plans” do not apply to the proposed works. In summary, it is considered that the proposed development does not conflict with the aims and applicable provisions of SEPP 71.

vii) Deemed State Environmental Planning Policy - Illawarra Region Environmental Plan (IREP): The subject land is affected by the provisions of Deemed State Environmental Planning Policy - 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 clauses/matters contained in the IREP that have relevance to this application are overviewed below:

- a) Clause 3 of the IREP contains the aims and objectives of the plan. It is considered that the submitted proposal does not conflict with the general aims and objectives as outlined in this clause.

It is important to note that the requirements relating to recreation and tourism (specifically Clauses 118 and 120 of the IREP) have been repealed and, as such, are no longer applicable in the assessment of this application. In summary, it is considered that the proposal does not conflict with the relevant provisions of the IREP and will achieve the applicable outcomes.

viii) Shoalhaven Local Environmental Plan 1985 - as amended (SLEP 1985): The provisions of SLEP 1985 apply to this site. The clauses/matters contained in SLEP 1985 that have relevance to this application are overviewed below:

- a) Clause 2 (Aims and objectives): It is considered that the submitted proposal satisfies the general aims and objectives as outlined in Sub Clause 1(a) to 1(c), 2(a) to (w) and 3(a), 3(c), 3(d) of this clause;
- b) Clause 9 (Zone objectives and development control table): The subject land is zoned part 6(a) (Open Space-Recreation "A" (Existing) Zone) and part uncoloured land under SLEP 1985. Each zone is discussed below:
 - 6(a) (Open Space-Recreation "A" (Existing) Zone): The majority of the subject site is zoned 6(a). All works as proposed are within the 6(a) zoned land. 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 not defined in either SLEP 1985 or the Environmental Planning Assessment Model Provisions 1980. The definition as contained in the Standard LEP Template has therefore been used. The Standard LEP defining 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.*" The currently proposed development satisfying the requirements of this definition.
 - Uncoloured Land: A small portion of the site adjacent to its western boundary is zoned 'uncoloured land'. As such, the requirements of Clause 36 of SLEP 1985 apply to any development on this land. This clause outlining that development on uncoloured land requires development consent. As the current application proposes no works within this area, the requirements of this clause are not applicable to the current application.
- b) Clause 20G (Development in the vicinity of a heritage item): The subject site is located adjacent to land that contains a heritage item identified under LEP Amendment 212. This being the Crookhaven Lighthouse Complex which is a federation period lighthouse with a rounded masonry tower. It was important to shipping and transport which made economic development of the region possible. A Heritage Impact Statement (HIA) has been submitted as part of the application (prepared by Zenith Town Planning, Dated: Revised September 2009). The submitted HIA has been reviewed by Council's Heritage Advisor who has advised in part that "*the relationship between the tourist park and the lighthouse has been long established and the two areas are well separated with extensive coastal vegetation restricting views each way*" and "*The impact locally will be negligible and there will be no impact on the significance or setting to the heritage item.*" Council's Heritage Advisor in his assessment concludes that the application should be approved with no heritage related conditions. The proposed development only impacting on the existing development site and does not require any expansion or adjustment of park boundaries.
- c) Clause 26 (Soil, water and effluent management): 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, it is considered that 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 28 (Danger of bushfire): A review of Council's Bushfire Prone Lands Map has indicated that the subject site is identified as bushfire prone. The applicant has submitted a bushfire assessment report (requiring creation of an Asset Protection Zone (APZ) including on adjoining lands) as well as an amended bushfire assessment report (no clearing to create an APZ on adjoining lands, just pruning of overhanging branches

and tree limbs or that are located within 2m of the site) as part of this application. An assessment against the requirements of Sub Clause (1), (2), (3) and (4) has been undertaken as well as an assessment against applicable requirements in *Planning for Bushfire Protection 2006*. This, in summary, has concluded that the proposed works based on the location of buildings as shown on the masterplan:

- Will not have a significant adverse effect on the implementation of bushfire fire strategies, the relevant provisions of the EPA Act or Rural Fire Services Act;
- Will not result in a significant threat to the lives of residents, visitors or emergency services personnel subject to the implementation of requirements as outlined in advice provided by the RFS;
- Will increase the demand for emergency services however, will not significantly decrease their ability to react to and control major bushfires;
- Have been sited so as to reduce the threat from bushfires and to result in minimum new asset protection zone (APZ) works;
- Satisfies the objectives of *Planning for Bushfire Protection 2006* and have been designed to have regard for and will be able to satisfy the applicable requirements of *Planning for Bushfire Protection 2006*.

