

## ATTACHMENT 'A'

### Draft Conditions of Consent Proposed Tourist Caravan Park Inyadda Drive Manyana

#### **PART A** **CONDITIONS OF A GENERAL NATURE, INCLUDING A DESCRIPTION OF THE PROPOSED DEVELOPMENT**

##### ***Deferred Commencement***

1. Pursuant to section 80(3) of the Act, this development application has been determined by granted of **'Deferred Commencement' Consent**, subject to the following matter being resolved:

- a) The main access shall be redesigned as for a public road intersection in accordance with current RTA Road Design Guidelines including BAL & AUR treatments and shall be relocated to the north to achieve the "desirable" minimum Safe Intersection Sight Distance (SISD) to suit the current speed limit [80km/h] in both directions in accordance with Austroads Part 5.

A revised park layout plan demonstrating this access redesign shall be provided, including a redesign of the stormwater detention area. The revised park layout shall not encroach into the 100m sensitive coastal zone located along the northern portion of the development site.

*Note: A minimum of 35m clear storage needs to be maintained between the boom gates and the Inyadda Drive boundary so that queued vehicles do not impact on Inyadda Drive or block access to any ancillary areas (ie visitor car park, loading dock);*

The maximum amount of time that Council will allow for these matters to be resolved is 2 years from the date of this consent.

This consent will not operate until the applicant has satisfied Council with respect to the above matters. Details must be submitted to Council for approval by the Development and Environmental Manager.

**Note:** *An application under Section 96 of the Environmental Planning and Assessment Act 1979 must be lodged with Council prior to the expiration of the above period if additional time is required to resolve the outstanding matters.*

*Upon resolution of the abovementioned matters an operational consent will be issued.*

2. This consent relates to the development of a seventy-five [75] Site Short Term Occupancy Caravan Park, Manager's Residence and Community Facilities as illustrated on the plans, specifications and supporting documentation, detailed in the following table and stamped with reference to this consent.

<b>Plan No./ Supporting Document</b>	<b>Version</b>	<b>Prepared by</b>	<b>Dated</b>
<b>Statement of Environmental Effects for S82A Review</b>	Revision B	Integrated Site Design Pty Ltd	15/12/2008
<b>Site Analysis &amp; Context Plan</b>	DA-00	Integrated Site Design Pty Ltd	January 2008
<b>Site Layout Plan</b>	DA-01 Rev C	Integrated Site Design Pty Ltd	17/11/2008
<b>Community Area Layout Plan</b>	DA-02 Rev A	Integrated Site Design Pty Ltd	17/11/2008
<b>Community Building – Plan &amp; Elevations</b>	DA-03 Rev A	Integrated Site Design Pty Ltd	17/11/2008
<b>Proposed Shop &amp; Manager's Residence</b>	DA-04 Rev A	Integrated Site Design Pty Ltd	17/11/2008
<b>Proposed Amenities Block</b>	DA-05	Integrated Site Design Pty Ltd	November 2008
<b>Rural Fire Service Advice letter and required conditions</b>	G09/0196 DA08050750 684 MH	NSW Rural Fire Service	12/03/2009
<b>Flora &amp; Fauna Assessment</b>	Version 5	Whelans Insites Pty Ltd	20/02/2008
<b>Aboriginal Heritage Impact Assessment – Preliminary Advice</b>		South East Archaeology Pty Ltd	22/11/2007
<b>Geotechnical &amp; Stage 1 Contamination Assessment Report</b>	P0701752JR 02_ V4	Martins & Associates Pty Ltd	12/02/2008
<b>Stormwater Management Assessment Report</b>	P0701752JR 01_ V2	Martins & Associates Pty Ltd	12/02/2007
<b>Bushfire Management Assessment Report</b>	P0701752JR 03_ V2	Martins & Associates Pty Ltd	13/02/2008

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<b>Transport Report For Proposed Caravan Park Manyana</b>	6711	Colston Budd Hunt & Kafes Pty Ltd	January 2008
<b>Landscape Design Report</b>		James Pfeiffer Landscape Architects	26/02/2008
<b>Legal Advice Letter to Malbec</b>	GAG/RVV:cw:M1606	Pike Pike & Fenwick	1/04/2008
<b>Response to Council Comments</b>	JH/6711/jj	Colston Budd Hunt & Kafes Pty Ltd	24/07/2008
<b>Transport Report Update Letter</b>	JH/6711/jj	Colston Budd Hunt & Kafes Pty Ltd	8/12/2008 & 19/12/2008
<b>Post Development Hydrological Scheme Letter</b>	P0701752JC 07_V2	Martins & Associates Pty Ltd	15/07/2008
<b>Consultants update letter for stormwater, geotechnical, contamination, bushfire, sewage &amp; water supply</b>	P0701752JC 08_V1	Martins & Associates Pty Ltd	8/12/2008
<b>Response to Council &amp; DECC Comments</b>	D799 – Council response - V2	Whelans Insites Pty Ltd	25/06/2008
<b>Update letter - Flora &amp; Fauna Assessment</b>	D799EV	Whelans Insites Pty Ltd	16/07/2008
<b>Response to NGH Comments</b>	D799EV_NG H Response_V2_040908	Whelans Insites Pty Ltd	4/09/2008

**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.

3. The seventy-five **[75] Site Short Term Occupancy Caravan Park, Manager's Residence and Community Facilities** 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 BEFORE WORK CAN COMMENCE**

***Damage to Public Assets***

4. The developer or his agent must undertake a site inspection of the adjacent kerbs, gutters, footpaths, walkways, carriageway, reserves and the like, prior to commencement of work and document evidence of any damage to existing assets. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense.

***Construction Certificate***

5. A Construction Certificate must be obtained from either Council or an accredited certifier in respect to the following works, prior to commencing work on site:
  - All buildings not located on an approved moveable dwelling site within the Caravan Park that are not proposed to be installed pursuant to Section 68 of the Local Government Act, 1993;
  - All on-site earthworks, roadworks, clearing and infrastructure excluding buildings.

***Notice of Commencement***

6. Notice must be given to Council **at least two (2) days prior to the commencement of building work.**

***Builders' Toilet***

7. Before commencing building operations, a builder's water closet accommodation must be provided to Council's satisfaction.

A chemical toilet may be used on the site or alternatively the site may be provided with temporary closet accommodation connected to Council's sewer where sewer is available and operational. Under no circumstances will pit toilets or similar be accepted by Council.

***Building Code of Australia***

8. All building work must be carried out in accordance with the requirements of the Building Code of Australia.

**Note:** This condition is prescribed under the Environmental Planning and Assessment Regulation 2000.

**Community Facilities**

9. In accordance with undertakings given in the application the following community facilities be provided as part of the development for residents of the development and maintained for the life of the development:
  - a) A footpath/cycleway with a minimum width of 2.0m shall provided along Inyadda Drive from the park entry to the Curvers Drive/Berringer Road intersection to provide an improved pedestrian connection to Manyana.

**Damage to Public Assets – to be repaired by applicant**

10. Any damage to the adjacent kerbs, gutters, footpaths, walkways, carriageway, reserves and the like, that occurs during development works shall be repaired by the applicant. The developer or his agent must undertake a site inspection and document any evidence of damage to the public assets prior to commencement of work. Failure to adequately identify existing damage will result in all damage detected by Council after completion of the building work being repaired at the applicant's expense.

**PART C**  
**CONDITIONS THAT MUST BE COMPLIED WITH BEFORE A CONSTRUCTION**  
**CERTIFICATE CAN BE ISSUED**

**Consolidation of Allotment**

11. **Prior to the Issue of a Construction Certificate** a Subdivision Certificate must be issued to provide for the consolidation of Lot 6 & Lot 108 DP755923. Council must issue a Subdivision Certificate except where an environmental planning instrument provides that a Subdivision Certificate may be issued by an Accredited Certifier for a specified subdivision.

**Contributions for Additional Services and/or Facilities**

12. 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	Rate	Qty	Total	GST	GST Incl
05 ROAD 2020	Bendalong Road + Inyadda Drive	\$113.46	19.75	\$2,240.84	\$0.00	\$2,240.84
CW FIRE 0001	Citywide Fire & Emergency services	\$152.54	19.75	\$3,012.67	\$0.00	\$3,012.67
CW FIRE 0002	Shoalhaven Fire Control Center	\$199.71	19.75	\$3,944.27	\$0.00	\$3,944.27
CW MGMT 2001	Section 94 Administration	\$414.42	19.75	\$8,184.80	\$0.00	\$8,184.80

**Sub Total: \$17,382.57**

**GST Total: \$0.00**

**Estimate Total: \$17,382.57**

Contribution rates are adjusted annually on 1<sup>st</sup> 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.** (ie 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 **\$17,382.57** (i.e. 2008/2009 rate) or as indexed in future years shall be paid to Council **before the issue of a Subdivision/Construction Certificate.**

*Contributions Plan 1993* may be inspected at the Council Administrative Offices, Bridge Road, Nowra and Deering Street, Ulladulla.

**Water and/or Sewer Contributions**

13. A Certificate of Compliance (CC) under Section 307 of Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 must be obtained to verify that all necessary requirements for matters relating to water supply and sewerage (where applicable) for the development have been made with Shoalhaven Water. A Certificate of Compliance shall be obtained from Shoalhaven Water after satisfactory compliance with all conditions as listed on the Development Application Notice and **prior to the issue of an Occupation Certificate, Subdivision Certificate or Caravan Park Approval**, as the case may be.

In the event that development is to be completed in approved stages or application is subsequently made for staging of the development, separate Compliance Certificates shall be obtained for each stage of the development.

**Where a Construction Certificate is required all conditions listed on the Shoalhaven Water Development Application Notice under the heading “PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE” must be complied with and accepted by Shoalhaven Water. The authority issuing the Construction Certificate for the development shall obtain written approval from Shoalhaven Water allowing a Construction Certificate to be issued. 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

### ***Vegetation Management Plan***

- 14.** A Vegetation Management Plan (VMP) is to be prepared **prior to the issue of the Construction Certificate** for approval by Council for the development site and surrounding areas to demonstrate the provision of appropriate impact amelioration as part of the development proposal and the protection of areas of high environmental significance.

### ***Landscape Plan***

- 15.** An amended landscape plan shall be prepared and submitted to the Principle Certifying Authority for approval **prior to issue of the construction certificate**.

### ***Bush Fire Safety Authority***

- 16.** A Bush Fire Safety Authority shall be obtained from the NSW Rural Fire Service in accordance with Section 100B of the Rural Fires Act 1997 for development of bush fire prone land for a special fire protection purpose [Tourist Caravan Park] **prior to the release of any construction certificate** for the development.

### **Potentially Contaminated Land**

- 17.** Prior to any earthworks being undertaken a Stage 2 investigation of the proposed development site prepared by a suitably qualified environmental consultant shall be submitted to Council. Such investigation must be undertaken in accordance with NSW Environment Protection Authority’s Contaminated Sites - Guidelines for Consultants Reporting on Contaminated Sites and Contaminated Sites - Sampling Design Guidelines.
- 18.** A Remedial Action Plan (RAP) is to be prepared by a suitably qualified environmental consultant and submitted to Council should the investigation

reveal contamination exceeding criteria prescribed by the NSW Environment Protection Authority's Contaminated Sites - Guidelines for the NSW Site Auditor Scheme.

### ***Service Vehicle Swept Paths***

19. The internal road network shall be designed to accommodate a 12.5m Heavy Rigid Vehicle manoeuvring on a minimum radius of 12.5m into and out of the site in a forward direction. The vehicle overhang and swept path shall not obstruct car park traffic or encroach onto parking spaces. The vehicle swept path shall be reflected on the engineering design plans. The internal roundabout shall have a minimum Radius of 13.5m and a designated service route shall be specified and dimensioned appropriately to ensure unobstructed manoeuvring by service vehicles and buses.

### ***Engineering Approval***

20. Engineering design plans for civil works within the property must be submitted to Council or an accredited certifier and approved **prior to the issue of a Construction Certificate**. All work must be carried out in accordance with the approved plans.

### ***Stormwater Quality***

### ***Soil and Water Management Plan***

21. A Soil and Water Management Plan (SWMP) and accompanying specifications for each construction phase of the works, prepared by a suitably qualified/experienced person and based on the Landcom manual - *"Soils and Construction, Managing Urban Stormwater, Vol 1 4<sup>th</sup> Edition, March 2004"*, **shall be lodged for approval with the application for a construction certificate**. The SWMP controls shall be implemented, inspected and approved prior to the commencement of any site works and maintained for the life of the construction period and until revegetation measures have taken hold. The SWMP shall include, but not be limited to:

- a) Existing and final contours;
- b) Identification of existing vegetation and current site drainage patterns;
- c) Nature and extent of proposed clearing, excavation and filling;
- d) Provision for the diversion of runoff around disturbed areas;
- e) Location and type of proposed erosion and sediment control measures;
- f) Location of vegetated buffer strips, unstable slopes, boggy areas, and restricted "no access" areas;
- g) Approximate location and proposed treatment of haul roads, borrow pits, site sheds and stockpiles;
- h) Location of and proposed means of stabilisation of site access;
- i) Proposed staging of construction and SWMP measures;
- j) Proposed site rehabilitation measures, including seeding of all bare un-grassed areas, turfing where erosion or scouring is likely to occur, and frequency of watering;



- k) Maintenance program for all soil and water management measures;
- l) Disposal site for silt removed from sediment traps;
- m) All design criteria and calculations used to size erosion and sediment control measures;
- n) Standard construction drawings for proposed soil and water management measures.

### ***Discharge of Stormwater***

22. Stormwater runoff for all catchment areas within the development site shall be treated in accordance the recommendations of Martens Consulting Engineers Stormwater Assessment Report dated February 2008 and with the following:

- a) **Batter Slopes** – All grassed batter slopes shall not be greater than 1 vertical to 4 horizontal. Where this requirement cannot be met, a report shall be submitted to Council demonstrating how access and maintenance will be achieved for maintenance purposes. This shall be **provided with the supporting documentation issued for Construction Certificate**.
- b) **Scour Protection** - All stormwater outlets and overland flow paths must incorporate appropriate scour/erosion protection measures. The final details of the proposed scour protection **measures shall be reflected on Construction Certificate plans**.
- c) **Overland Flow Path** - Details of the overland flow paths must be provided to allow for flows of water in excess of the capacity of the pipe/drainage system draining the land, as well as from any detention storage on the land. Blocked pipe situations with 1 in 100 year ARI events must be incorporated in the design. This requirement shall be reflected on the Construction Certificate plans, **prior to the release of the Construction Certificate**.

### ***Permanent Stormwater Quality Measures***

23. Detailed designs in accordance with Martens Consulting Engineers Stormwater Management Assessment Report dated February 2008 for Permanent Stormwater Quality Measures associated with the development shall include the following information:

- a) Stormwater run-off Calculations, plans, specifications and maintenance programs for permanent stormwater quality measures, to limit the export of pollutants from the site to that of the existing, pre-developed condition.
- b) Where structures are designed to be inundated for stormwater quality purposes (i.e. detention basins/ponds), a report detailing the control of mosquito larvae is required.

These detailed designs shall be submitted to Council for approval **prior to issue of a Construction Certificate**.

