

RECORD OF DEFERRAL

NORTHERN REGIONAL PLANNING PANEL

DATE OF DEFERRAL	22 February 2022
PANEL MEMBERS	Paul Mitchell (Chair), Stephen Gow, Penny Holloway, Ian Tiley and Peter Johnstone
APOLOGIES	None
DECLARATIONS OF INTEREST	Greg Clancy declared a conflict of interest as he voted on a Council resolution with respect to this development during his last term on Council, and therefore has a conflict of interest.

Papers circulated electronically on 8 February 2022.

MATTER DEFERRED

PPSNTH-36 – Clarence Valley – DA2020/0220 at 8A Harbour St, Yamba – Calypso Caravan Park (as described in Schedule 1).

REASONS FOR DEFERRAL



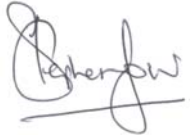


The panel agrees to a request to defer the determination of the matter made by the Yaegl Traditional Owners Aboriginal Corporation RNTBC (YTOAC). The deferral is for two weeks.

During this period, the Panel requests that the Council obtain legal advice on the following:

1. Whether the Panel's powers under the *Environmental Planning and Assessment Act, 1979* to determine the application are limited or otherwise qualified as a result of ongoing Indigenous Land Use Agreement (ILUA) negotiations?
2. Whether the Crown's powers as landowner to provide approval to lodge the development application under the *Environmental Planning and Assessment Act, 1979* are limited due to the existence of native title on the subject land?

The legal advice provided to council is to be made available to the public through publication on the council and regional planning panels websites.

The decision to defer the matter was unanimous.

PANEL MEMBERS	
 Paul Mitchell OAM (Chair)	 Penny Holloway
 Stephen Gow	 Ian Tiley
 Peter Johnstone	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-36 – Clarence Valley – DA2020/0220
2	PROPOSED DEVELOPMENT	Redevelopment of caravan park - Reduce total number of sites from 168 to 133, provide 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.
3	STREET ADDRESS	8A Harbour St, Yamba
4	APPLICANT/OWNER	Clarence Valley Council / Crown Lands NSW Reserve No. 81523 (Council as Land Manager)
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy No 21—Caravan Parks State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy (Coastal Management) 2018 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 Clarence Valley Local Environmental Plan 2011 Grafton and Lower Clarence Floodplain Risk Management Plan (2014) Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Clarence Valley Council Development Control Plan Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil 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: 8 February 2022 Supplementary report: 15 February 2022 Written submissions during public exhibition: four (4)
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 28 July 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow and Jim Simmons <u>Council assessment staff</u>: Patrick Ridgway, James Hamilton, Carmen Landers and Ruth Hallett <u>Department staff</u>: Carolyn Hunt and Lisa Foley

		<ul style="list-style-type: none"> • Final briefing to discuss council's recommendation: 16 February 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Stephen Gow, Penny Holloway, Ian Tiley and Peter Johnstone ○ <u>Council assessment staff</u>: Patrick Ridgway, Murray Lane, Dr Danny Parkin, Adam Cameron, Carmen Landers, Chris Dear, Scott Whitehouse ○ <u>Department staff</u>: Stuart Withington, Carolyn Hunt, Cameron Brooks • Submitter Briefing: 16 February 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Stephen Gow, Penny Holloway, Ian Tiley and Peter Johnstone ○ <u>Council assessment staff</u>: Patrick Ridgway, Murray Lane, Dr Danny Parkin, Adam Cameron, Carmen Landers, Chris Dear, Scott Whitehouse ○ <u>Department staff</u>: Stuart Withington, Carolyn Hunt, Cameron Brooks ○ <u>Submitters</u>: Helen Orr – solicitor - NTSCORP Limited on behalf of Yaegl Traditional Owners Aboriginal Corporation RNTBC (YTOAC), Dianne Chapman, Bill Walker <p><u>Note</u>: Submitter briefing was requested to provide the Panel with clarification on issues raised in submissions</p> • Applicant Briefing: 16 February 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Stephen Gow, Penny Holloway, Ian Tiley and Peter Johnstone ○ <u>Council assessment staff</u>: Patrick Ridgway, Murray Lane, Dr Danny Parkin, Adam Cameron, Carmen Landers, Chris Dear, Scott Whitehouse ○ <u>Department staff</u>: Stuart Withington, Carolyn Hunt, Cameron Brooks ○ <u>Applicant representatives</u>: Peter Birch <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report