In addition, as the application relates to a tourist accommodation, it is classed as integrated development, under section 91 of the EP&A Act, and has been referred to the NSW Rural Fire Service for a Bushfire Safety Authority. The RFS has subsequently issued a Bushfire Safety Authority which requires the imposition of conditions on any development consent issued as contained in its advice (i.e. emergency and evacuation arrangements to comply with Planning for Bushfire Protection 2006, Asset Protection zone requirements, water and utility services to comply with Planning for Bushfire Protection 2006, design and construction requirements for those cabins within 100m of bushfire prone vegetation, access requirements). If the application is approved, any issued development consent should be conditioned as per the RFS response/Bushfire Safety Authority issued;

- e) Clause 36 (Development of land shown uncoloured on the map): The requirements of this clause are discussed in more detail above;
- f) Clause 37A (Notification of certain development): The submitted application was notified in accordance with Council's Community Consultation Policy (i.e. when original application was received and when amended plans were lodged). Refer to Section 4 (Community Consultation) for further details; and
- g) Clause 51 (Development within open space zones): The development site is currently being used as a caravan park and, as such, the proposed development conforms with the sites existing use. The proposed development does not involve any works (i.e. clearing) that will have an adverse impact on the land. In addition, the proposed use complies with the Plan of Management that applies to the site (i.e. Plan of Management Crookhaven Park). It is therefore considered that the development does not conflict with the requirements of this clause.

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

- ix) Development Control Plan No.18 – Carparking Code (DCP 18): The provisions of DCP 18 apply to this development. The provisions of DCP 18 in terms of car parking numbers being the same as the Local Government (Manufactured Home Estate, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. The following provides an assessment against the applicable requirements of DCP 18:

a) *Car parking requirements for the proposed development:*

Attachment 'D' provides a summary, in table form, of the car parking that is required for the proposed development based on the numerical requirements of DCP 18. The car parking requirements in DCP 18 being the same as those contained in the Local Government (Manufactured Home Estate, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005. As outlined in **Attachment "D"**, the existing and proposed development can meet the requirements of DCP 18 in terms of total car spaces required for resident car parking for each camp site, short term site and long term site (i.e. sufficient space within each individual site) and for visitor car parking (i.e. within the visitor car parking area is provided adjacent to the sites entry point). The submitted plans indicating 16 car spaces for visitors while a site visit has confirmed that 23 visitor car spaces have been provided/constructed on site. This being in excess of the DCP 18 requirement by 5 car spaces. In addition, an assessment of the visitor car parking provided has indicated that it complies with the requirements of DCP 18 in terms of aisle widths and construction requirements, with the car space dimensions complying with the applicable Australian Standard (AS2890.1-2004 Parking facilities-off street car parking).

In terms of disabled car parking, the existing development provides no marked disabled space within the visitor car parking area. This needing to be increased to three spaces in accordance with the requirements of DCP 18 (i.e. 1 space per 100 sites or part thereof). If the application is approved, any issued development consent should be conditioned so as to require disabled car parking to be provided in accordance with the provisions of DCP 18.

- x) *Development Control Plan 93 – Controls for Waste Minimisation and Management (DCP 93)*: The provisions of DCP 93 apply to this development. There are no physical works proposed to create the identified new sites under this application as they already exist. The existing caravan park has a general waste storage area located adjacent to the site's main entrance. This facility has sufficient capacity to hold the additional waste that will be generated by the additional new short term sites.

As such, it is considered that the proposed development does not conflict with the aims and relevant provisions of DCP 93. If the application is approved, any issued development consent should be conditioned so as to ensure that all waste is contained on site and does not adversely impact upon adjoining properties.

- 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:

01 ROAD 2096	Pyree Lane, Culburra Road;
01 ROAD 2099	Greenwell Point Road;
02 ROAD 2001	Culburra Road/Princes Highway;
CW FIRE 0001	Citywide Fire and Emergency Services;
CW FIRE 0002	Shoalhaven Fire Control Centre
CW MGMT 2001	Section 94 Administration.

The calculation of contributions is based upon the number of new short term sites proposed resulting in an equivalent tenement (ET) requirement of 3 (12 x .25). The total contribution applicable to the proposed development is \$2,348.63. If the application is approved, any issued development consent should be conditioned to reflect the above.