***On-Site Detention – Design Flow Rate***

24. On-site detention storage for stormwater run off from the development site shall be provided such that the discharge from the site for design storm events up to and including the 100 year average recurrence interval does not exceed the pre-developed conditions. Details must be submitted to Council or an accredited certifier for approval **prior to the issue a construction certificate**.

***PART D***

**CONDITIONS RELATING TO THE APPROVED WORK AND SITE MANAGEMENT**

***Caravan Park Regulations***

25. The Short Term Occupancy Caravan Park shall be designed and operated in accordance with Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
26. The maximum number of caravan park sites within the land that may be used for long-term residence is Zero [0].
27. The caravan park is approved for [75] Short Term tourist sites only.
28. The operator of the caravan park must not, without the development consent of the Council, allow a person to stay in a moveable dwelling that occupies a short-term site for a total of more than 150 days in any 12 month period, unless the moveable vehicle is a holiday van and the person is the owner of that holiday van. The owner of a holiday van that occupies a short-term site must not be permitted to stay in the holiday van for a total of more than 180 days in any 12 month period.

***Habitat Modification, Removal and Management***

29. There shall be no removal or disturbance of indigenous vegetation on the property, including canopy trees, understorey and groundcover vegetation, prior to the issuing of a construction certificate.
30. There shall be no removal or disturbance of indigenous vegetation on the property, including canopy trees, understorey and groundcover vegetation, without the prior written consent of the Shoalhaven City Council Director of Development & Environmental Services, except in accordance with this consent.
31. The removal or disturbance of indigenous vegetation on the property, including canopy trees, understorey and groundcover vegetation, **is restricted to the minimum required** to construct the Caravan Park and the associated Asset Protection Zone, provision of services, and access.

- 32. Trees must be retained, including hollow-bearing trees, within the Asset Protection Zone where they comply with the Planning for Bushfire Protection guidelines and be shown on all construction plans clearly identified as trees to be retained.
- 33. All clearing works are to be supervised by a suitably qualified environmental consultant.
- 34. A suitably qualified and NSW National Parks & Wildlife Service licensed wildlife handler must be on site prior to, and during the removal of any trees or areas of potential habitat on the property, to rescue fauna.

### ***Pre Clearing of Vegetation***

- 35. **Prior to the commencement of any clearing works**, the building locations and access to the building locations and hollow bearing trees must be accurately surveyed and clearly marked on the ground to aid in the selection of trees to be retained.
- 36. **Prior to the commencement of any clearing works** for the creation of the asset protection zone, the extent of the inner protection zone must be accurately surveyed and marked on the ground with temporary barrier fencing.
- 37. **Prior to the commencement of any clearing works** in the asset protection zone a suitably qualified environmental consultant must identify trees to be retained within the asset protection zone as shown on the construction plans.
- 38. **Prior to the commencement of any clearing works** the drip-line (outer edge of the leaf canopy) surrounding trees to be retained within the Asset Protection Zone must be clearly identified and protected with temporary barrier fencing to prevent mechanical damage of the tree trunk, mechanical disturbance to roots, or soil build-up around the base of the tree during and after clearing works.

### ***Clearing Works – Vegetation***

- 39. All clearing works are to be supervised by a suitably qualified environmental consultant. All clearing works and the associated machinery and refuse must be contained within the inner asset protection zone.
- 40. The parking of machinery and vehicles or the storing of building or landscaping materials, soil, spoil, or rubbish, within the fenced area around trees to be retained is prohibited.
- 41. Sediment erosion controls must be in place immediately following clearing and on the same day as clearing works commence.
- 42. Trees must be felled into the asset protection zone carefully so as not to damage or harm trees to be retained within or beyond the asset protection zone.

43. Tree trimming or pruning must be carried out in accordance with AS 4373-1996 "Pruning of Amenity Trees".
44. All vegetation, trees, stumps etc. are to be either removed from the site or mulched on site, Council will not permit such material to be burnt on site.

***Hollow-bearing Trees***

45. There shall be no removal of hollow-bearing trees on the property without the prior written approval of the Shoalhaven City Council Director of Development & Environmental Services and the submission of reports detailing the outcome of targeted surveys for hollow-dependant fauna by a suitably qualified environmental consultant and the condition of the tree by a qualified arborist.

***Threatened Species***

46. To protect native fauna in the locality, cats must be kept completely within the dwelling or in a cattery within the dwelling curtilage at all times (day and night) for the life of the development.
47. To protect native fauna, the keeping of dogs on the property for the life of the development shall be subject to the following conditions:
- a) A maximum of 2 dogs shall be permitted on each dwelling site at any time.
  - b) Dogs shall be restrained within the dwelling curtilage during the hours between sunset and sunrise each day by fencing/caging enclosures, leashing or physical restraint.
  - c) Dogs shall not be permitted to enter areas of indigenous vegetation on the property unless restrained.
48. Any boundary and internal fences to be erected on the property, shall comply with the following conditions:
- a) To protect native gliding and flying fauna the use of barbed-wire for fences is prohibited.
  - b) Except for fencing to contain domestic pets within the approved asset protection zones for dwellings, boundary and internal fences must not impede the movement of native fauna.
  - c) The removal of vegetation for fence construction shall be undertaken with hand tools only (eg brushcutters, lawn mowers), and shall be limited to a maximum width of 1 m.
49. Canopy trees shall not be removed for fence construction.

### ***Landscaping***

50. Landscaping in accordance with the approved landscape plan must be maintained for the life of the development.
51. The planting of plant species listed on the Weeds Australia NSW weeds list ([www.weeds.org.au](http://www.weeds.org.au)) is prohibited for the life of the development.
52. No exotic perennial grasses listed on the Final Determination of the NSW Scientific Committee for the key threatening process *Invasion of native plant communities by exotic perennial grasses*, shall be sown within the outer protection area of the asset protection zone for the life of the development. Native grasses must be sown in these areas, as this is the interface between disturbed areas and the remaining native vegetation.

### ***Impact Amelioration and Environmental Management Measures***

53. All identified impact amelioration and environmental management measures identified in Part 8 of the Whelans Insites Flora and Fauna Assessment Report February 2008 as amended are to be implemented as part of the development.

### **Bushfire Mitigation - Planning for Bush Fire Protection 2006**

#### ***RFS - Design and Conditions***

54. New construction shall comply with Australian Standard AS 3959-1999 '*Construction of buildings in bush fire prone areas*' Level 1.

#### ***RFS - Asset Protection Zones***

55. At the commencement of building works and in perpetuity the property around the buildings shall be managed as follows as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones':
- a) North for a distance of 60 metres as an inner protection area and 10 metres as an outer protection area
  - b) East for a distance of 60 metres as an inner protection area and 10 metres as an outer protection area
  - c) South for a distance of 50 metres as an inner protection area and 10 metres as an outer protection area; and
  - d) West for a distance of 60 metres as an inner protection area and 10 metres as an outer protection area

***RFS - Water and Utilities***

56. Water, electricity & gas are to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.

***RFS - Access***

57. Internal roads shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

58. Fire trails shall comply with section 4.1.3 (3) 'Planning for Bush Fire Protection 2006'.

***RFS - Evacuation and Emergency Management***

59. Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

***RFS - Landscaping***

60. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

***Urban – Kerb and gutter, shoulder seal, road works***

61. The following works in the footpath and road reserve area for Inyadda Drive shall be undertaken as detailed below to match alignment and grades with adjoining infrastructure. The works are:

- Concrete kerb and gutter and 25mm asphaltic concrete surfaced shoulder seal and associated drainage shall be constructed for the full frontage of the development. The kerb and gutter shall have a standard profile. The longitudinal design shall extend a minimum of 30 metres each side of the development and further if necessary to ensure the proposed works will be compatible with the existing longitudinal pavement grade. The road shoulder pavement shall be designed for a traffic load of  $1 \times 10^6$  ESA's;
- Where required, existing power poles are to be relocated within the road reserve to allow sufficient width for road widening and construction. Works shall be to the requirements of the respective service authority and at the developer's expense.
- Adjustment of service pit lids of any services in the footpath adjacent to the development to be flush with the finished footpath surface levels or match road reserve grades. Works shall be to the requirements of the respective service authorities and at the developer's expense.
- Trim, fill, topsoil and turf the footpath following construction works.

***Urban – Piped drainage for kerb and gutter***

62. The kerb and gutter shall be drained to gully pits and piped and incorporated into the proposed stormwater system discharging to the ephemeral watercourse.

***Gutter layback and footpath crossing***

63. A heavy duty concrete vehicular gutter layback and crossing shall be constructed at the driveway entrance in accordance with Council's Plan Nos. G202603 and G202605. The width of the footpath crossings at the property boundary shall accommodate entry and exit widths of 6 metres and 4 metres respectively, separated by a minimum 1.5m wide concrete median within the boundary. The driveway crossings shall be splayed at the kerb line to cater for a Heavy Rigid Vehicle (HRV) to turn on a 12.5m into and out of the site. The levels and formwork shall be inspected and approved by Council's Subdivision Manager or their nominee prior to pouring. The entry and exit shall be signposted.

***Internal Road Network and Car Park***

64. The internal road network and car park shall be asphaltic concrete (AC) flexible pavement designed and constructed for a minimum traffic loading of  $1 \times 10^5$  ESA's and  $1 \times 10^6$  where traversed by Service Vehicles. Minimum road widths of 6.0 m shall be provided to allow for efficient and unobstructed two-way traffic movement. The internal driveway and car park shall be bordered by concrete roll kerb and gutter.

65. The internal access road network shall include appropriate traffic calming facilities to ensure vehicle speeds are kept to a minimum on site, so that road lengths do not exceed 80m between speed control facilities. This shall include but not be limited to:

- Ramped-thresholds incorporating pedestrian crossings are to be provided at three locations where the pathway crosses the internal roads through the dwelling sites as indicated on the plans (ie immediately north of sites numbered [6, 24 and 52].
- Additional traffic calming facilities (ie watts-profile speed humps) are to be provided at suitable locations with a maximum spacing between traffic calming facilities of 80m. All LATM facilities are to comply with Australian Standards (Austroads) and/or relevant RTA Technical Directions.

66. A minimum of 35m clear storage shall be provided between the boom gates and the Inyadda Drive boundary so that queued vehicles do not impact on Inyadda Drive or block access to any ancillary areas (ie visitor car park, loading dock).

67. The boom gates shall be designed and a procedure shall be developed so that all emergency vehicles are provided with rapid access to the site through the boom gates at all times.

***Car park to comply with DCP18***

68. The car parks shall be designed, constructed, line marked and signposted in accordance with Council's Car Parking Code (Development Control Plan No 18) and comply with the relevant provisions of Development Control Plan No. 100.

***Car park - Number of spaces constructed***

69. One (1) constructed car space shall be provided within each short term dwelling site. An additional 32 spaces shall also be provided as visitor parking. Visitor spaces shall be located to provide a balanced distribution throughout the development.

**Siteworks – General**

***Site Filling Details***

70. Any filling on site shall be graded to have an absolute minimum grade of 1.0%. All filling shall be compacted to at least 95% Standard Proctor. The developer shall obtain an Engineers Certificate confirming the satisfactory compaction of the filling and the suitability of the lot/site for the intended purpose prior to the commencement of building works. Filling is:

- a) To have a maximum batter of 25% (1V:4H) at any location;
- b) Not to encroach onto adjoining land;
- c) Not to cause the diversion or concentration of natural overland stormwater runoff onto adjoining property;
- d) To be protected against erosion, with measures incorporated in the erosion and sediment control plan;
- e) To include adjustment of services (manholes, inter-allotment drainage, etc.) in the scope of works.

***Road reserve to be kept clear of debris***

71. The road, kerb and gutter and footpath area adjacent to and nearby the site shall be kept clear of soil and debris.

**Engineering Plans, Designs and Approvals**

***Design and Construction to DCP100***

72. All design and construction shall be in accordance with DCP 100 – Subdivision Code.

***Engineering Design by NPER-III Engineer - All Works***

73. All detailed engineering plans and specifications for all civil works referred to in this consent shall be certified by an NPER-III registered practising engineer.



***Engineering Approval – Standard (Works in Road Reserve)***

74. Engineering design plans for all works within the road reserve shall be submitted to Council for approval this shall include:

- a) The main access shall be designed and constructed as for a public road intersection in accordance with current RTA Road Design Guidelines including BAL & AUR treatments and the “desirable” minimum Safe Intersection Sight Distance (SISD) to suit the current speed limit [80km/h] in both directions in accordance with Austroads Part 5.
- b) Sufficient restriction on parking along Inyadda Drive to prevent visitor parking on Inyadda Drive and maintain safe intersection sight distance.

75. All work must be carried out in accordance with the approved plans.

***Approval for work within the Road Reserve – Section 138 Roads Act***

76. Prior to undertaking any works within the road reserve, the contractor must obtain the approval of Council under Section 138 of the Roads Act, 1993. The following details must be submitted to Council for in order to obtain the s.138 approval:

- a) Pavement design.
- b) Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the RTA’s manual – “*Traffic Control at Work Sites*”. Warning and protective devices shall comply with the provisions of AS 1742.3 – 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate RTA accreditation, a copy of which is to be submitted with the plan.
- c) Insurance details.

77. Should the Traffic Management Plan require a reduction of the speed limit, a Direction to Restrict shall be obtained from the relevant road authority (Council or the RTA - Traffic Operations Unit).

***Certification of civil works for compliance with construction specifications***

78. Certification shall be submitted to verify that the following works (where applicable), have been completed in accordance with the approved construction specifications:

- a) Pipelines including inter-allotment
- b) Design of footpath along Inyadda Drive to Manyana
- c) Drainage pits, culverts, headwalls and bridges
- d) Detention basins, swales and open channels
- e) Permanent stormwater quality improvement devices

***Pavement tests for ALL pavements including on-site***

79. The design of road, driveway and car park pavements, both on site and on public land, shall be supported by test results for the in-situ subgrade material and approved by Council. These tests shall be carried out by a NATA approved laboratory.

***Existing services***

80. 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.

**Site Drainage**

***Runoff from uphill not to be obstructed***

81. Runoff currently entering the site from uphill properties shall not be obstructed from entering the site nor redirected, other than by building works or in accordance with an approved stormwater plan, so as to increase the quantity or concentration of surface runoff entering adjoining properties.

***Car park levels designed to prevent runoff from entering building***

82. The levels of road, car park and landscaped areas must be designed so as to prevent the 1 in 100 year stormwater runoff from overland flows or pipe blockages from entering any buildings.

***Discharge of Stormwater***

83. **Stormwater Run-off** - The design of the development shall ensure that there are no adverse effects on adjoining properties or upon the land as a result of flood or stormwater run-off. Attention must be paid to ensure adequate protection of adjoining buildings and properties against the ingress of stormwater run-off.
84. Runoff from all roof and hardstand areas shall be drained to gully pits and discharged by pipework to the proposed stormwater detention basin(s) in accordance with design plans and associated Stormwater Management Assessment Report dated February 2008 prepared by Martens Consulting Engineers.

