

## **Attachment 1 – Review of Assessment Report DA2020/0220**

### **INTRODUCTION**

This review of an assessment of the redevelopment of the Calypso Caravan Park that was assessed by Clarence Valley Council (PPSNTH-36 DA2020/0220). The review focuses on Section 4.15 (1) - Matters for Consideration General of the Environmental Assessment and Planning Act 1979 (EP&A Act).

This review will establish whether the relevant matters of consideration under S4.15 have been assessed and the issues raised in submissions have been adequately considered.

The independent review of the S4.15 assessment presented here was conducted at the request of Clarence Valley Council because they are owners of the Caravan Park and have assessed the development application.

The review was based on the following documents:

- Council Assessment Report – PPSNTH-36.
- Panel Report Attachment Minutes and Attachments from Council Meeting held - 23 06 2020 - 6b 20 044.
- Panel Report attachment Instrument of Concurrence Calypso Caravan Park Yamba.
- Panel Report attachment DA2020-0220 Submissions.
- Panel Report attachment DA2020-0220 Statement of Environmental Effects 8A Harbour Street Yamba.
- Panel Report attachment DA2020-0220 Plans 8A Harbour Street Yamba.

### **PROPOSAL**

Redevelopment of caravan park - Reduce the total number of sites from 168 to 133 and provide a 30 metre wide public access corridor (Town Green). Construct new holiday park entrance, demolition of ageing facilities, new internal servicing infrastructure, new community facilities, 16 new tourist cabins, removal of 18 trees (no Norfolk island pines), landscaping and fencing and removal of disused tanks and site rehabilitation.

### **STATUTORY ASSESSMENT REVIEW**

#### **Planning and approvals framework - Section 4.15 (1)**

The Environmental Planning and Assessment Act 1979 (EP&A Act) and Environmental Planning and Assessment Act Regulation 200 establishes the framework for the assessment and approval of development in NSW. The proposal represents Regionally Significant Development under State Environmental Planning Policy (State and Regional Development) 2011, being Council related development over \$5 million and Clarence Valley Council is carrying out the development. The Northern Regional Planning Panel is the consent authority under 5.4(b) of the EP&A Act.

Section 4.15 of the EP&A Act outlines the matters that must be taken into consideration by a consent authority when assessing a development application under Part 4 of the Act.

The proposed development has been assessed against the planning controls and principles within the following applicable planning instruments.

Section 4.15 (1) (a) the provisions of –

Section 4.15 (1) (i) any environmental planning instrument

Consideration of the environmental planning instruments is provided in Table below.

Table 1 Relevant Environmental Planning Instruments

Environmental Planning Instruments	Compliance Status / Consideration
<b>Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005</b>	Partially addressed.  Concurrence granted by the Department on 7 April 2020 that Sections 119(a), 110(1)(a) & 130 of the Regulation do not apply to the development.  Division 1 and 3 of the Regulations 2005 should be considered as required by SEPP 21.
<b>State Environmental Planning Policy (State and Regional Development) 2011</b>	Satisfactorily addressed.
<b>State Environmental Planning Policy No 21 — Caravan Parks</b>	This has been assessed as compliant. However, there appears to be few details regarding how the proposal satisfies Clause 10 of the SEPP.  Clause 10 requires the consideration of some issues when considering whether to grant consent to development for a caravan park.  The assessment should adequately demonstrate that clause 10 has been considered along with the requirements set out in Division 1 and 3 of the Regulations 2005.
<b>State Environmental Planning Policy (Infrastructure) 2007</b>	Compliant – Clause 65(3) satisfactorily addressed.
<b>State Environmental Planning Policy No 55— Remediation of Land</b>	Satisfactorily addressed. However, it is unclear what conditions have been imposed for remediation.
<b>State Environmental Planning Policy (Coastal Management) 2018</b>	Compliant – satisfactorily addressed.
<b>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</b>	This has been listed as an applicable SEPP. However, there is no assessment of this within the report.
<b>Clarence Valley Local Environmental Plan 2011</b>	
<ul style="list-style-type: none"> <li>Objectives of the SP3 Tourist zone</li> <li>Objectives of the RE1 Public Recreation zone</li> <li>Clause 2.7 Demolition</li> <li>Clause 4.3 Height of Buildings</li> <li>Clause 5.10 Heritage Conservation</li> </ul>	<p>Satisfactorily addressed – compliant.</p> <p>Satisfactorily addressed – compliant.</p> <p>Satisfactorily addressed – compliant.</p> <p>Satisfactorily addressed – compliant.</p> <p>Satisfactorily addressed – compliant.</p>