- xii) Council's Policy for the Assessment of Council's Own Development Applications: The provisions of this policy technically do not apply to this application as Council is not both the applicant and land owner. However, as Council is the applicant and the Trust Manager for the land on which the development is proposed it is seen as prudent to have regard for the requirements of this policy for the reason of transparency given the potential conflicting role that Council has as the land use regulator and having a financial interest in the outcome of the matter.

This application, given its classification as 'regional development' will not be determined by Council, but will be determined by the Joint Regional Planning Panel (Southern Region). It is considered this in itself, as Council is not the determining authority, satisfies the requirements of this policy.

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

- i) Threatened Species: An initial assessment of the application identified potential impacts on endangered flora or fauna through the provision of an asset Protection zone (APZ). This specifically having the potential to impact upon the Coastal/Bangalay Sand Forest which is identified as an Endangered Ecological Community (EEC) under the NSW Threatened Species Conservation Act 1995 (TSC Act) and the Sooty Oystercatcher which is listed under the TSC Act as a vulnerable species. As the currently proposed development is no longer seeking to undertake any clearing works to create an APZ within the subject site or on the adjoining land, it is considered unlikely that the proposed development will have any direct or indirect impacts upon threatened species, populations or ecological communities, or their habitats (as listed under the TSC Act).
- ii) Traffic and Access: Access to and from the site is via one access point off Princes Edward Avenue. The access as currently provided is constructed to a suitable standard and is of a sufficient width to allow vehicles to enter and exit the site at the same time. This application proposes no changes to this access point. It is, however, acknowledged that the proposed development will result in an increase in the number of vehicles utilising the adjoining road network. The anticipated increase in traffic is considered acceptable and capable of being handled by the existing road system. As such, no additional works are required.
- iii) Noise: As the proposed development will increase the number of people that will utilise the subject land, it is expected that noise generated by the development may increase. Given the separation that exists to the nearest sensitive receiver/residential property (approximately 241m) and the land uses that exist between the proposed development and the nearest sensitive receiver/residential property (i.e. sporting facilities, heavily vegetated bushland), it is considered that any noise generated should not adversely impact adjoining lands. However, any adverse impact can be minimised through the imposition of a condition on any issued development consent limiting noise levels (i.e. 5dBA above the background noise at the boundary of the closest sensitive noise receiver).
- iv) 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 creation of new short term movable dwelling sites as proposed is not considered to be an issue. However, as these sites, if approved, will allow the installation of a relocatable home or associated structure without further Council approval (i.e. conditional exemption in accordance with Clause 74 of the Local Government (Manufactured Home Estate, Caravan Parks, Camping Grounds and Moveable Dwellings)

Regulation 2005), it is considered that a permanent built structure on a number of the proposed short term sites (i.e. Sites, 22, 23, 24, 25, 26, 27, 117, 118, 119 and 120) will have an adverse impact upon the visual setting and for sites 117 to 120 will have an adverse impact on the usability of the adjoining recreation area. 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.

- v) **Social Impacts:** The proposed development will provide additional tourist accommodation within the area. It is considered that, given the location of the site and the infrastructure that has been provided to support the existing development (i.e. controlled vehicle entry/exit point, security fencing around the perimeter of the existing developed area), the proposed development will have minimal adverse social impact on surrounding lands or the adjoining community.
- vi) **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.
- vii) **Sediment and Erosion Control:** Minimal construction works are proposed as part of this application as it is seeking retrospective consent for works that have already been undertaken. As such, no sediment and erosion control measures (i.e. need to submitted a sediment and erosion control plan) are required.

The suitability of the site for the development

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, it is considered that the site is suitable for the proposed development.

Any submissions made in accordance with the Act or the regulations

The application was notified by way of a public notification as outlined in Section 4 (Community Consultation) of this report. No submissions were received.

The public interest

Refer to the above.

7. Other Issues:

- i) **Local Government (Manufactured Home Estate, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 (LG Regulation):** The provisions of the LG Reg apply to this site. Specifically, Division 3 (Caravan parks and camping grounds). It is important to note that some exemptions to the requirements of the LG Regulation have been carried through from the Local Government Act (1919) - Ordinance No.71. The clauses/matters contained in the LG Regulation, including exemptions, that have relevance to this application are overviewed below:

- a) Clause 83 (Minimum size of caravan park or camping ground): The existing caravan park has an area of 7.778 hectares and is therefore, greater than the minimum requirement of 1ha.
- b) Clause 84 (Community amenities): The existing caravan park has a total area available for community amenities of approximately 9,800m². This being greater than 10% of the site area which is 7,778m².
- c) Clause 85 (Size of dwelling sites and camp sites): Each proposed new short term site, based on information provided by the applicant, has an area of 65m² or greater.
- d) Clause 86 (Site identification): All changed or proposed new sites have been clearly numbered and identified on plans provided as part of the application. A site visit indicating that this has also been provided on site. This requirement to be reinforced through a condition on a development consent, if issued.
- e) Clause 87 (Dwelling sites to have road frontage): All short term moveable dwelling sites proposed, apart from sites 117 to 120, have direct road frontage to an internal road. A 6m wide accessway is proposed to service sites 117 to 120. The requirements of this clause benefit from the exemptions under Ordinance 70 of the Local Government Act (1919).
- f) Clause 89 (Setbacks of dwelling sites and camp sites from road frontage): All changed or proposed new sites comply with the front setback requirement of 10m to a public road. Some of the sites that are proposed to be changed from campsites to short term moveable dwelling sites however, are located closer than 3m to the caravan park boundary (i.e. sites 23, 27 and 117). For these sites, Council is satisfied that, in accordance with subclause b), these sites are properly fenced. However, it is considered that to minimise impacts these sites, along with the adjoining sites (i.e. sites 23 to 27 and 117 to 120), should be restricted to tents, caravans (including annexes) and campervans, and to prohibit any permanent structures. The requirements of this clause benefit from the exemptions under Ordinance 70 of the Local Government Act (1919).
- g) Clause 91 (Separation distances): All changed or proposed new sites have a minimum width in excess of 7m as has been indicated on plans provided as part of the application and therefore, are capable of achieving the minimum 2.5m between moveable dwellings.
- h) Clause 94 (Width of roads): Only one new road is proposed as part of this application. This servicing sites 117 to 120. The width of this road as indicated on plans submitted during the application's assessment is 6m and complies with two way access requirements. The requirements of this clause benefit from the exemptions under Ordinance 70 of the Local Government Act (1919), if needed.
- i) Clause 96 (Resident parking): All changed or proposed new sites are of a size that allows parking for each site to be provided on the site.
- j) Clause 97 (Visitor parking): A formal visitor parking area is provided at the entrance to the caravan park. This providing 23 visitor spaces, not 16 as shown on the submitted plans, which is in compliance with the requirements of this clause.
- k) Clause 98 (Visitor parking for people with disabilities): The existing formal carparking area provides 1 disabled car space. In accordance with the requirements of this clause, this needs to be increased to 3 spaces (i.e. 1 space per 100 sites or part thereof). This requirement to be reinforced through a condition on a development consent, if issued.
- l) Clause 99 (Road surfaces): The applicant proposes no new roads as part of this application. Most existing roads within the site are of an all weather seal standard (i.e. asphaltic concrete or similar bitumen seal standard) which complies with the requirements of this clause. However the road providing access to sites 96 to 100

and 304 to 306 (i.e. south eastern corner) is currently of gavel construction. This section of road therefore needing to be upgraded to an all weather seal finish given the increase in vehicle movements that will result from the proposed changes and shading that currently occurs. This requirement to be reinforced through a condition on a development consent, if issued. Access to sites 117 to 120 is proposed via a 6 metre wide grass accessway. This is considered adequate given its proximity to the adjoining recreation area and if the sites it services do not contain permanent structures. This requirement to be reinforced through a condition on a development consent, if issued. The applicant has been advised of the above requirements.