***On-Site Detention – Maintenance Access and Safety***

85. The on-site detention structure must be designed to incorporate lockable access for maintenance and a safety.

## **PART E**

### **CONDITIONS THAT MUST BE COMPLIED UPON COMPLETION OF THE WORK**

#### ***Section 68 Local Government Act***

86. An application for an approval to Operate a Short Term Occupancy Caravan Park under Section 68 of the Local Government Act, 1993, must be submitted and approved by Council prior to the operation of the Caravan Park and the installation of any movable dwellings on the development.

#### ***On-Site Detention – Certification of Construction***

87. The developer must provide certification from a qualified civil and/or structural engineer with NPER-III registration that the on-site detention and treatment structures have been constructed in accordance with the approved plans.

## **PART F**

### **CONDITIONS THAT MUST BE COMPLIED WITH BEFORE AN OCCUPATION CERTIFICATE CAN BE ISSUED**

#### ***Consolidation of Allotments/Subdivision***

88. Prior to issue of an occupation certificate and any approval to operate a Caravan Park under Section 68 of the Local Government Act, 1993, the applicant is to provide Council with evidence of the successful consolidation of the allotments with the NSW Land & Property Information Service.

#### ***Potentially Contaminated Land***

89. Should the investigation reveal contamination, a validation report is to be prepared by a suitably qualified environment consultant in accordance with the NSW Environment Protection Authority's Contaminated Sites - Guidelines for Consultants Reporting on Contaminated Sites and Contaminated Sites - Sampling Design Guidelines validating that the proposed development has been remediated and is suitable for its intended use and submitted to Council prior to the issue of an occupation certificate or any approval to operate the Caravan Park under Section 68 of Local Government Act, 1993.

## **PART G**

### **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 H***

### **ADVICE ABOUT RIGHTS OF REVIEW AND APPEAL**

#### **Development Consent under Environmental Planning and Assessment Act, 1979**

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 I**  
**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 J**  
**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.*

***Occupation Certificate***

*An **occupation certificate** must be issued by the Principal Certifying Authority (PCA) before the building is used or occupied.*

*If Council is the appointed PCA for this project, a minimum of twenty four (24) hours' notice must be given to Council to make an inspection of the work.*

***Inspections***

*If Council is the appointed PCA for this project, a minimum twenty-four (24) hours notice must be given to Council to make an inspection of the work.*

***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](mailto:southern@cma.nsw.gov.au).*

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

**REPORT OF GENERAL MANAGER**

**DEVELOPMENT COMMITTEE**

**TUESDAY, 11 NOVEMBER 2008**

**DEVELOPMENT AND ENVIRONMENTAL SERVICES**

- 1. Development Application 08/1258 - 75 Site Caravan Park, Manager's Residence and Community Facilities - Lots 6 and 108 DP 755923, Inyadda Drive, Manyana. Applicant: Allen Price and Associates. Owner: Berringer Road Pty Ltd. File DA08/1258 (PDR)**
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**PURPOSE OF THE REPORT:**

A development application for the development of a 75 site Caravan Park for long term dwelling sites only, Manager's Residence and Community Facilities including a small shop, a multi purpose community building, swimming pool and recreation and BBQ areas was lodged with Council on 27 February 2008.

The Development Application was placed on public exhibition from 9 March 2008 until 16 April 2008. In response to this public exhibition, a large number of public submissions were received. A Residents Briefing Meeting was held at the Manyana Community Hall on 5 June 2008.

The proposal does not meet all of the performance criteria in Council's Policy for Permanent Occupation of Caravan Parks, particularly in relation to proximity to community facilities. Council has also adopted a new comprehensive LEP which has been referred to the Department of Planning for a Section 65 certificate to facilitate public exhibition. While at this stage it cannot be regarded as a draft LEP (Section 79C consideration), it can be argued to be an adopted Council policy position. The comprehensive LEP contains provisions that would prohibit the subject development. Given the above policy considerations and that the main issue that has been identified in the assessment of the proposal is the potential social impact, it is appropriate that the application should be determined by the elected Council.

**DETAILS/ISSUE:**

**Background**

Development Consent (DA06/1339) was granted for a Staged Development for consolidation of two allotments, dwelling envelope, vehicular access and clearing of vegetation on the land on 3 August 2006. The development was approved in two stages, with the first stage being consolidation of the two allotments into one allotment, the establishment of a dwelling envelope and clearing of vegetation for the dwelling envelope and vehicular access. The second stage of the application was the erection of the dwelling. The erection of the future dwelling will require the lodgement of another development application. This development consent has been enacted by the clearing of the building envelope and access.

**The Subject Site**

The development site is located to the western side of Inyadda Drive, Manyana near the intersection of Berringer Road. The subject site has an area of approximately 39.95 hectares and



is generally rectangular in shape. The site falls gently from Berringer Road across to the north east towards Inyadda Drive with a drainage path running from the western boundary to Inyadda Drive.

The property supports extensive areas of native vegetation. The site was historically cleared for agricultural purposes with understorey removal and was also burnt in the 2002 wildfire. Mapping indicates that Swamp Sclerophyll Forest on a Coastal Floodplain, an Endangered Ecological Community, is likely to be present on the subject site. A number of threatened fauna species have been observed or have the potential to occur on the subject land.

The subject site is approximately 11 kilometres from the intersection with the Princes Highway and is 34 km and 57 km respectively from the major centres of Ulladulla and Nowra. The proposed caravan park area is located in excess of 600 metres from the residential area of Manyana.

# Locality and zoning plans are provided as **Attachment ‘A’** and **Attachment ‘B’** respectively.

### **The Proposal**

The development proposal seeks consent for the development for:

- 75 long term dwelling sites with one car parking space per site;
- A Managers residence;
- Ancillary convenience shop;
- Community facilities building;
- Swimming pool and BBQ area;
- 32 visitors car parking spaces;
- Two tennis courts;
- Grassed playing area;
- Internal access and boundary roads;
- Extension of water and sewerage services to site;
- Stormwater detention treatment; and
- Sewerage pumping station.

# The proposed dwelling sites provide for a range of dwelling sites with areas between 330 square metres and 500 square metres. Full details of the proposal are included in **Attachment ‘C’**.

In addition, the applicant has recently identified the provision of a 12 seat mini bus providing a time tabled service, pedestrian connectivity to Manyana, construction of bus stops near the front of the caravan park, a designated doctors room, reticulated phone and internet services (subject to availability) and a services directory.

### **ECONOMIC, SOCIAL & ENVIRONMENTAL (ESD) CONSIDERATION:**

#### **Statutory Considerations and Policy Framework**

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The following list of Environmental Planning Instruments (which include SEPPs, REPs and LEPs), DCP, Codes and Policies are relevant to this application, in respect to the matter of landuse and are discussed individually below:

- State Environmental Planning Policy (SEPP 71) - Coastal Protection;
- NSW Coastal Policy 1997;
- Illawarra Regional Environmental Plan (IREP) No 1; and
- Shoalhaven Local Environmental Plan (SLEP) 1985.

#### **Section 79C Assessment Report (EP&A Act 1979)**

An assessment of the application against the key Matters for Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 is provided below:

**a) Any planning instrument, draft instrument, DCPs and regulations that apply to the land**

- **State Environmental Planning Policy No 21 - Caravan Parks:** The provisions of SEPP 21 - Caravan Parks aims to encourage the orderly and economic use and development of land used or intended to be used as a caravan park including both long term and short term residents. A review of the relevant requirements of the SEPP is provided in the following table:

<b>Clause</b>	<b>Requirement</b>	<b>Comment</b>
6 - Definition	The definition of a caravan park means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be installed or placed.	The development application has detailed the provision of long term dwelling sites. No specific details on types of dwellings have been included in the application however, supporting documentation has identified that typical moveable dwellings located on long term dwelling sites of caravan parks of this type are 2 or 3 bedroom manufactured homes. The proposed development is considered to be consistent with the definition of a caravan park.

8 - Development Consent required for Caravan Parks	<p>Development Consent is required for the use of land for the purposes of a caravan park.</p> <p>Council must determine:</p> <ul style="list-style-type: none"> <li>▪ The number of sites suitable for long term residence;</li> <li>▪ The number of sites not suitable for long term residence;</li> <li>▪ The maximum number of sites that may be used for long term residence.</li> </ul>	<p>The application has identified the number of sites identified for long term use. The total number of sites proposed are to be allocated for long term residence.</p>
10 - Matters to be considered by Councils	<p>Council may grant development consent only if it considered the following:</p> <ul style="list-style-type: none"> <li>▪ Whether the land, because of its location or character, is particularly suitable for use as a caravan park for tourist or long term residence;</li> <li>▪ Whether existing potential tourist accommodation will be displaced by the use of sites for long term residence;</li> <li>▪ Whether this is adequate low cost housing or land available for low cost housing in that locality;</li> <li>▪ Whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality.</li> </ul>	<p>The application has raised significant social and economic concerns as a result of the relative isolation of the subject site, lack of services and facilities, lack of transport and issues associated with the likely demographic to reside in the park.</p> <p>The application has not fully demonstrated that the proposal will provide low cost housing or whether there is adequate provision for low cost housing or land for low cost housing in the locality.</p>

- **State Environmental Planning Policy 71 - Coastal Protection:** The subject site is identified within the coastal zone and part of the subject site is identified as a 'sensitive coastal location'. Accordingly consideration of the relevant provisions of the SEPP are provided as follows:

(a) *Aims of the Policy:*

- (a) *to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast* - the proposed caravan park is located on a site which includes extensive areas of native vegetation including an area identified as a 'sensitive coastal location'. Investigations have identified potential other areas of environmental significance including an Endangered Ecological Community and threatened flora. The site also is

known or has the potential as habitat for a range of native and threatened fauna. The development proposal, including areas for bushfire mitigation works, will result in the clearing or modification of 19.7 hectares of native vegetation. It should be noted that areas identified within the 'sensitive coastal location' have not been included in the development proposal area.

- (e) *to ensure that the visual amenity of the coast is protected* - The clearing and modification of native vegetation associated with the proposal will significantly alter the landscape context of the locality but is not likely to impact on the visual amenity of the coast.
  - (g) *to protect and preserve native coastal vegetation* - A considerable amount of native vegetation removal and modification is required to accommodate the development proposal; buffer areas around areas identified as containing Endangered Ecological Communities are provided as part of the development proposal. A revised ecological assessment has also included the retention of all hollow bearing trees on-site, including those located within the Asset Protection Zone.
  - (k) *to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area* - The development proposal will require a high level of vegetation removal and modification. This will significantly alter the visual appearance of the area, however, areas of environmental significance have been protected in the design of the development.
  - (d) *the suitability of development given its type, location and design and its relationship with the surrounding area* - The development is isolated from the township of Manyana and is a 'stand alone' development surrounded by other natural areas, including the Conjola National Park. The development involves removal and modification of native vegetation which will alter the landscaping context of the locality.
  - (f) *the scenic qualities of the New South Wales coast, and means to protect and improve these qualities* - The loss and modification of the existing native vegetation on site will reduce the scenic quality of the site; the proposed landscaping will provide some screen plantings along Inyadda Drive, however, the cleared areas that will be created as a result of this proposal are unlikely to impact on the scenic qualities of the coast due to the distance from the beach and the backdrop of vegetation both on the site and on adjoining land.
  - (g) *measures to conserve animals (within the meaning of the [Threatened Species Conservation Act 1995](#)) and plants (within the meaning of that Act), and their habitats* - This has been addressed in detail further in this report.
  - (i) *existing wildlife corridors and the impact of development on these corridors* - The proposal is not considered to impact on wildlife corridors.
- **NSW Coastal Policy 1997:** The consideration of the key principles of the Coastal Policy in regards to this proposal requires consideration of issues in regards to protection of biodiversity, ecological integrity and the provision of intergeneration equity in accordance with the precautionary principle. These considerations are detailed in other sections of this report.
  - **South Coast Regional Strategy:** The Strategy identifies the priority for new housing development to be located adjacent to existing well serviced centres and towns. Manyana and the surrounding areas are not included in any Structure Plans developed

for future projected housing demands within the LGA. Manyana is not identified in the strategy as an area for urban growth.

- **Illawarra Regional Environmental Plan (IREP):** The proposed development is within the area to which the IREP applies. An assessment against the requirements of the IREP has indicated that the subject land is not identified as a wildlife corridor, land having prime crop and pasture potential, land containing extractive materials, land containing coal resources, land containing rainforest vegetation or land with landscape or environmental attributes. The proposal does not conflict with the aims and provisions of the IREP.
- **Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005:** The proposal generally complies with the regulations for a caravan park for permanent occupancy other than what might need to be included in conditions of approval. An approval to operate the caravan park under Section 68 will be required prior to the installation of any moveable dwellings.
- **Shoalhaven Local Environmental Plan 1985 - as amended (SLEP 1985):** The subject land is zoned 1(d) Rural(General Rural) under SLEP 1985. The objectives of the Zone No 1(d) (General Rural) are as follows:
  - a) *to provide opportunities for a range of rural land uses and other development, including those which by virtue of their character require siting away from urban areas,*
  - b) *to recognise the potential for high intensity bush fire over wide areas of the zone and to ensure that development does not lead to significant risks to life or property from bush fire or to the implementation of bush fire mitigation measures which will have a significant environmental impact, and*
  - c) *to ensure that wherever possible the location, design and management of development is consistent with:*
    - (i) *the protection of important natural and cultural environments,*
    - (ii) *the conservation of renewable natural resources such as forests and prime crop and pasture land,*
    - (iii) *the maintenance of opportunities for economic development of important extractive resources,*
    - (iv) *minimising conflict between land uses, and*
    - (v) *any plans for public infrastructure provision or management.*

The following land uses are prohibited in the Rural 1(d) Zone: *Boarding houses; bulk stores; bulky goods retailing; car repair stations; cluster housing; dual occupancies (other than attached dwellings); generating works involving wind-powered generators; industries (other than rural industries, extractive industries, offensive or hazardous industries); junk yards; motor showrooms; residential flat buildings; service stations; sexual services premises; shops; warehouses.*

Generally, all other land uses are permissible with the consent of Council. The SLEP 1985 does not contain a definition of 'caravan park' as a land use, however the term is used in some of the landuse tables as a use, therefore, the proposal is considered to be permissible with consent. The proposal is not considered to be a 'tourist facility' as defined in the Environmental Planning and Assessment Provisions 1980 as the proposal does not provide for any holiday accommodation or recreation.

*SLEP Clause 28 - Danger of Bush fire:* The subject development site is identified as bush fire prone land and a bush fire assessment report was submitted with the application. Accordingly the development proposal was referred to the NSW Rural Fire Service (RFS) Sydney for comment. Council has received advice from the RFS that the proposal is satisfactory subject to certain conditions being included in any consent issued regarding bush fire mitigation measures. Appropriate measures can be physically implemented to provide bush fire mitigation in accordance with the provision of the Planning for Bush Fire Protection 2006.

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

- **Threatened Species:** The subject area is identified as containing known and potential habitat for a number of threatened species including:
  - East-coast Freetail Bat;
  - Yellow bellied Glider;
  - Squirrel Glider;
  - Square Tailed Kite;
  - Gang gage Cockatoo;
  - Powerful Owl; and
  - Masked Owl.

The subject site has also been identified as likely to contain Swamp Sclerophyll Forest, an Endangered Ecological Community (EEC) and there was a record of the presence of a threatened plant *Gyrostemon thesiodes*.