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<ul style="list-style-type: none"><li>• Clause 7.1 Acid Sulfate Soils</li></ul>	Satisfactorily addressed – compliant. An acid sulfate soil management plan has been submitted with the application.
<ul style="list-style-type: none"><li>• Clause 7.2 Earthworks</li></ul>	Satisfactorily addressed – compliant subject to conditions of consent requiring a sediment and erosion control plan.
<ul style="list-style-type: none"><li>• Clause 7.4 Flood Planning</li></ul>	Concerns are raised that this clause has not fully been assessed, specifically the requirements of subclause 3.
<ul style="list-style-type: none"><li>• Clause 7.8 Essential Services</li></ul>	Satisfactorily addressed.

Further considerations:

- Flooding.  
It appears that the relevant flooding controls have not been considered. Clause 7.3 Flood Planning (Now repealed) or Clause 5.21 Flood Planning have not been considered. Clauses 5.1 and 7.3 of the LEP prescribe things the consent authority must consider before making a determination. At present, the assessment report does not provide the required information, which may prevent the Panel from considering the mandatory factors prescribed in the LEP.
- Acid Sulfate Soils.  
It is noted that the assessment report references the site as potentially having class 2 and 3 acid sulfate soils. However, the Table in this section refers to class 1 and class 2 acid sulfate soils. Nevertheless, it was stated that an acid sulfate soils management plan had been submitted with the application. A condition of consent should be recommended to approve the plan and required works.

**Section 4.15 (1) (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).**

N/A.

**Section 4.15 (1) (iii) any development control plan**

Clarence Valley Development Control Plan 2011 - Development in Environmental Protection, Recreation and Special Use Zones	
Control	Compliance Status / Consideration
<ul style="list-style-type: none"><li>• Part C – General Development Controls<ul style="list-style-type: none"><li>• C1 Objectives</li><li>• C4 Streetscape requirements</li><li>• C5 Building design</li><li>• C7 Impact on coastal views</li><li>• C17 Setbacks</li><li>• C18 Development on flood liable land</li><li>• C22 Acid sulfate soils</li><li>• C26 Provision of essential services</li></ul></li></ul>	Satisfactorily addressed.

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<ul style="list-style-type: none"><li>• Part D – Floodplain Management Controls<ul style="list-style-type: none"><li>• Evacuation</li></ul></li></ul>	Details have not been provided regarding evacuation and a flood evacuation plan.
<ul style="list-style-type: none"><li>• Part E - Parking</li></ul>	Appears to be satisfactory.  The assessment has not indicated the proposed parking and required parking rates.
<ul style="list-style-type: none"><li>• Part H – Erosion and Sediment Control</li></ul>	Satisfactorily addressed – via conditions of consent.
<ul style="list-style-type: none"><li>• Part I – Subdivision and Engineering Standards</li></ul>	Appears to be satisfactory.

**Section 4.15 (1) (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4**

N/A.

**Section 4.15 (1) (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),**

Appears to be satisfactory.

- Environmental Planning and Assessment Regulation 2000.
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.

The assessment should clearly demonstrate how compliance with Division 1 and 3 of the Regulations 2005 has been achieved.

**Section 4.15 (1) (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,**

Appears to be satisfactory.

**Section 4.15 (1) (c) the suitability of the site for the development,**

Appears to be satisfactory.

**Section 4.15 (1) (d) any submissions made in accordance with this Act or the regulations,**

Appears to be satisfactory.

Four submissions were made and were considered as part of the assessment accordingly.

Annotating the plans to be approved to delete the Proposed Jetty may alleviate any confusion in the future and concerns raised by the Port Authority NSW.

**Section 4.15 (1) (e) the public interest**

Appears to be satisfactory.

**Conclusion**

Over all the assessment carried out by Clarence Valley Council was generally found to be satisfactory and in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979, and the relevant statutory and policy provisions were considered.

There may be sections as outlined above that may need further consideration or further comments provided in relation to these matters. These may include:

- State Environmental Planning Policy No 21 — Caravan Parks
- Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005
- Flooding
- Acid sulfate soils
- Contamination
- Parking