- m) Clause 100 (Lighting): No details on lighting of the proposed new access road have been provided. It is, however, considered that adequate lighting currently exists in the vicinity of the proposed access road to satisfy the requirements of this clause. The requirements of this clause benefit from the exemptions under Ordinance 70 of the Local Government Act (1919).
- n) Clause 101 (Water supply): The existing caravan park is connected to the mains water supply. All changed or proposed new sites currently have access to a water supply service as specified in this clause (i.e. each short term moveable dwelling site must be connected with a standpipe and hose tap).
- o) Clause 102 (Sewerage): The existing caravan park is connected to a reticulated main sewer. All changed or proposed new sites currently have access to a waste dump point. Not all sites proposed by this application have a disposal point for sullage. This requirement to be reinforced through a condition on a development consent, if issued.
- p) Clause 104 (Electricity supply): The existing caravan park is connected to a reticulated electricity service. All changed or proposed new sites currently have access to electricity as specified in this clause.
- q) Clause 107 -120 (Showers, toilets, laundry facilities, etc). There are three communal amenity buildings provided throughout the site which provide the required number of showers, toilets and laundry facilities (i.e. washing machines, laundry tubs, clothes dryers, etc) to service the total number of sites as currently proposed under this application. This including facilities for people with disabilities. All changed or proposed new sites being located within 100m of an amenity building. It is considered that the proposed development generally complies with the requirements of these clauses.
- r) Clause 128 (Fire hydrants): A plan provided as part of the application indicates that not all sites proposed under this application are situated less than 90m from a fire hydrant (i.e. sites 24, 25, 26, 27, 117, 118, 119, 120). This requirement to be reinforced through a condition on a development consent, if issued. The requirements of this clause benefit from the exemptions under Ordinance 70 of the Local Government Act (1919), if needed.
- s) Clause 129 (Fire Hose reel): Fire hose reels are located throughout the park. Based on information provided with the application, there are currently 30 + fire hose reels provided in the existing caravan park. All changed or new sites proposed under this application can be reached by a fire hose.

In summary, it is considered that the proposed development does not conflict with the aims and relevant provisions of LG Regulation subject to the imposition of conditions on a development consent, if issued, as outlined in the dot points above.

- ii) Aboriginal Land: Council records indicate that the subject site is adjoined by land affected by an Aboriginal Land Claim (Claim No.7079 and 1146). Contact has been had with the Office of the Registrar, Aboriginal Land Right Act 1983 who have advised that a search of

the Register of Aboriginal Land Claims database has indicated that the site does not appear on the register as being affected by an Aboriginal Land Claim pursuant to Sections 36 and 37 of the Aboriginal Land Rights Act 1983.

iii) Discussions with the local Aboriginal Land Council: During the assessment process notification has been provided to the local Aboriginal Land Council (Jerrinja Local Aboriginal Land Council) on two occasions. In addition, discussions have been had with Jerrinja Local Aboriginal Land Council at the Council Offices and on site. These discussions have indicated that the main concerns the Land Council has are (summary only):

- Lack of respect of aboriginal sites specifically in relation to previously approved developments (i.e. impact of amenities block in the north eastern section of the site on a burial ground);
- Need for access through the development site to areas of cultural significance adjacent to the site's eastern boundary; and
- Impact of the current application as originally proposed with clearing to create an APZ on the adjoining land adjacent to the site's eastern boundary and impact on areas of cultural significance.

The first two dot points above, as they do not specifically relate to works proposed as part of this application, are unable to be dealt with through the current DA. The applicant (Holiday Haven Tourist Parks, Shoalhaven City Council) has been advised of these issues and have indicated they are happy to have further discussions with the local Land Council. With reference to the third dot point, the amended application no longer proposes the creation of an APZ adjacent to the site's eastern boundary. Some clearing works are still however proposed but these only relate to the pruning of overhanging branches and tree limbs within 2 metres of the sites boundary. If the application is approved, any issued development consent should be conditioned so as to require minimal disturbance to the existing ground, notification of proposed works to the Local Land Council and opportunity for the Local Land Council to provide on-site monitoring during the works.

iv) Crookhaven Park Plan of Management: The subject site is located in an area affected by the 'Crookhaven Park Plan of Management'. The Plan of Management identifies the subject land as a caravan park and advises of concerns that the local Land Council has with any future expansion (i.e. special consideration needs to be given for bush land preservation). It also identifies the Aboriginal cultural values (i.e. food gathering, story telling, water holes and ceremonial sites) the area has and in particular, it notes that it is likely that un-recorded burials and campsites exist within the sand dune areas to the east of the subject site. The Plan of Management identifying the subject site as being within the 'Foreshore Protection Unit/Area' and the 'Development Unit'. The controls that apply to each of these areas is discussed separately below:

- Foreshore Protection Unit/Area: The controls in this part of the Plan of Management relate to restricting access to dune areas, minimisation of visual impact of development, restricting the clearing of vegetation and requiring occupation/leases of this area to be approved by the Department of Lands. It is considered that the submitted DA complies with these requirements as no new access to the foreshore/dune areas is proposed, the works given their location will have minimal visual impact (i.e. subject to sites 22 to 27 and 117 to 120 not allowing for the permanent installation of manufactured homes, cabins or movable dwellings), no vegetation removal apart from pruning is proposed and the Department of Lands have

authorised the lodgement of the current application and have separately provided comments.

