

DATE OF DETERMINATION	23 May 2025
DATE OF PANEL DECISION	23 May 2025
DATE OF PANEL MEETING	20 May 2025
PANEL MEMBERS	Dianne Leeson (Chair), Stephen Gow, Graham Brown, Ned Wales and Pat Miller
APOLOGIES	Michael Wright
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 20 May 2025, opened at 1.01pm and closed at 1.33pm.

MATTER DETERMINED

PPSNTH-358 – Tweed - DA25/0011 - 1183 Cudgera Creek Road, Cudgera Creek – Demolition of existing structures erection of a caravan park containing 267 long term sites and 12 short term sites, clubhouse, outbuildings and associated road (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at the meeting listed at item 8 in Schedule 1.

Development application

The Panel was not satisfied that the proposed effluent dispersal within the RU1 zone is a separate or independent use, but rather it would be inextricably related to the principal proposed use of the caravan park, to be located on the RU2 zoned land. The Panel concluded that as the use of the land for a caravan park cannot operate without the effluent dispersal areas; and as these areas are proposed to be located on land zoned RU1, where caravan parks are prohibited, then the application for a caravan park must be refused.

The Panel determined to refuse the development application for this and various other reasons as set out below, pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to refuse the application for the following reasons included in Council's assessment report:

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed caravan park use extends into the RU1 Primary Production zone under the Tweed Local Environmental Plan 2014, where caravan parks are a prohibited land use. As the effluent treatment areas are inextricably related to the principal use as a caravan park and are located on RU1 zoned land, which prohibits caravan parks, the application must be refused.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is not consistent with the following Aims of the Tweed Local Environmental Plan 2014:
 - a. to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents;

- b. To promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, built environment, and cultural heritage;
 - c. to conserve or enhance the biological diversity, scenic quality and geological and ecological integrity of Tweed;
 - d. to conserve or enhance areas of defined high ecological value; and
 - e. to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided to be satisfied that the provisions of the State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 2, Section 2.8, have been met and that the development will not significantly impact on:
 - a. the biophysical, hydrological or ecological integrity of the adjacent coastal wetland area, or
 - b. the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland area.
4. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided to be satisfied that the provisions of the State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 2, Section 2.10, have been met and that the development and associated vegetation removal will not result in an adverse impact on significant ecological values.
5. Pursuant to Section 4.15(1)(a) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided to be satisfied that the provisions of the State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 4, Section 4.6, have been met in relation to potential land contamination and appropriate remediation.
6. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfactorily address the provisions of Part 5 of the Tweed Coast Comprehensive Koala Plan of Management 2020, an approved koala plan of management under the State Environmental Planning Policy (Biodiversity and Conservation) 2021.
7. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not align with the objectives of the RU1 Rural Landscape zone under the Tweed Local Environmental Plan 2014, particularly in protecting prime agricultural land.
8. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development does not align with the objectives of the RU2 Primary Production zone under the Tweed Local Environmental Plan 2014, particularly in maintaining rural character.
9. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided to demonstrate that the proposal is compliant with the provisions of Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021, particularly regarding water supply and the disposal of sewage.
10. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided regarding the importation of fill as required under Clause 7.2 Earthworks of the Tweed Local Environmental Plan 2014.

11. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided regarding the flood impacts of the development as required under Clause 5.21 of the Tweed Local Environmental Plan 2014.
12. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided as an acid sulfate soil management plan has not been provided as required under Clause 7.1 of the Tweed Local Environmental Plan 2014.
13. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, insufficient information has been provided to determine that the proposal incorporates adequate arrangements for the provision of essential services including suitable access, supply of water and the disposal and management of sewage as required under Clause 7.10 Essential Services of the Tweed Local Environmental Plan 2014.
14. Pursuant to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy Section A19 Biodiversity and Habitat Management of the Tweed Development Control Plan 2008 in relation to the avoidance, protection and management of red flagged biodiversity values.
15. Pursuant to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposed development fails to satisfy Section B21 Pottsville Locality Based Development Code of the Tweed Development Control Plan 2008 as the proposed development conflicts with Pottsville's character.
16. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development will likely result in an unacceptable impact on the environmental attributes of the land in regard to flora and fauna.
17. Pursuant to Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979, the application does not provide sufficient information to determine the likely impacts associated with the proposed development including in relation to contamination, flooding, traffic, bushfire and land use conflict.
18. Pursuant to Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979, the assessment of the proposal has had regard to the 155 community submissions objecting to the proposal and the issues raised have not been adequately addressed or mitigated.
19. Pursuant to Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, for the reasons particularised above, the proposed development is not in the public interest.
20. Pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979, the proposed development fails to comply with Clause 23 of the Environmental Planning and Assessment Regulation 2021 as Council, the owner of Cudgera Creek Road, has not provided written consent to the development application.

CONDITIONS



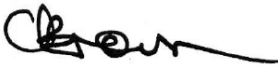


Not applicable

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Site suitability and zoning
- Visual impact
- Infrastructure and Services
- Traffic
- Environmental impact
- Earthworks
- Flooding
- Effluent disposal

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 Dianne Leeson (Chair)	 Stephen Gow
 Graham Brown	 Peter Ned Wales
 Patrick Thomas Miller	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-358 – Tweed – DA24/0352
2	PROPOSED DEVELOPMENT	Demolition of existing structures erection of a caravan park containing 267 long term sites and 12 short term sites, clubhouse, outbuildings and associated road
3	STREET ADDRESS	1183 Cudgera Creek Road, Cudgera Creek
4	APPLICANT OWNER	Murray Towndrow on behalf of Arbus Pottsville Pty Ltd Gregory C King
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy Transport and Infrastructure) 2021 Tweed Local Environmental Plan 2014 Tweed Local Environmental Plan 2000 Biodiversity Conservation Act, 2016 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Tweed Development Control Plan 2008 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 6 May 2025 Written submissions during public exhibition: 162 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Lucia Estanol, Darrin White, Philip Thew, Karen Wright Council assessment officer – Asmara Tesfa On behalf of the applicant – Murray Towndrow Total number of unique submissions received by way of objection: 155
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Final briefing to discuss Council's recommendation: 20 May 2025 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Graham Brown, Ned Wales and Pat Miller <u>Council assessment staff</u>: Asmara Tesfa, Lindsay McGavin and Aiden Sloman <u>Department staff</u>: Carolyn Hunt and Ilona Ter-Stepanova

9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not provided