The initial assessment of the Flora and Fauna report provided with the application identified a number of concerns regarding survey, techniques and the assessment of significance as provided by Section 5A of the *Environmental Planning and Assessment Act 1979*. Following comprehensive discussions with the applicant, a peer review of the Flora and Fauna Assessment was provided by an independent consultant to assist in the continued assessment of the proposal.

#

The design layout of the development was modified following further review of threatened species issues to ensure that the development would not have an impact on the potential EEC along the north section of the site. This revised site layout is detailed in **Attachment 'D'**.

The applicants agreed to carry out additional on-site surveys for all the species identified and their habitats. This additional assessment has been peer reviewed by NGH Environmental (independent consultant) who concluded:

*“Based on the analysis provided in the table above, the following conclusions and recommendations have been developed.*

- 1. A map should be prepared illustrating of the location of all targeting playback and search effort relating to the Brown Treecreeper.*

2. *A comprehensive assessment of significance should be prepared for Mormopterus norfolkensis, Falsistrellus tasmaniensis, Scotenax rueppellii and the Squirrel Glider, as all species have been recorded within the subject site.*
3. *In relation to the Gyrosternon thesiolodes, search methods and effort undertaken during survey work need to be documented to demonstrate that this species does not occur at the site (this could include discussions with the original consultant confirming that the record made at the site is not valid),. Alternatively an assessment of significance should be provided.”*

These final three recommendations have now been fully addressed by the applicant and the proposal is now identified as unlikely to have a significant impact on threatened species in accordance with Section 5A of the act. Further investigations have revealed that the previous record of *Gyrosternon thesiolodes* was a clerical error, additional site surveys have indicated that the plant is not present on this site.

- **Vegetation Removal and Modification:** The proposed development will require the removal or modification of 19.7 hectares of native vegetation on the subject site. This level of clearing and modification to the native vegetation on site is required to accommodate the movable dwelling sites as well as providing the necessary bush fire mitigation measures. It is noted that the retention of hollow bearing trees and the protection of the area identified as a ‘sensitive coastal location’ that adjoins the national park has been included in the design layout of the development as well as landscaping being provided within the development area. However, as noted earlier, the development will require large areas of clearing and this vegetation removal and modification will significantly alter the visual appearance of the site which currently is generally well vegetated.

The proposal may require a separate approval from the Southern Rivers Catchment Management Authority under the Native Vegetation Act (NVA) and the applicant has been advised. However, the requirement for any approval under the NVA is not a consideration for Council under Section 79C of the EP&A Act.

- **Social Impact:** The development application was supported by a Social Impact Assessment (SIA) prepared by Key Insights Pty Ltd. The benefits identified in the submitted SIA are the provision of another housing option for Manyana, provision of a more affordable form of housing and population increase. The report does not suggest that the proposal is ‘affordable housing’ but that the purchase of movable dwellings may be a more affordable choice over house and land purchase in the area. An extract of the conclusion in the executive summary outlines this view (the executive summary of the report is included in **Attachment ‘E’**):
- **Key Insights for Applicant**  
*“Proposed development in Manyana, including the development of the Malbec Inyadda Drive site for long term accommodation will provide the opportunity to increase the variety and affordability of local housing stock, and when accompanied by strategies aimed at building social capital (sporting and cultural activities, learning opportunities, volunteer organisations), will lead to improved social outcomes.*

*Presently, older Manyana residents are forced to leave the village as they become less*

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*able to manage a house on a large block of land. Long term manufactured home sites with this older population in mind could be designed with improved access considerations, smaller lower maintenance blocks and senior friendly lighting and pathways which will allow residents to stay in Manyana for longer.*

*In conclusion, the proposal offers a number of opportunities with social benefits accruing to the Manyana community through added critical mass for services and the diversifying of the local housing market. With the provision of more diverse housing, it is important to ensure that the incoming community is well serviced and integrated with the broader community. Social challenges are considered to be outweighed by potential social benefits, although further careful consideration of site sizes, park design, ecological initiatives and community development strategies will be required at future stages of project development.”*

**Staff Comment**

The social challenges facing this type of development in Manyana including the relative isolation of the site, lack of access to public transport, reliance on car ownership, lack of services and facilities in the village of Manyana have not been fully explored in the SIA to demonstrate the overall level of social benefit or cost associated with this type of development in Manyana.

#

In order to assist Council in the consideration of the social impact associated with this development proposal, a peer view of the SIA prepared by Key Insights Pty Ltd was sought from Judith Stubbs and Associates, authors of *A Place for Ageing*. An initial report was prepared and the applicant made a detailed submission on the report and provided a supplementary social impact assessment from Key Insights, this full submission is included in **Attachment ‘F’**. The conclusions of the Key Insights Report are:

**Supplementary Comments by Key Insights**

*“In conclusion Key Insights contends that the development will not result in a major social impact due to a lack of access to a range of services and facilities due to the likely high reliance on motor vehicles as state by JSA because:*

- The target demographic are highly mobile and have high car ownership rates which is typical of the surrounding Manyana-Cunjurong area, and typical of many coastal villages such as Manyana where people chose to live as a ‘lifestyle choice’;*
- The district including Manyana-Cunjurong, Ulladulla-Milton and Nowra has the full range of necessary services available and with a viable transport option such as a park-provided mini-bus supplementing the existing transport options will ensure that residents will be able to access these services;*
- The provision of basic services such as a visiting doctor (with space to be offered in the park facilities as an extension of the current services), convenience store, internet access and recreational facilities in the proposed caravan park, Manyana will ensure that the residents enjoy an acceptable standard of living;*
- The provision of extended services by community and government agencies in the locality and the region will enhance the services of residents and ensure they are not disadvantaged as compared to other residents in regional NSW;*



- *Provision of footpath/cycle path linking to the existing housing and proposed retail hub will ensure connectivity with the existing areas;*
- *The inclusion of a services directory in the park Management Plan will ensure that incoming residents are made aware of the services available and can enjoy at least a level of service and even a higher level to that provided to existing residents of Manyana-Cunjurong locality.*

Key Insights has recommended the following mitigation strategies to address the issues that have been highlighted by the JSA review and in the original Key Insights SIA, all of which have been agreed to by the proponent:

- *Park owner/operator to provide a 12 seat mini-bus to provide a regular transport option linking park residents with Milton and Ulladulla;*
- *Park owner/operator to provide a suitable consulting room on site and enter into arrangements with a medical practitioner and allied health professionals to visit the park (on a need basis or regular timetable basis);*
- *Park owner/operator to negotiate with Council and local bus operators to establish a bus stop immediately in front of the park to provide a public transport link with Nowra, Milton and Ulladulla;*
- *Park owner/operator to provide a user pays internet kiosk in the community facility; and*
- *Park owner adopt a comprehensive site management plan.”*

#

Judith Stubbs & Associates (JSA) further reviewed their peer review report and took into account the additional submission and report of Key Insights and their final report is included as **Attachment ‘G’**. The peer review has made the following findings in respect to the SIA prepared by Key Insights Pty Ltd and the development proposal as follows:

**Comments by JSA for Council**

- *The proposal is at odds with the regional planning context as set out in the South Coast Regional Strategy with its focus on sustainable growth within and around larger towns and regional centres;*
- *Manyana is not identified as an urban area for growth;*
- *Development in Manyana does not comply with sustainability criteria in the strategy including infrastructure provision, access, housing diversity and quality and equity in services;*
- *The site itself is relatively isolated and lacks pedestrian connectivity to Manyana.*
- *Very limited services are available in Manyana...It is likely that residents will have to travel to Milton, about 22 kilometres distant, for the majority of their needs.*
- *There is no direct bus service to Milton and only a limited service to Nowra.*
- *The population will be characterised by a high proportion of people over 55 years and of elderly people with a median age of 64 years, low levels of labour*

*force participation, high levels of unemployment, high levels of need for assistance, a high proportion of lone person households and very low household income.*

- *Services provided in the development are minimal.*
- *Necessary community facilities are not available in the caravan park or within the immediate locality.*
- *The SIA is measured in its claims regarding relative cost and affordability of this form of housing; Any conclusions provided by the SIA is based on an absence of data or calculation.*
- *With regards to SEPP 21, the land is considered unsuitable for long term residence in the context of the demographic profile of the likely residents because of its relative isolation, lack of public transport and lack of services in the vicinity.*
- *The land is subject to bushfire constraints; This may be a particular concern in light of the likely demography of the proposed development due to possible difficulties in evacuation.*

JSA has also provided the following summary of social and economic impacts identified with the development proposal:

*Positive Social and Economic Impacts*

1. *Provision of additional housing choice in Manyana. Demand for housing is unlikely to come from within Manyana. The area is predominantly a holiday area, with around two thirds of dwellings unoccupied.*
2. *Increased economic activity. There will be an increase in economic activity as a result of construction, operation and spending by residents.*

*Neutral Social and Economic Impacts*

1. *Provision of affordable housing. It is unlikely that the proposal will provide affordable housing.*
2. *Provision of low cost housing. It is unlikely that the proposal will provide low cost housing.*

*Negative Social and Economic Impacts*

1. *Lack of access to services and facilities. The range of facilities available in Manyana and proposed in the caravan park is very limited. Other services are available in Milton Ulladulla however access to these services is reliant on car ownership. While a mini bus service is proposed by the applicant, there is no certainty on provision of this service or its availability to disabled residents.*
2. *Ageing in place. The proposal is not consistent with a policy of ageing in place, with demographic data suggesting that people will need to relocate as they age and become increasing frail or infirm.*
3. *Impact on existing services. The development is likely to lead to net inward migration by any aged population from Sydney. Medical services in Milton*

*Ulladulla appear overstretched at the moment, and this additional population could be expected to exacerbate this problem.*

4. *Security of tenure. Closure of the park could lead to negative social impacts as a result of limitations to security of tenure in this form of accommodation.*
5. *Additional economic costs. There are economic costs associated with provision of services to isolated areas, additional infrastructure costs, travel costs and depreciation costs associated with the form of housing.*

The JSA peer review is not supportive of the proposed development on social and economic grounds as it concludes that the significant negative social and economic impacts associated with the development proposal are considered to outweigh any possible positive impacts.

- **Development Guidelines for the Permanent Occupation of Caravan Parks:** The proposal does not meet the acceptable solutions for clause 3.3 of the policy:

*3.3. Community Support Facilities*

*O5 To ensure that sufficient community support facilities are provided with the development and/or are within close proximity to the development site.*

*P5 Community support facilities are available within close proximity of the caravan park.*

*A7 The following support services are available, or are likely to become available, within a radius of 800 metres of the caravan park – Shops or a general store; Doctors Surgery; Chemist; and Bus Stop*

This matter is discussed in detail above under Social Impact.

**c) The suitability of the site for the development.**

In light of the issues identified in regards to the likelihood of significant negative social impacts, the site is not identified as suitable for the proposed development.

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

The application was notified by way of a public notification as outlined in Section 4 (Public Participation). The notification of the application resulted in the submission of 116 letters from the community. A Residents Briefing Meeting was held on 5 June 2008 to brief the community on the application and to detail the process of further considering this application.

The issues raised in the response to the proposal are:

- Application is a manufactured home estate not a caravan park (SEPP 21 or SEPP36);
- Oversupply of caravan parks in area and this proposal is not adjacent to coast, water bodies e.t.c.;
- No demonstrated need for low-cost housing in Manyana;
- No employment opportunities in the immediate area or Milton/Ulladulla;
- Capacity of schools;

- Cumulative impact with other proposals in area;
- Unknown intentions for landowner on remainder of land (masterplanning);
- Not envisaged by zoning;
- Not consistent with character and tranquillity of the area - gateway site;
- Lack of infrastructure - e.g. schools, medical facilities, public transport, boat ramps;
- Distance to major centres (70km round trip to Ulladulla and 120km to Nowra);
- Capacity of Sewerage Treatment Plant (STP);
- Isolated nature of low-income housing - social and domestic issues;
- Threatened Species;
- Tree removal;
- Bushfire threat increased by increased population;
- Social issues - crime, anti-social behaviour, “ghetto”;
- Beaches are not patrolled;
- Access to community services and facilities - police, fire, ambulance;
- Inadequate opportunities for recreation for young persons;
- Traffic - increased traffic movements, reliance on vehicles;
- Implications of previous approval for a single dwelling (lot consolidation);
- Prohibition of caravan park on Kylor land - specific to Am 136 to SLEP 1985;
- Appropriate land for rural activities with access to treated effluent from the STP.

These issues were reinforced by the community members that attended the Resident Briefing Meeting on 5 June 2008 and a further ten (10) submissions were received following the briefing. The following additional issues were raised at the briefing:

- Is a rezoning needed for shop;
- Gated community creating social division;
- Questions on leasing arrangements;
- Older people leave the area due to lack of services not lack of low cost housing;
- Lot size in caravan park similar to 500m<sup>2</sup> lots in Manyana;
- Visitor parking considered inadequate for peak times;
- Inconsistency with South Coast Regional Strategy;
- Precedent for other rural land in area;

**e) The public interest.**

The development proposal raises significant issues in respect to adverse impacts on the social and economic environment of the locality, in light of the inability for the application to address these concerns, any approval would not be in the public interest.

The above assessment addresses the key issues under Section 79C, all other issues were capable of resolution and are therefore not detailed.

### **FINANCIAL CONSIDERATIONS:**

This proposal has no direct financial considerations for Council other than the potential cost of an appeal in relation to Council's determination.

### **COMMENTS FROM STRATEGIC PLANNING**

*"There has been no recent dedicated strategic work (i.e. settlement strategy, structure plan etc.) undertaken to support urban growth in the subject area, although, generally, the South Coast Regional Strategy does not support expansion of centres or towns unless they are well serviced and in accordance with a strategy prepared and endorsed by the Department of Planning. In this regard the Shoalhaven Growth Management Strategy, that is currently being prepared, will in part consider and address the strategic direction of the area.*

*The most recent Council undertaken strategic planning that relates to the site is the draft Citywide LEP 2009, which was adopted by the Council delegated 'panel' of Senior Staff in August 2008. The draft LEP was forwarded to the Department of Planning in September 2008 with a request for a Section 65 certificate to enable the exhibition of the draft LEP. The draft LEP, as forwarded to the Department of Planning proposes to zone the subject land RU2 Rural Landscape and within this zone caravan parks are not a permissible land use. This zone (RU2) has the following objectives:*

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To provide for land uses and other development which by virtue of their character require siting away from urban areas."*

### **OPTIONS:**

There are two options that Council could consider in relation to determining Development Application 08/1258:

1. Determine that the social impact issues outlined in the Section 79C Assessment of key consideration associated with the development proposal are unacceptable and resolve to determine the application by way of refusal for adverse social and economic impact.
2. Determine that the social impact issues outlined in the Section 79C Assessment associated with the development proposal are acceptable and resolve to determine the application by way of approval subject to appropriate conditions of consent. In this regard, a set of draft conditions is included in **Attachment 'H'** should Council adopt this option.