- Development Unit: The controls in this part of the Plan of Management relate to development being consistent with the Plan of Management, approval from the Local Land Council being obtained where development is likely to damage or adversely affect Aboriginal sites and development being in accordance with the EPA Act. It is considered that the submitted DA complies with these requirements as notification of the proposed development has been provided to the Jerrinja Local Aboriginal Land Council on two occasions and separate discussions have been held at Council and on site, the development as proposed is consistent with the Plan of Management and is in accordance with EPA Act requirements.

In summary, it is considered that the submitted DA is consistent with the applicable requirements of the Plan of Management.

- v) Draft Development Control Plan 118 - Areas of Coastal Management (DCP 118): Draft DCP 118 identifies the risks associated with coastal hazards so as to ensure future development in the coastal zone considers the risks such as coastal inundation, slope instability and coastal erosion. The subject site although it is identified on the general mapping is located outside the Precinct 3 - Low Risk Area, as identified on the maps referenced in the Draft DCP (i.e. not identified as being impacted upon by coastal instability). As such, it is considered that the submitted DA is consistent with the applicable requirements of this Draft DCP.
- vi) Flooding: The subject site is not identified as being flood prone on Council's mapping. As such, no further assessment has been undertaken.
- vii) Easements/Restrictions on the use of the land: A review of the Deposited Plan for the subject land has indicated that the development site is not affected by any easements and/or restriction as to user.
- viii) Climate Change: No cumulative impacts are expected in regard to the proposed development that could further contribute to climate change. Furthermore, there are no risks relevant to the site that could potentially be exacerbated by climate change given the developments setback from the coastline to the east (i.e. approximately 155m) and its location behind well vegetated fore dunes. As outlined above the proposed development is not affected by the requirements of Draft DCP 118.

8. Referrals

Internal:

- Building Surveyor: No objection to the proposal subject to the imposition of recommended conditions on any issued development consent (i.e. Section 68 Approval under the Local Government Act required).
- Development Engineer: No objection to the proposal subject to the imposition of recommended conditions on any issued development consent (i.e. access requirements, drainage requirements).
- 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 (i.e. marking of sites, sullage disposal and carparking to be provided in accordance with the Local Government (Manufactured Home Estate, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005).

- 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) and the attachment of the provided Shoalhaven Water Development Application Notice to any issued development consent.
- Heritage Adviser: No objection to the proposal and no recommended conditions to be imposed on any issued development consent.

External:

- Rural Fire Service (RFS): The RFS has provided advice/comments on two separate occasions. The original advice provided (letter dated 18 January 2010) outlining that the RFS have no objection to the proposal and, as such, granted a Bush Fire Safety Authority (i.e. authorisation under section 100B of the Rural Fires Act 1997) subject to the imposition of conditions as contained in their advice. Additional advice was sought from the RFS during the application's assessment due to amendments proposed by the applicant. The RFS advising (letter dated 3 May 2010) that they are prepared to reissue a Bush Fire Safety Authority subject to the imposition of conditions as contained in their amended advice. These conditions, in summary, relating to asset protection zone (APZ) requirements, access requirements and design/construction requirements.
- Land and Property Management Authority (LPMA): The LPMA has provided advice/comments on three separate occasions. The original advice provided (email dated 18 January 2010) raising concerns as to whether development consent has previously been issued to allow the change of use of some of the proposed camping to short term sites. The next advice issued in relation to the amended proposal (letter dated 3 March 2010) outlining that it has no objection in principle to the proposal, however, it does not support any vegetation removal outside the park boundaries for the purpose of an APZ. Additional advice was subsequently sought due to amendments to the bushfire assessment report so as to address concerns previously raised about clearing external to the park boundaries. The LPMA advising (letter dated 31 May 2010) that they have no objection to the recommendations as contained in the amended bushfire report.
- NSW Department of Environment Climate Change and Water (DECCW): During the assessment of the application discussions have been had with the Aboriginal Heritage Conservation Officer from DECCW. An email response (dated 15 April 2010) to a referral made has indicated that the land to the east (north east of proposed short term site 22) contains a potential archaeological deposit area and is also the location of a re-burial ceremony where Aboriginal ancestral remains were repatriated in the 1980's by the Jerrinja Aboriginal Community. The signage that currently exists in this area to indicate the presence of Aboriginal middens being erected by National Parks to inform visitors about cultural values of the area. The advice provided also indicating that any ground disturbance activities in the area to the east of the subject land would require onsite appraisal to ensure aboriginal objects are not impact upon. Any issued development consent to be conditioned in relation to the above and to require onsite monitoring by the Jerrinja Local Aboriginal Land Council of any works within the adjoining land to the east (i.e. pruning and maintenance of adjacent vegetation).