### **CONCLUSION:**

On the basis of the assessment detailed above it is considered that the proposal will result in adverse social and economic impacts and is not considered appropriate in the locality. In this

regard, option 1 is recommended. The proposals in the draft Citywide LEP that would make caravan park development prohibited on this land needs to be taken into consideration as a policy issue but is not a Section 79C consideration as the draft Plan has not yet been placed on exhibition.

**RECOMMENDED that Development Application No DA08/1258 on Lots 6 and 108 DP 755923 will have an unacceptable social impact and be determined by way of refusal for the following reasons:**

- a) Pursuant to the provision of SEPP 21 Clause 10(a) the site considered to be unsuitable for the proposed development in respect to the location and character of the land;
- b) Pursuant to Section 79C(b) the likely social impact of the development is unacceptable;
- c) Pursuant to Section 79C(c) the site is not suitable for the development due to the relative isolation of the site; and
- d) Pursuant to Section 79C(e) the development is not considered to be in the public interest due to the significant negative social and economic impacts associated with the development proposal.

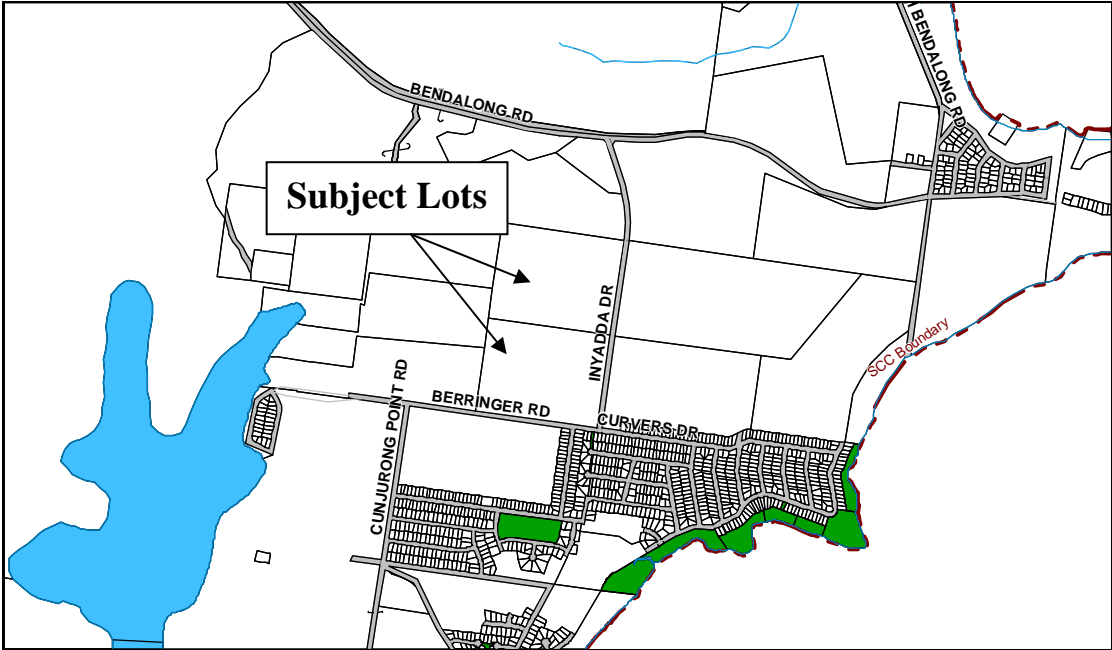
Tim Fletcher

**DIRECTOR, DEVELOPMENT AND ENVIRONMENTAL SERVICES**

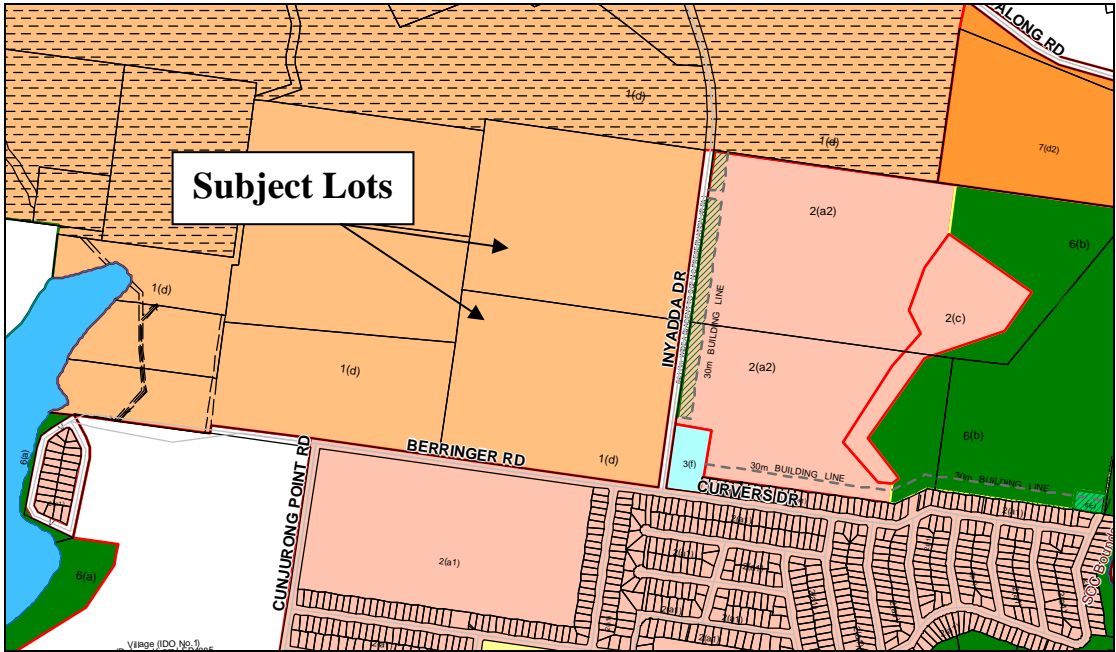
R.D Pigg

**GENERAL MANAGER**

ATTACHMENT “C”



ATTACHMENT “D”







allen, price & associates  
land and development consultants

Development Committee - Item 7

\$1395.40

R/N 42/1525

17.12.08

RD 08-1004

17 December 2008

Our Ref: 24328 MJPlmh

Your Ref: DA 08/1258

Shoalhaven City Council  
DX 5323  
NOWRA

Attention: Mr Tim Fletcher

Dear Sir

**DEVELOPMENT APPLICATION 08/1258 – 75 SITE CARAVAN PARK AT MANYANA  
SECTION 82A REVIEW OF DETERMINATION**

We are writing to request a review of the determination for DA 08/1258 under Section 82A of the Environmental Planning and Assessment Act 1979.

We attached the following documents to assist Council in it's Section 82A review:

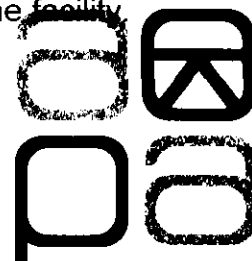
- Revised Statement of Environmental Effects - Integrated Site Design December 2008 (including Appendices) – 3 copies
- Revised Dwg Nos. DA00 to DA05 – Integrated Site Design – 3 copies;
- Letter from Colston Budd Hunt Kafes (December 2008) - 3 copies;
- Letter from Martens Consulting Engineers (December 2008) – 3 copies;
- a cheque in the amount of \$1,395.40 for council fees for the s82A review; and
- Political Donations Declaration Form completed by APA

We have amended the proposal to a caravan park with 75 short term (tourist) sites to address the concerns raised regarding the social impact. The amendments to the proposal include the following:

- Change to 75 short term sites;
- Addition of an ablutions/laundry building;
- Relocation of the Reception building to be adjacent to the caravan park entrance to suit a tourist caravan park;
- Review of traffic, services, bushfire and stormwater issues to address impacts for a tourist caravan park.

The footprint for the caravan park remains the same as the long term caravan park proposal and therefore impacts due to flora and fauna and archaeology do not change from the previous proposal and therefore do not require further comment.

We have been advised by the social planners that the tourist caravan park use will not have the social infrastructure requirements of long term residences and that tourist caravan park applications do not generally require a social impact assessment as tourists are transient in the area and the services required (such as convenience store) are provided in the facility.





Shoalhaven City Council  
17 December 2008  
Page 2

We confirm that the application is not integrated development.

If you wish to discuss this matter further, please do not hesitate to contact the undersigned.

Yours faithfully  
ALLEN, PRICE & ASSOCIATES

A handwritten signature in black ink, appearing to read 'Matt Philpott'.

Matt Philpott

Encl



Our office will be closed from 12 noon, Tuesday, 23 December 2008 and will be reopening at 9.00am on Monday, 5 January 2009.

We take this opportunity to wish you a Merry Christmas and a happy New Year.

**A PROPOSAL FOR A  
CARAVAN PARK  
at  
INYADDA DRIVE  
MANYANA  
for  
MALBEC PROPERTIES**

**S.82A REVIEW**

**December 2008**

**A PROPOSAL FOR A  
CARAVAN PARK at  
INYADDA DRIVE,  
MANYANA  
for  
MALBEC PROPERTIES**

Prepared by  
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December 2008

## Development Committee - Item 7

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<b>4. THE PROPOSAL</b>	<b>16</b>
<b>5. IMPLICATIONS OF THE PROPOSAL</b>	<b>24</b>
<b>6. CONCLUSION</b>	<b>33</b>

### Appendices

- A Advice from Martens re Stormwater, Geotech/Contamination, Bushfire, Sewer/Water based on a proposal for 75 short term dwelling sites;
- B Advice from Colston Budd Hunt and Kafes Pty Ltd based on a proposal for 75 short term dwelling sites;
- C Relevant responses to Council comments and advice from Key Insights based on a proposal for 75 short term dwelling sites.

### Drawings (by Integrated Site Design):

DA 00 Site Analysis and Context Plan,	January 2008
DA 01 Site Layout Plan,	Revision C, November 2008
DA 02 Community Facilities Layout,	Revision A, November 2008
DA 03 Proposed Community Building, Plan and Elevations,	Revision A, November 2008
DA 04 Proposed Shop and Manager's Residence,	Revision A, November 2008
DA 05 Proposed amenities building	November 2008

### SEE Amendment Schedule

<b>Date</b>	<b>Proposal: DA 08/1258, Caravan Park at Manyana</b>
February 2008	Proposal for a caravan park with 75 long term dwelling sites and appropriate facilities.
Revision A, 17 November 2008	Amended to a caravan park with 75 short term dwelling sites and appropriate facilities.
Revision B, 15 December 2008	Amendment of SEE to provide for S82A Review.

**1. INTRODUCTION :**

In March 2008 DA 08/1258 was lodged with Shoalhaven City Council. The application proposed the development of a new caravan park at Inyadda Drive, Manyana providing for 75 long term dwelling sites an office/manager's residence with an ancillary convenience shop and the provision of a community facilities and recreational elements for future residents.

On 25 November 2008 Shoalhaven City Council determined DA 08/1258 by way of a refusal for the following reasons:

- The site is considered to be unsuitable for the proposed development in respect to the location and character of the land;
- The likely social impact of the development is unacceptable;
- The site is not suitable for the development due to the relative isolation of the site, and
- The development is not considered to be in the public interest due to the negative social and economic impacts associated with the proposal.

This current submission represents a S.82A Review application of DA 08/1258. It includes a revised Statement of Environmental Effects and revised drawings for the development of a caravan park which provides for 75 short term dwelling sites, an office/manager's residence with an ancillary convenience shop and the provision of a community facilities and recreational elements for future guests. The proposal also provides for the construction of roads, the installation of services and the implementation of a landscaping program. The site and the development 'footprint' are identical to that proposed in the application which was refused. The proposal constitutes local development under the provisions of the Environmental Planning and Assessment Act.

It is submitted that the application as now amended addresses the matters given by Council as the reasons for refusal. This emerges largely because the deletion of long term dwelling sites in favour of short term dwelling sites removes any potential negative social or economic impact brought about by the site's location. In summary, the amended proposal highlights that:

- The location and character of the site are well suited to short term dwelling sites;
- The park is not isolated in term of tourism pursuits and interests;
- There is no potential for negative social or economic impact as no one will reside in the caravan park permanently (apart from the manager). By contrast the proposal will provide a positive impact on the social and economic well being of the local area and the region;

Based on Tourism Research Australia figures the project is likely to produce real economic benefits in the locality and the region. This includes expenditure in the local economy in the order of \$0.5M per annum and up to 6 full time jobs (in the park and the wider community) throughout the year. In peak periods

*the park will employ 6 full time people with additional casual employment. Consequently, the caravan park has the potential to help reduce local unemployment rates and it is understood that, if approved, it will represent the only commercial operation in Manyana.*

*During the original assessment of DA 08/1258 a number of issues were resolved in conjunction with Council including flora and fauna and traffic considerations. This information is not repeated in this S82A Review documentation as it is assumed that Council has appropriate records of this material.*

*The development proposal has been prepared to respond to a range of environmental considerations, opportunities and constraints with the aim of providing an attractive environment for future park guests. This has involved consideration of key State, regional and local planning controls and regulations. In particular the provisions of State Environmental Planning Policy No 21 - Caravan Parks, the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005 and the relevant local planning controls have been addressed.*

**2. SITE ANALYSIS (See Integrated Site Design Drawing No DA 00)**

**2.1 Location, access, context and area:**

Manyana is a coastal village located between Jervis Bay and Ulladulla. It has close proximity to the settlement of Bendalong a little to the north and Lake Conjola to the south. Inyadda Drive runs north-south between Bendalong Road to the north and Berringer road to the south. Bendalong Road links to the Princes Highway approximately 11km to the west. The townships of Milton and Ulladulla are approximately 25 km and 30km respectively south of this junction with the Highway.



The site is known as Lot 108 DP 755923 and has an area of approximately 19.78 hectares. It has a generally rectangular form with a frontage of approx. 392 metres to Inyadda Drive and 505m to the land to the north and south.

The land immediately to the north forms part of the Conjola National Park. The allotment to the south is also undeveloped and has similar proportions and area to the site. It is known as Lot 6 DP 755923 and is in the same ownership as the development site. The land to the west is undeveloped. Land to the east on the other side of Inyadda Drive, while currently undeveloped, is planned for urban development in the near future.



## 2.2 Topography, drainage and soils:

The landform in the area is generally flat to undulating varying in height from about 15.5m AHD in the north eastern corner (the lowest part of the site) up to about 32m AHD in the south. Consequently the site has a northerly aspect.

From the northern site boundary the site rises fairly evenly and gradually towards the southern allotment boundary. Average slope is about 1 in 20 while a few pockets are marginally steeper reaching 1 in 10.

An ephemeral drainage line lies in the north draining to a culvert in the east under Inyadda Drive and this low area is occupied by a forest community dominated by Blackbutts and Bangalay (see 2.3 below).



Much of the site and in particular a core area has been cleared in the past for grazing and now contains mainly regrowth vegetation with some clumps and some individual trees. An overview of past usage patterns and associated review of tree cover is found in the Martens Stage 1 Contamination Assessment. (See Item 2.5 below) and in the Flora and Fauna Report by Whelans InSites (see Item 2.3 below).

Soils on the site are generally organic silt topsoils typical of the area. These have weathered from underlying Tertiary sediments comprising clay, sand, gravel, sandstone and conglomerate. Acid sulphate soils are not found on the site and are not likely to be found given the absence of relevant geomorphic features. This has also been confirmed in the work by Martens and Associates.

### **2.3 Flora and Fauna:**

To better understand the site and to address the requirements of the Environmental Planning and Assessment Act a Flora and Fauna assessment was undertaken by Whelans InSites and formed Appendix A in the original SEE. Additional material was also provided in response to Council's questions and a review of the Study.

The study found that:

- No threatened plant species have been found to occur on the site.
- No Endangered Ecological Communities have been found to occur on the site.
- Four threatened fauna species have been found in the study area and indications of two other threatened fauna species have been detected. All these fauna species are listed as vulnerable on Schedule 2 of the EP&A Act.

Impact amelioration and environmental impact measures are to be implemented as part of the proposed development. These are regarded as appropriate and reasonable in the circumstances. These actions will prevent or appropriately ameliorate the imposition of a "significant effect" upon any "threatened species, populations or ecological communities, or their habitats" either within the subject land or in the vicinity.

The study therefore concludes that:

*The proposed caravan park development of the site at Manyana is not 'likely' to impose a 'significant effect' upon any 'threatened species, populations or ecological communities, or their habitats' pursuant to s5A of the EP&A Act.*

and

*There is no requirement for the preparation of a Species Impact Statement (SIS) for the proposed development*

### **2.4 Archaeological sites :**

A search of the Department of Environment and Conservation Aboriginal Heritage Information Management System (AHIMS) has confirmed that there are no known aboriginal objects or aboriginal places recorded in or on the site.

Regardless, Malbec Properties engaged South East Archaeology to undertake an Aboriginal Heritage Impact Assessment of Lot 108 (the site) and Lot 6 (located to the south) DP 755923. Preliminary Advice was prepared and included as Appendix B of the original SEE. A Final report was subsequently forwarded to Council.

### **2.5 Contamination :**

A Stage 1 Contamination Assessment report has been undertaken for the site by Martens and Associates

Pty Ltd (Appendix C in the original SEE). This work explored past development consents and land usage including a review of aerial photography. A number of boreholes were undertaken for geotechnical analysis.

From this work it is evident that the site has had predominantly rural uses which involved the clearing of vegetation for grazing and the potential for the application of fungicides, chemicals and pesticides. For these reasons it is considered that a Stage 2 assessment should be undertaken to assess the possible impact of heavy metals.

The report recommends that the Stage 2 assessment be required as a condition of Development Consent.

An update letter found at Appendix A of this SEE has been provided by Martens and Associates. This letter indicates that with respect to contamination assessment there are no implications of modifying the proposal to 75 short term dwelling sites.

#### **2.6 Services and infrastructure :**

All services are available to the site by extension.

Discussions have been held with Shoalhaven Water regarding the provision of sewer and water services to the site. A copy of Shoalhaven Water's letter accepting connection of the site to sewer and water was included as Appendix D in the original SEE.

Opportunity exists within the proposal to provide a number of on-site measures to control stormwater in an environmentally sensitive manner. This was set out in material prepared by Martens and Associates and found at Appendix E in the original SEE.

An update letter found at Appendix A of this SEE has been provided by Martens and Associates. This letter indicates that with respect to stormwater management there will be either no change or an improvement in the hydraulic stormwater outcomes for the site as a result of modifying the proposal to 75 short term dwelling sites.

Similarly the letter indicates that there will be either no change or the water demand and sewerage generation rates will reduce as a result of modifying the proposal to 75 short term dwelling sites.

### **3. PLANNING CONTROLS AND REGULATIONS**

#### **3.1 State Environmental Planning Policy No 21 - Caravan Parks (SEPP 21):**

The caravan and camping industry in New South Wales has undergone significant change in the last 20 years. The genesis for this change was the State Government's decision in 1986 to formalise the concept of 'moveable dwellings' and at the same time provide for permanent residential living in caravan parks. This decision resulted in the introduction of Ordinance 71 "Caravan Parks and Movable Dwellings" of the Local Government Act, 1919 (this Ordinance has since become a Regulation under the Local Government Act 1993 - see below).

In addition, to deal with the planning implications of this decision a new State Environmental Planning Policy No 21 - Moveable Dwellings (SEPP 21) was created. In other words, because Ordinance 71 brought about a much wider definition for caravan parks, SEPP 21 was prepared in order to ensure that this wider meaning applied to all relevant planning instruments whether existing or proposed. In essence the SEPP stated that where caravan parks are a permissible land use they will take on the meaning contained in Ordinance 71 and accord with all aspects of the Ordinance - whether enabling or restrictive. The Policy also made development consent mandatory for all new caravan park proposals regardless of local instruments.

At that time, where it was intended for more than 50% of the caravan park dwelling sites to be used for permanent residential living, Ordinance 71 required approval from the Department of Local Government based on a submission from the applicant and the relevant Council. This step was required in order to ensure that the full range of services needed for such a caravan park could be provided either within the park or the wider community.

This SEPP was subsequently repealed and replaced with a new Policy on 24 April, 1992 which kept the same number (i.e. SEPP 21) but was now titled "Caravan Parks". With several other more recent amendments, the new Policy retains the provisions of the old Policy with regard to planning instruments as well as the wider meaning for caravan parks (as noted above).

To deal with the issues associated with the provision or mix of short term dwelling sites (tourism) or long term dwelling sites, the Ordinance 71 requirement for the Department of Local Government to approve more than 50% long term dwelling sites was deleted. Instead, appropriate provisions were included in SEPP 21 requiring Council's to have regard to the impact of new long and/or short term dwelling sites on residential and/or tourism land uses and operations in their local area.

Importantly, in order to ensure the coherent application of the objectives and strategies of the Policy, it prevails over other environmental planning instruments to the extent of any inconsistency.

The Policy is set out below:

**1 Name of Policy**

This Policy may be cited as State Environmental Planning Policy No 21—Caravan Parks.

**2 Commencement**

This Policy commences on 24 April 1992.

**3 Aims, objectives etc**

- (1) The aim of this Policy is to encourage:
  - (a) the orderly and economic use and development of land used or intended to be used as a caravan park catering exclusively or predominantly for short-term residents (such as tourists) or for long-term residents, or catering for both, and
  - (b) the proper management and development of land so used, for the purpose of promoting the social and economic welfare of the community, and
  - (c) the provision of community facilities for land so used, and
  - (d) the protection of the environment of, and in the vicinity of, land so used.
- (2) The strategies by which that aim is to be achieved are:
  - (a) (Repealed)
  - (b) by requiring that development consent be obtained from the local Council for development for the purposes of caravan parks, and
  - (c) by providing that development consent may be granted that will authorise the use of sites for short-term stays (whether or not by tourists) or for long-term residential purposes, or for both, and
  - (d) by requiring that development consent be obtained from the local Council for the subdivision of land for lease purposes under section 289K of the Local Government Act 1919.

**4 Land to which this Policy applies**

This Policy applies to all land in the State that is within a local government area.

**5 Relationship to other environmental planning instruments**

- (1) In the event of an inconsistency between this Policy and another environmental planning instrument (whether made before or after this Policy) this Policy prevails to the extent of the inconsistency. This subclause is subject to section 36 of the Environmental Planning and Assessment Act 1979.
- (2) This Policy repeals State Environmental Planning Policy No 21—Movable Dwellings.
- (3) This Policy amends State Environmental Planning Policy No 26—Littoral Rainforests by omitting clause 10 (5).
- (4) Nothing in State Environmental Planning Policy No 36—Manufactured Home Estates prevents development consent from being granted pursuant to this Policy for the use of land as a caravan park in which manufactured homes are or are to be installed or placed.

**6 Definition**

In this Policy:

**caravan park** means land (including a camping ground) on which caravans (or caravans and other moveable dwellings) are, or are to be, installed or placed.

**moveable dwelling** has the same meaning as it has in the Local Government Act 1993.

**7 Application of certain planning controls to places licensed for movable dwellings**

In any environmental planning instrument (whether made before or after this Policy), references (however expressed) to caravan parks or to camping grounds, or to caravan parks and camping grounds, include references to caravan parks, within the meaning of this Policy.

**8 Development consent required for caravan parks**

- (1) Development for the purposes of a caravan park may be carried out only with the development consent of the Council.
- (2) Before granting development consent to the use of land for the purposes of a caravan park, a Council must determine:
  - (a) the number of sites (if any) within that land that the Council considers are suitable for long-term residence, within the meaning of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993, and
  - (b) the number of sites (if any) within that land that the Council considers are not suitable for long-term residence, but are suitable for short-term residence, within the meaning of that Regulation.
- (3) A Council must not grant development consent to the use of land for the purposes of a caravan park unless it imposes as a condition of that consent a condition specifying the maximum number of sites (if any) within that land that may be used for long-term residence.
- (4) The holder of an approval under Part 1 of Chapter 7 of the Local Government Act 1993 to operate a caravan park or camping ground on land must not, without the development consent of the Council, allow a person to occupy a site within that land:
  - (a) for a continuous period of more than 3 months, except as provided by paragraph (b), or
  - (b) for a continuous period longer than the period (if any) for which the person is allowed to be accommodated within the land by an extension that has been granted under clause 19 (6) of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993,  
if such a use of that site was not lawful under the Environmental Planning and Assessment Act 1979 when this Policy commenced.
- (4A) Except as provided by subclause (4), nothing in this Policy or any other environmental planning instrument requires separate development consent to be obtained for the installation or placement of a moveable dwelling on land on which development for the purposes of a caravan park is being lawfully carried out.
- (5) This clause does not apply to any land that is authorised to be used for the purposes of a manufactured home estate by a development consent granted pursuant to State Environmental Planning Policy No 36—Manufactured Home Estates or dedicated or reserved under the National Parks and Wildlife Act 1974.

**9 Subdivision of caravan parks for lease purposes**

- (1) Land may be subdivided for lease purposes under section 289K of the Local Government Act 1919, but only with the development consent of the Council.
- (2) A Council must not grant such a development consent unless the Council is satisfied that each of the lots intended to be created for lease purposes by the proposed subdivision meets the requirements of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993 for a site to be used for long-term residence.
- (3) Any prohibition or restriction on the subdivision of land imposed by any other environmental planning instrument (whether made before or after this Policy) does not apply to a subdivision for lease purposes under section 289K of the Local Government Act 1919.
- (4) This clause does not apply to land that is authorised to be used for the purposes of a manufactured home estate by a development consent granted pursuant to State Environmental Planning Policy No 36—Manufactured Home Estates or that has been reserved or dedicated for any public purpose under the Crown Lands Act 1989.

**10 Matters to be considered by Councils**

*A Council may grant a development consent required by this Policy only after it has considered the following:*

- (a) 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,*
- (b) 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,*
- (c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,*
- (d) 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,*
- (e) any relevant guidelines issued by the Director, and*
- (f) the provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993.*

**3.2 Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Movable Dwelling) Regulation, 2005:**

As noted above in 1986 Ordinance 71 was introduced under the then Local Government Act. Under the Ordinance each caravan park required an annual licence which was issued subject to the park's compliance with essential requirements. The Ordinance also provided the framework and parameters within which park managers and operators could develop more innovative approaches to the provision of tourist and residential accommodation in caravan parks.

On the first of July 1993 the new Local Government Act was introduced which in turn saw the subsequent introduction of the Local Government (Caravan Parks and Camping Grounds) Regulation 1993 which essentially embodied the provisions of Ordinance 71. The Regulation was substantially overhauled in 1995 and has been amended several times since, the most recent being in August 2005 when among other things it was combined with the Regulation that deals with Manufactured Home Estates. Consequently it now has a new title (as noted in the heading for this section).

The requirements of the previous Ordinance and now the Regulation have provided the design standards for the development, layout, and operation of caravan parks. In this respect relevant planning and design standards and controls are not contained in DCPs, LEPs and Council Codes. Rather they reside in the statewide Local Government Regulation. The Regulation also functions as the basis for the issuing of an approval to operate a caravan park, by local councils, under S 68 of the Local Government Act. That approval requires the necessary provisions of the EP&A Act (SEPP 21) to have been met. Similarly SEPP 21 (which prevails over other planning instruments where inconsistencies occur) requires consideration of the provisions of the Regulation.



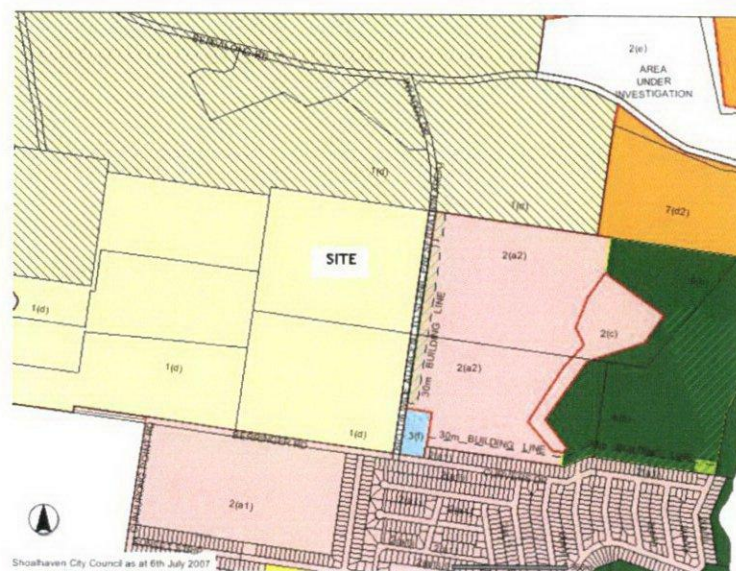
Consequently the specific planning and design controls for a number of aspects of this proposal are contained in this Regulation. Where relevant these are expanded more fully below in Chapter 4 of this report which describes the proposal. (Note that essentially Clauses 70 and following of the Regulation are relevant to this application. Clauses 5 to 69 apply to Manufactured Home Estates and are not relevant to this application).

A further matter which relates to the provisions of this Regulation should also be noted here. It concerns the procedures related to the placement of moveable dwellings within a caravan park. Once dwelling sites - such as those proposed in this application - have been created, moveable dwellings may be placed or installed on these sites. The dwellings may be relocatable homes in the form of cabins and are not 'buildings' for the purposes of the EP&A Act. Their design, form and siting are not controlled in an ongoing manner by any of the provisions of that Act (DCP, LEP etc). Rather all aspects of the moveable dwellings are controlled by way of the Caravan Park Regulation which in turn makes reference to the relevant provisions of the BCA where necessary.

### **3.3 Shoalhaven Local Environmental Plan 1985 (LEP 1985):**

Under the provisions of LEP 1985 the site and the surrounding area to the north and west are zoned Rural 1(d). (see image below). Caravan parks are an innominate use in this zone. The National Park land to the north which is also zoned 1(d) is noted as land of ecological sensitivity (denoted by cross hatching on image below).

The LEP also sets out several matters that require consideration with respect to the use of Rural 1(d) land. In particular clauses 19, 23, 25, 26, 28 and 54 have relevance. These are discussed further in Chapter 5 of this Statement.