9. Options

The Joint Regional Planning Panel 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 that the submitted proposal has an unsatisfactory visual impact and will have adverse health impacts); or
- c) Write to the applicant requesting them to amend/modify the proposal and subject to the matters being satisfactorily resolved a further report be submitted to the Joint Regional Planning Panel (Southern Region) for its consideration.

10. Conclusion

This application has been assessed having regard to the Matters for Consideration under Section 79C of the Environmental Planning and Assessment Act 1979. Following a detailed assessment, it is considered that Development Application No RA09/1004 should be supported subject to suitable conditions being imposed on any issued development consent.

11. Recommendation

RECOMMENDED that, in respect of RA09/1004 for the proposed Alterations and Additions to the Crookhaven Heads Tourist Park at Lot 99 DP 821450 Prince Edward Avenue, Culburra Beach, the application be approved as an operational development consent subject to conditions as contained in **Attachment 'A'**.

Signed:

date: 14/07/10



Andrew Lissenden

ATTACHMENT 'A'



**NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION
DEVELOPMENT CONSENT**

**Environmental Planning and Assessment Act, 1979
DA09/1794**

TO:

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

**being the applicant(s) for DA09/1794 relating to:
Lot 99 DP 821450, Prince Edward Avenue, Culburra Beach**

APPROVED USE AND OR DEVELOPMENT:

Conversion of 14 existing camping sites into short term movable dwelling sites and the creation of 12 new short term movable dwelling sites resulting in a total of 351 sites within the existing caravan park (26 camping sites, 324 short term movable dwelling sites and 1 long term site).

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 14 existing camping sites into short term movable dwelling sites and the creation of 12 new short term movable dwelling sites resulting in a total of 351 sites within the existing caravan park (26 camping sites, 324 short term movable dwelling sites and 1 long term site** as illustrated on the plans with the following references:

- o Plan Reference: 1285.28 (Crookhaven Heads Tourist Park-Site Plan), Drawn: 27/1/10 (Stamped Revised 1 Feb 2010);
- o Plan Reference: 1285_34 (Crookhaven Heads Tourist Park –Community Plan), Drawn: 8/3/10; and
- o Plan Reference: 1285_36 (Crookhaven Heads Tourist Park –Fire Hose Reel and Hydrant Services Plan), Drawn: 8/3/10

specifications and supporting documentation (Bushfire Assessment & Recommendations, Alterations to Crookhaven Heads Tourist Park, Princes Edward Avenue Culburra Beach, Prepared by: Bushfire Protection Planning & Assessment Services, Ref: PS_HHTP180608, Dated: 19 April 2010 and supporting Statement of Environmental Effects) stamped with reference to this consent, as modified by the following conditions. The development shall be carried out in accordance with this consent.

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
01ROAD2096	Pyree Lane, Culburra Road	\$120.26*3	\$360.78
01ROAD2099	Greenwell Point Road	\$31.90*3	\$95.70
01ROAD2001	Culburra Road/Princes Highway	\$197.90*3	\$593.70
CWFire0002	Shoalhaven Fire Control Centre	\$205.04*3	\$469.83
CWFIRE0001	Citywide Fire & Emergency Services	\$156.61*3	\$1,455.38
CWMGMT2001	Section 94 Administration	\$425.47*0.5018	\$213.50
			\$2,348.63

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 \$2,348.63 (i.e. 2009/2010 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 issue of a Construction Certificate. 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.

Caravan Park Requirements

7. Prior to the occupation/use of the approved sites (i.e. 14 converted sites and 12 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 the approved plan with reference 1285_36 (Crookhaven Heads Tourist Park –Fire Hose Reel and Hydrant Services Plan), Drawn: 8/3/10; and
- f) The internal road that provides access to and is adjacent to sites 96 to 100 and 304 to 306 shall be 6m minimum wide constructed to an all weather seal (i.e. 25mm of AC10 asphaltic concrete (AC) or similar bitumen seal standard) with a minimum compacted pavement thickness of 200mm .

Operational Approval - S68 of the Local Government Act 1993

8. 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.