**3.4 Shoalhaven Development Control Plan No 63 (DCP 63):**

This DCP deals with Tourism Development in Rural Areas. The DCP looks at Tourist Accommodation/Resorts, Guesthouses, holiday cabins and facilities which are all defined as buildings. By contrast caravan parks utilise 'moveable dwellings' which are constructed elsewhere and brought to the site. The EP&A Act clearly indicates that moveable dwellings are not buildings. Consequently the DCP does not relate to and is not relevant to proposals for tourist caravan parks in rural areas. As noted above the primary controls for caravan park proposals are found in SEPP 21 and the relevant Local Government Act Regulation.

**3.5 The Holiday Parks (Long-Term Casual Occupation) Act 2002 :**

Some caravan parks operators allow people who own caravans to place the van in the park permanently and then use the van on week-ends and at holiday times in a long term casual manner. The Regulation calls these 'holiday vans' and they are sometimes known as annuals or semi-permanents.

This legislation was developed by the Government to ensure clarity for the rights of people who place holiday vans in parks as well as the park operator. The legislation defines what agreements need to be put in place and the procedures and requirements related to these agreements.

It is not necessarily the case that the future operator of the proposed caravan park at Manyana will allow holiday vans to be installed. But if this does occur, this Act sets out the relevant requirements.

**3.6 Bushfire Controls :**

Legislation in recent years has brought about a greater focus on bushfire considerations at the development application stage. Relevant controls include amendments to the EP&A Act and the Rural Fires Act (RFA).

The relevant controls can be summarised as follows:

- Rural Fires Act 1997, Sections 63(1) and 63(2) require public authorities and owner/occupiers of land to take all practical steps to prevent the occurrence of bushfire and to minimise the danger of the spread of bushfires;
- EP&A Act, Section 79C(1)(c) - consideration of the impacts of development (including bushfire);
- EP&A Act, Section 79BA requires Councils to be satisfied that development in bushfire prone areas (other than those dealt with under 100B of the Rural Fire Act) comply with the Planning for Bushfire Protection Guidelines before granting development consent;
- Rural Fires Act 1997, Section 100B provides for the issue of a bushfire safety authority by the Commissioner of the RFS for the subdivision of bushfire prone land that could lawfully be used



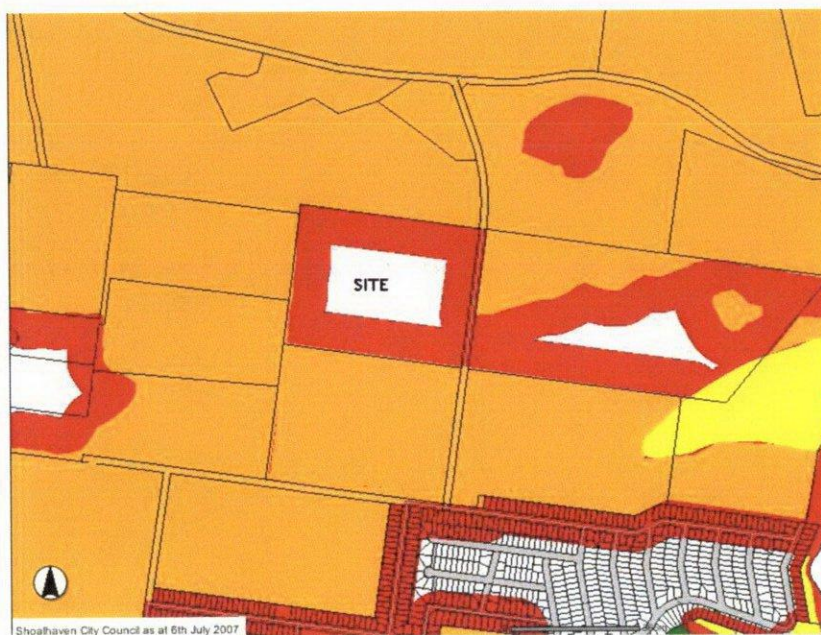
for residential or rural residential purposes or for the development of bushfire prone land for a special fire protection purpose (SFPP). SFPP are defined in the RFA as follows:

*“special fire protection purpose means the purpose of the following:*

- (a) a school,*
- (b) a child care centre,*
- (c) a hospital (including a hospital for the mentally ill or mentally disordered),*
- (d) a hotel, motel or other tourist accommodation,*
- (e) a building wholly or principally used as a home or other establishment for mentally incapacitated persons,*
- (f) housing for older people or people with disabilities within the meaning of State Environmental Planning Policy No 5—Housing for Older People or People with a Disability,*
- (g) a group home within the meaning of State Environmental Planning Policy No 9—Group Homes,*
- (h) a retirement village,*
- (i) any other purpose prescribed by the regulations.”*

The 2006 edition of the Planning for Bushfire Protection Guideline indicates in the body of the text that “Caravan parks and mobile homes (relocatable) estates are considered SFPP” (page 29). Consequently a caravan park with long term dwelling sites or a caravan park with short term dwelling sites (or both) are considered to be a SFPP.

Council’s mapping indicates that the centre of the site is not fire prone land. However, because the surrounding lands are fire prone, the 100m buffer to those lands affects the outer parts of the site (see image below).



To address this matter bushfire assessment has been undertaken by Martens and Associates and was found at Appendix G of the original SEE. This work applies the relevant policies and procedures of the Planning for Bushfire Protection Guidelines and is based on assessment of the existing vegetation type, topography

etc. Appropriate asset protection zones have been determined and these have been applied in the design of the proposal.

Assuming a bushfire safety authority is required from the RFS, this authority is not sought by the proponent at the same time as development consent (see discussion below under Integrated Development).

An update letter found at Appendix A of this SEE has been provided by Martens and Associates. This letter indicates that with respect to bushfire assessment there is no change in outcomes or recommendations as a result of modifying the proposal to 75 short term dwelling sites.

### **3.7 The Water Management Act 2000:**

Permit procedures for protected waters (defined rivers and foreshores) were previously dealt with under the provisions of Part 3A of the Rivers and Foreshores Improvement Act 1948. This mechanism is now controlled through the provisions of S91 of the Water Management Act 2000.

The work by Whelans InSites at Appendix A of the original SEE indicates that the ephemeral drainage line located in the north does not constitute a river with 'waterfront land' and controlled activity approvals will not be required should excavation or removal of material be proposed within 40m of the drainage line.

### **3.8 Integrated Development:**

It may be that aspects of the proposal lead to a requirement for permits and/or approvals under other legislation such as that noted in S91 of the EP&A Act as constituting integrated development.

If this emerges, these approvals will be sought from the relevant agencies in due course following consent. In this regard, the proponent relies on the judicial precedent established under *Maule vs Liporoni & Anor* [2002] NSWLEC 25 (19 March 2002) where Justice Lloyd ruled that there *"... is no compulsion on an applicant to make an application for integrated development approval, if he or she chooses not to do so.....The provisions relating to integrated development are there for the benefits of the applicants for development consent and not to hinder them.."*

In this instance the applicant is not requesting an integrated development consent. This approach allows a development consent to be issued requiring the proponent to obtain any relevant additional approvals in due course.

At the request of Council, advice on this issue was provided by Pikes Lawyers and a copy of this is included at Appendix C of this SEE.

**3.9 Summary of planning and regulatory issues:**

From a consideration of the proposed land use, the site analysis material and the relevant planning controls the following can be seen:

**3.9.1. Proposed land use, permissibility and prevailing controls**

The proposal is for a caravan park with 75 short term dwelling sites and ancillary community facilities and services. The site is zoned Rural 1(d) and caravan parks are a permissible land use in this zone with consent. SEPP 21 - Caravan Parks is the primary planning control for a development of this type. The Policy prevails over other planning instruments to the extent of any inconsistencies and provides the opportunity for short term dwelling sites in caravan parks. Clause 10 of the Policy also provides a relevant set of assessment criteria. The manner in which the proposal addresses the matters stipulated in Clause 10 of SEPP 21 is discussed in the following Chapters.

Other matters raised in the LEP are also discussed in the following Chapters.

**3.9.2. Type of development**

The proposal constitutes local development under Part 4 of the Environmental Planning and Assessment Act and Regulations. An integrated development consent is not sought. Any necessary permits or subsequent approvals will be obtained as required.

**3.9.3. Bushfire**

Given the site is surrounded by fire prone lands and falls within the buffer to these lands a bushfire safety authority may be required as all caravan park proposals (whether for long term dwelling sites or short term dwelling sites) constitute a special fire protection purpose. This authority is not being sought at the same time as the development consent.

**4. THE PROPOSAL (See Drawings prepared by Integrated Site Design).**

**4.1 Objectives :**

The intention of the proposal is to provide a planned and sustainable caravan park containing short-term dwelling sites in an attractive setting. The proposal is to be supported by ancillary services and communal facilities which will include a small shop, a multi-purpose community building, an amenities building and recreational elements such as a swimming pool, BBQ areas and the like.

Dwelling sites will be provided with services in accordance with the Regulation and guests will pay a tariff for site use. Park management will be responsible for the maintenance of the communal facilities, open space, services and systems provided in the park.

All detailed planning and design matters will comply with the relevant provisions of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Movable Dwelling) Regulation, 2005.(see Clauses 70 and following).

**4.2 Key elements :**

The proposal comprises the following main elements :

- A road and circulation system which
  - provides a defined entry and exit point as well as the control of traffic entering and leaving the site;
  - provides an external loop road for bushfire access control in accordance with best practice guidelines,
  - is based on a regime of private two way roads utilizing 6m wide carriageways in accordance with the Regulation,
  - responds to topography to ensure interest and variety when the sites are occupied with dwellings as well as acceptable travel paths and grades for the movement of people, vehicles and construction requirements;
  - provides for at least 1 car parking space for each dwelling site as well as a total of 32 visitor parking spaces at different locations around the park;
- The creation of defined accommodation areas through the provision of 75 dwelling sites in different configurations which respond to site constraints and opportunities;
- The provision of community and ancillary facilities and services by way of an office/manager's residence with an integrated convenience shop, a multipurpose community building and a swimming pool with associated parking, planting and landscaping and general recreation area. General recreational and open spaces areas with associated BBQs are proposed in several locations throughout the park;

- The provision of water and sewer services to the park by way of connections with the existing surrounding infrastructure in accordance with the requirements of Shoalhaven Water;
- The reticulation of all essential services to relevant locations and all community facilities;
- The construction of a stormwater collection system and control area with appropriate water quality treatment,
- The provision of a considered landscaping program for all community areas, the road system and individual living areas and consistent with the relevant bushfire APZ requirements, and
- The provision of a management and administrative structure.

#### **4.3 Road Structure, circulation and parking:**

An overview of the traffic issues in the area and the implications of the development proposal have been prepared by Coulston Budd Hunt and Kafes Pty Ltd and was found at Appendix H of the original SEE.

An update letter found at Appendix B of this current SEE has also been provided. This letter indicates that with respect to traffic issues there will be no significant implications as a result of modifying the proposal to 75 short term dwelling sites.

Specific information with respect to the proposal can be set out as follows:

#### **Entry/exit**

The primary entry and exit system for the park is proposed as a new link to Inyadda Drive. Based on a review of the topographic levels and associated sight lines along Inyadda Drive a location which is approximately 200m north of the southern boundary of the site (or land parcel) has been selected.

The entry and exit to the park will be provided by a 7m wide road extending approximately 50m into the site to a round-a-bout. Access will be managed and controlled by way of a boom gate system. Visitor parking will be located on the southern side of the entry in association with the reception office/residence.

#### **Road System**

The structure of the road and circulation system is essentially three curvilinear park roads running north east/south west and more or less diagonally across the slope. The longest of these is about 300m in length. In this way interest and variety is created through the changing levels and vistas along the roads while easy grades (better than 1 : 14) are achieved for vehicles and pedestrians who will utilise the system. At appropriate locations these park roads have been extended beyond the dwelling sites to provide an external bushfire access loop road especially to the north, north west and west.

#### Pedestrian circulation

Consideration has also been given to other possible means and patterns of circulation and movement in and around the park. As noted above the road system comprises essentially private roads with low speed limits (upper limit in Clause 95 of Regs is 15km/hr) which are readily suited to pedestrians.

However, in addition to this, pathways are proposed in various locations around the park to enable key linkages to occur. For example, pedestrian movement in a north west/south east orientation linking between the roads has been provided by way of a pathway. This will allow additional access at acceptable grades to the flatter APZ lands to the north west which will also include recreational elements such as a grassed play area, a playground, shade structures and BBQ areas. Depending upon their anticipated usage patterns and specific locations, it is proposed that pathways be provided as defined but pervious surfaces (eg gravel/crushed granite) and, where necessary, using impervious materials such as bitumen and concrete.

#### Road construction

All roads are to have an all weather seal with lay back kerbs. Stormwater runoff from roads is to be collected and appropriately managed and is discussed further below. Street lighting will also be provided in accordance with the Regulation.

#### Car parking

In addition to the provision of 10 visitor parking spaces near the entrance to the park a further 22 spaces are proposed at various points around the layout. This total provision of 32 visitor spaces exceeds the requirements of the Regulations which call for 4 visitor parking spaces (1 space for each 20 short term dwelling sites or part thereof, Clause 97). Of the 32 spaces a least 3 will be constructed and allocated as spaces suited to the disabled which also exceeds the requirements of Clause 98 the Regulations (1 visitor space for people with disabilities for each 100 sites or fraction of 100 sites).

#### Garbage

Garbage collection and recycling services are to be arranged and co-ordinated throughout the park in accordance with a Management Plan. The service will include a regime of collection from all individual dwellings as well as the community facilities and ancillary service areas. A garbage collection point for the park has been provided near the entry.

#### 4.4 Dwelling sites :

The design and layout of the individual dwelling sites has been prepared having regard to a range of matters. This has included consideration of the site constraints and opportunities, future amenity, ecological sustainability, relevant aspects of the Regulation, access considerations, implications for civil works as well as prevailing market needs and preferences.

Regulatory controls for dwelling sites

Key controls found in the Regulations that relate to dwelling site sizes and locations include the following:

- short term sites must have a minimum site size of 65m<sup>2</sup>;
- a relocatable home and any associated structure must not occupy more than two-thirds (66%) of a dwelling site; this calculation must include a provision for a car parking space;
- relocatable homes must be set back 1m from park roads;
- moveable dwellings located on short term sites must be 2.5m apart;
- dwelling sites require a 10m setback from public roads and a 3m setback from the park boundary.

The proposed dwelling sites exceed the Regulatory requirements noted above. The proposal utilises a range of dwelling site sizes with areas in the order of 180m<sup>2</sup> to 500m<sup>2</sup>.

Each dwelling site will be fully serviced with sullage, water, power and communications in accordance with the requirements of the Regulation. If a dwelling site is to utilise a fully self contained moveable dwelling, such as a cabin, it will be connected to all essential services. Similarly dwelling sites which include ensuite facilities will be connected to all essential services. A description of the key components of the sewer, water and stormwater system has been prepared and is set out in 4.6 and 4.7 below.

4.5 Community and recreational facilities :

As noted above, community recreational and ancillary facilities and services are proposed within the park.

Key facilities are located adjacent to the proposed park entry. These comprise an office/manager's residence with a small associated shop, a multi-purpose community facilities building, a swimming pool, an amenities building, BBQ/Camp Kitchen facilities and two tennis courts. Other smaller BBQ facilities (stainless steel BBQs with sink and general shelter) and seating are proposed at different locations throughout the park.