PART C

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

Bushfire Requirements (Rural Fire Service – Bushfire Safety Authority)

9. Arrangements for emergency and evacuation are to comply with section 4.2.7 of *Planning for Bushfire Protection 2006*.
10. At the commencement of works and in perpetuity the entire property, excluding areas restricted by riparian issues, shall be managed as an inner protection area (IPA) as outlined in section 4.1.3 and Appendix 5 of *Planning for Bushfire Protection 2006* and the NSW Rural Fire Service's document *Standards for asset protection zones*.
11. Water, electricity and gas are to comply with section 4.2.7 of *Planning for Bushfire Protection 2006*.
12. Internal roads must comply with following requirements of section 4.2.7 of the Rural fire Service's 'Planning for Bush Fire Protection 2006'.
 - a) Traffic management devices must be constructed and placed in a manner which facilitates access to emergency services vehicles;
 - b) A minimum vertical clearance of 4 metres to any overhanging obstructions, including tree branches, must be provided; and
 - c) The internal road surfaces and bridges must have a demonstrated capacity to carry fully loaded fire fighting vehicles (i.e. 15 tonnes).
13. The existing cabins, residential buildings, sheds, kitchen and amenity buildings within 100m of bushfire prone vegetation are required to be upgraded to improve ember protection where practically possible. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen.

Where applicable, this includes any sub floor areas, openable windows, doors, vents, weepholes and eaves.

14. A screening attenuation system designed to reduce the intensity of radiant heat flux will be required to cover the entire glazed area of short term moveable dwelling (STMD) sites 14-17, 102-103, 266, 269, 272, 274, 276, 283-288, 297 and 298 except where the glazing is already toughened or separated from bushfire prone vegetation by more than 15 metres and:
 - a) The north, south and east elevations of STMD sites 1417, 102, 103 and 276;
 - b) The south, east and west elevations of STMD sites 266, 269, 272, 274, 288, 297 and 298;
 - c) The north, south and west elevations of STMD sites 283 and 286; and
 - d) All elevations of STMD site 287 containing standard type caravans that are unable to achieve the necessary construction standards are to be shielded with a radiant heat shielding system wherever practicable.

Caravan Park Requirements

15. A minimum of 3 disabled car spaces are to be provided in the visitor car parking area. These spaces are to be in accordance with *AS2890.1-2009 Parking facilities off street parking* in terms of size, line marking and signage.
16. 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.
17. The permanent installation of manufactured homes, cabins and moveable dwellings on sites 22, 23, 24, 25, 26, 27, 117, 118, 119, and 120 as detailed on the approved site plan (Plan Reference 1285.28 (Crookhaven Heads Tourist Park-Site Plan), Drawn: 27/1/10, Stamped Revised 1 Feb 2010) is prohibited. In this regard, the sites must only be occupied by tents, campervans and caravans (and flexible or canvas annexes) on a short-term basis by tourists.

Aboriginal Cultural/Heritage Conservation

18. No works, apart from the judicious pruning of branches or tree limbs that are located within 2 metres of the sites eastern boundary, are to be undertaken on the adjoining Crown land. Any works required shall only be undertaken after notification has been provided to the Jerrinja Local Aboriginal Land Council and opportunity provided for onsite monitoring of the proposed works to ensure minimal ground disturbance and Aboriginal objects are not impacted upon.

Waste Minimisation and Management

19. 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.

Compliance with the WMMP shall be demonstrated by the retention of relevant receipts. These must be submitted to Council, upon request.

Noise

20. 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 D

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 E

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 F

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 G

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

ATTACHMENT 'B'



SITE LOCATION DETAILS



Site Boundaries
Closest Residential Property



— — Site Location

ATTACHMENT 'C'



ATTACHMENT 'D'



<i>Land use</i>	<i>DCP 18 requirement</i>	<i>Total proposed sites</i>	<i>Total spaces required</i>		<i>Total spaces provided</i>
			<i>Resident</i>	<i>Visitor</i>	
<i>Caravan Park</i>	1 car space per camp site (<i>Resident parking</i>).	26	26		26 spaces provided on site (i.e. 1 space forming part of each site)
	1 car space per short term/long term site (<i>Resident parking</i>).	325	325		325 spaces provided on site (i.e. 1 space forming part of each site)
	1 car space per 40 camping sites (<i>Visitor Space</i>).	26		1	23 (i.e. within visitor parking area)
		324		16.2	Included in the above
	1 car space per 20 short term sites (<i>Visitor Space</i>).	1		1	Included in the above
	1 car space per 10 long term sites (<i>Visitor Space</i>).				
Total			351 (18.2)	18	374 (351 – on-site car spaces 23 visitor spaces)
			369		