It is intended that all these facilities will have a consistently applied and co-ordinated colour scheme and consistently utilise the same types of building materials such as colourbond roofing. The sorts of colours to be used will be subdued and consistent with the natural context and setting.

Reception/Manager's Residence/Shop

The Reception/Manager's residence and shop are to be located adjacent to the entry/exit road. The facility has been designed as a relocatable home. Clause 134 (2) of the Caravan Park Regulations confirms that relocatable homes to be used as a manager's office or residence or as a community amenity



may be installed in caravan parks except on a dwelling site. Consequently it is not a building for the purposes of the EP & A Act and does not require development consent to be installed. Nevertheless relevant drawn material has been provided in the DA Statement to assist Council in its understanding of the proposal.

The eastern portion of the relocatable home will provide a 3 bedroom dwelling. The western portion of the home has been planned to provide for a management presence and co-ordination point for the caravan park together with an area for the provision of essential and convenience food items and supplies. Ready access including disabled access to the shop/office will be provided from the proposed park road. The shop and residence will have a finished floor level of 23.2m AHD.

The Community Building and pool:

The proposed building will have proportions of approximately 19m x 12m. It will comprise:

- a hall space with proportions of approximately 9.6m x 12m;
- a kitchen/laundry;
- 2 defined offices with a separate reception area;
- An entry vestibule, access corridor and store room;
- Male and female WCs as well as 2 unisex bathrooms.

The hall space will be capable of division into smaller areas if needed by way of collapsible walls. The offices and reception area can be utilised as required by management as well as part time usage such as that required by visiting hairdressers and/or doctors and can also be used for meetings of small groups. The WCs and bathrooms are able to service the users of the building as well as the adjoining swimming pool.

The building has been designed with a suspended floor and will have a finished floor level of approximately 26m AHD. External cladding will utilise cellulose sheeting with a rendered "granosite" style painted finish. Windows will be powdercoated aluminium and the roof will utilise colourbond metal.

The northern side will open onto a deck area with pergola. Key access points to the building (main entry, hall entry, WCs) will achieve acceptable grades for disabled access.

The swimming pool will include adjacent recreational areas for relaxation. It will be embellished with shade structures and appropriate plantings and landscaping elements.

Amenities building:

An amenities building is proposed in approximately the centre of the park. In accordance with the Regulation It has been designed and sized to provide sufficient male and female facilities for 75 dwelling sites. In addition it includes a family bathroom as well as separate, purpose designed facilities for the disabled. Taken together, the amenities provided exceed the requirements of the Regulation.

The building also includes laundry facilities and these are sized to accommodate the requirements of 75 short term dwelling sites. Clothes drying space will be provided in accordance with the Regulation (2m line space per dwelling site) in an area adjoining the laundry.

A few dwelling sites lie beyond the 100m travel distance to the amenities building. These dwelling sites will be serviced either by the provision of en-suite facilities or through the installation of self-contained moveable dwellings. This further confirms that the amenities building will provide a level of service beyond the load which will be placed on it. The relevant information can be set out as follows:

<b>75 ST dwelling sites</b>	<b>Regulation</b>	<b>Proposal</b>
Female WCs	6	<b>8 (including the family bathroom and disabled)</b>
Male WCs	4	<b>6 (including the family bathroom and disabled)</b>
Urinal	2	<b>3</b>
Female showers	4	<b>8 (including the family bathroom and disabled)</b>
Male showers	4	<b>8 (including the family bathroom and disabled)</b>
Female handbasins	3	<b>10 (including the family bathroom and disabled)</b>
Male handbasins	3	<b>9 (including the family bathroom and disabled)</b>
Washing machine	2	<b>4</b>
Tub	2	<b>3</b>
Dryer	1	<b>2</b>
Ironing facilities	2	<b>3</b>

**4.6 Reticulation of essential services :**

Essential services are to be provided throughout the park extending to all dwelling sites as necessary and all community facilities buildings and areas. The services to be provided include electricity, water, sewer, telephone and an MATV system.

Water and sewer are to be provided by way of extensions from the existing networks in the Manyana area. In this regard discussions have been held with Shoalhaven Water. The advice received from Shoalhaven Water is that connections can be made to the existing systems. A letter from Shoalhaven Water to this effect was provided in the original SEE at Appendix D.

The proposal involves the extension of the water service from the existing Shoalhaven water main located in Berringer Road approximately 400m to the south. The sewer design involves a private sewage pump station in the north eastern part of the site and the construction of a sewer rising main connecting to the existing system. The demands of the revised proposal for 75 short term dwelling sites are essentially the same as those for the 75 long term sites. Variations tend to occur with respect to the timing of loads and these matters will be resolved together with Shoalhaven Water.

Prior to construction a more detailed lighting plan will also be developed for the entire park to ensure that appropriate levels of energy efficient lighting are provided where necessary and in the most appropriate form. This work will also address any potential for light spillage and glare where elevated lighting devices are under consideration.

The provision of all essential services will comply with the relevant requirements of the Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds & Movable Dwelling) Regulation, 2005. This includes specific requirements with respect to the provision of fire hydrants and fire hose reels.

**4.7 Stormwater management :**

The studies undertaken by Martens and Associates have included a Stormwater Management report. A copy of Martens' Report was contained in Appendix E of the original SEE.

The purpose of the Report is to provide an assessment of the site flooding and an outline of the stormwater quantity and quality management measures required to ensure that the proposed development complies with the principles of water sensitive urban design (WSUD), ecological sustainable development (EDS) and Shoalhaven City Council's stormwater management objectives for subdivisions.

### Flooding

The report finds that peak flood levels for the site vary between 18.92 AHD and 14.89m AHD. However, the closest the 1 in 100 year inundation level comes to a caravan park site is 60m. The assessment concludes that flooding does not impact on the proposed development and requires no further assessment.

### Stormwater Management

In order to comply with Shoalhaven City Council's subdivision code with regards to water quality and water quantity standards, the report recommends the following measures based on *MUSIC* modelling of the proposed development:

- the construction of a stormwater bioretention/detention basin on the eastern boundary to attenuate flows in accordance with SCC requirements. This basin would provide temporary stormwater detention with a required volume of 1,700 m<sup>3</sup>. Details of the design of the basin and the overflow outlets to be provided at the construction certificate stage; and
- the adoption of water treatment approach which conserves water, provides 'at source' and 'end of line' controls. Implementation involves (a) the construction of grass treatment swales to capture and treat runoff from hardstand areas (eg road, driveways etc), and (b) the use of the bioretention basin to remove coarse to medium sediments and associated contaminants. The revision of the development application seeking 75 short term dwelling sites will assist in this regard as many dwelling sites will occur in a natural grassed state which will in turn allow for greater levels of infiltration.

Based on the recommended approach, the proposed development will achieve the objectives and standards required for WSUD, ESD and Council's stormwater objectives for new developments.

### 4.8 Landscaping :

A landscape concept has been developed for the park by James Pfeiffer Landscape Architects. This material comprises drawings and a report and was found at Appendix I of the original SEE. The work has been based on an understanding of the site in its context as well as the impact of the proposed development. The landscape strategies proposed respond to the natural attributes of the site as well as adjoining and surrounding land uses. The concept strategies deal with:

- Setbacks and APZ buffer treatments to Inyadda Drive as well as neighbouring or adjoining properties;
- Amenity within the dwelling site areas;
- Amenity in and around the community facilities and communal areas;
- Ongoing landscaping maintenance and management of the caravan park operational area;

## **5. IMPLICATIONS OF THE PROPOSAL**

The information set out in the previous Chapters describes a comprehensive approach to the potential development of the site. It also explores and responds to a number of planning considerations. Based on this material the implications of the proposal can set out as follows:

### **5.1 Permissibility :**

The site is zoned Rural 1(d) in the Shoalhaven LEP 1985 and caravan parks are a permissible land use in the zone with consent. Clause 7 of SEPP 21 means that any caravan park proposed in that zone can be given over wholly to tourism, wholly to long term living or a combination of the two. The proposal is for 100% short term sites. Clause 7 is set out as follows:

*"...7. In any environmental planning instrument (whether made before or after this Policy), references (however expressed) to caravan parks or to camping grounds, or to caravan parks and camping grounds, include references to caravan parks, within the meaning of this Policy...."*

### **5.2 SEPP 21 matters for consideration :**

Clauses 8 and 10 of the Policy deal with the consent process in assessing a development application and also define a specified list of matters to be considered. Clause 8(2)(b) requires the Council in its consent to specify the number of sites considered to be suitable for short term living within the meaning of the Local Government Regulation.

Clause 10 specifies the following:

#### **10 Matters to be considered by Councils**

*A Council may grant a development consent required by this Policy only after it has considered the following:*

- (a) 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,*
- (b) 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,*
- (c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,*
- (d) 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,*
- (e) any relevant guidelines issued by the Director, and*
- (f) the provisions of the Local Government (Caravan Parks and Camping Grounds) Transitional Regulation 1993.*

An overview of the Clause 10 considerations can be set out as follows:

***(a) 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 site analysis material and related studies have highlighted that the site:

- has a regular shape;
- can be readily accessed because of a good road frontage;
- is of a sufficient size;
- has gentle topography with a northerly aspect, and
- given its attractive coastal hinterland setting approximately 1.5km from the Ocean, it is capable of providing a high degree of amenity as a tourist facility.

In addition it is evident that:

- all essential services can be provided by way of extension;
- the site is well juxtaposed to the existing Manyana village while not utilising highly valued urban lands;
- environmental considerations such as potential impact on flora and fauna, potential impact on a riparian zone and potential impact from bushfire can all be satisfactorily addressed, and
- the proposal can readily accommodate and manage stormwater generation.

Based on the above information it is evident that together with the proposed recreational elements, the site will provide an attractive tourist facility.

For all the above reasons the site is well suited to the proposal.

***(b) 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 use of sites for long term residence is not applicable to this application. Consequently the second part of subclause (b) is not relevant.

With respect to existing tourist accommodation in the area it is evident that Manyana supports some absentee owner holiday housing. This housing is primarily used by owners on week-ends and at holiday times. Some of this housing stock is available for holiday lettings.

Caravan parks are located in some surrounding localities. The nearest caravan park of this type is the Council operated facility at Bendalong which is approximately 3km to the north of the site. The Allawah Caravan Park is located further to the north again and the Rustic Caravan Park is located to the west on the lake.

A review of these caravan parks (as well as similar tourist accommodation) highlights that there are only 20 vacant caravan park sites available and these are found at Bendalong.

Several caravan parks are also found at Lake Conjola to the south. While these are not far “as the crow flies” they are approximately 23kms by car from Manyana.

Clearly Manyana provides no facility which allows towed caravans, trailers, motorhomes and RVs, campers etc to be installed for short term use and with all appropriate ablution facilities, services and recreational amenities.

A graphic summary of this is shown below. From this material it is evident that there is not adequate provision for tourist accommodation in the locality of the site (Manyana) particularly in the form of caravan park short term dwelling sites.





It is well understood that tourism is an important and valuable industry on the south coast. In addition current trends indicate that demand for tourism in the region is strong and this is borne out by the following:

- The March 2008 figures indicate that domestic overnight visits to the region were up by 3.2% over the March 2007 year end results;
- The figures indicate that 68% of visits were for the purpose of a holiday. Of these visits, 29% stayed with friends while 24% stayed in caravan parks compared with 16% who rented houses. This means that demand for caravan park sites is stronger than for renting of houses;
- Most people access the region by car (94.7%) - which means that caravan park usage is readily accommodated.
- In terms of travel mind sets, 36% of visitors were classed as wanderers while 34% were essentially families - both these groups (70% in total) make strong usage of caravan parks.

***(c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality,***

This matter is not relevant to the application. The consideration is concerned with any potential oversupply of low cost housing where a proposal comes forward for a caravan park with long term dwelling sites. A consideration of the supply of low cost housing is not relevant to an application which is exclusively for tourist use by way of short term dwelling sites.

***(d) 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,***

The proposal provides for a wide range of community facilities within the caravan park to match the needs of the anticipated future guests. These include a range of recreational elements, community amenities as well as services such as a convenience shop.

Other more substantial services are available in larger towns in the region which are readily accessible by road using private vehicle.

An overview of facilities and services was provided at Appendix F of the original SEE. The material represents a Social Impact Assessment prepared by Key Insights Pty Ltd for the proposal as originally lodged (75 long term dwelling sites). Given that the proposal now comprises 75 short term dwelling sites which are to be utilised by tourists rather than permanent residents, much of the discussion in the Key Insights work is not relevant. However, it does contain data dealing with facilities and services.



In recent correspondence with Malbec Properties, Key Insights have advised that social impact assessments are not necessary and are not undertaken for proposals which constitute a tourist operation such as that now proposed. A copy of this advice is found at Appendix C of this SEE.

***(e) any relevant guidelines issued by the Director, and***

This consideration within the SEPP allows for the possibility of the Director (or Director General of Planning) making reference to specific guidelines with respect to caravan park developments. Other than the explanatory material issued when the Policy was made there is no known current information of this nature.

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

The SEPP still refers to this Regulation as a Transitional Regulation. The Regulation is in fact no longer transitional having been in place for some time and has been amended on several occasions. Further, the Regulation is now known as the Local Government (Manufactured Homes, Caravan Parks, Camping Grounds & Movable Dwelling) Regulation, 2005.

As has been noted throughout this Statement the Regulation has been used as a basis for the design of the proposed caravan park. To this end some discussion of the provisions of the Regulation has already been covered elsewhere in this Statement particularly with respect to the relevant planning and design considerations.

**5.3 Other considerations**

As noted in Chapter 2 some other provisions of the LEP 1985 require consideration with respect to the proposal. The relevant clauses are set out as follows:

**Clause 19:**

***19 Minimum requirements for hotels, motels and caravan parks***

- (3) A person shall not erect a caravan park on any allotment of land within Zone No 1 (d) which has an area of less than 4 hectares and, where the site has frontage to a main road, a frontage of less than 200 metres.***

Sub clause (3) requires a caravan park proposal in a 1(d) zone to have an area of 4 hectares and where there is frontage to a main road that frontage must be at least 200m.

The proposal achieves these requirements. It utilises an allotment with an area of almost 20 hectares and has frontage to Inyadda Drive of almost 400m.

Clause 23:

**23 Protection of streams**

- (1) *This clause applies to any perennial water course within Zone No 1 (a), 1 (b), 1 (c), 1 (d), 1 (e) or 1 (g).*
- (2) *For the purposes of this clause, a perennial water course means land shown by a continuous blue line on the latest version 1:25,000 scale topographic map for the land to which this clause applies produced by the NSW Land Information Centre and available for public inspection at the office of the Council.*
- (3) *The objectives of this clause are:*
  - (a) *to protect water quality,*
  - (b) *to protect aquatic habitats and riparian communities,*
  - (c) *to protect and enhance the function of perennial water courses and their associated vegetation as habitat corridors,*
  - (d) *to protect the scenic and recreational values of perennial water courses and their associated vegetation communities, and*
  - (e) *to protect perennial water courses from erosion and sedimentation.*
- (4) *Despite clause 9, the consent of the Council is required for any development within 50 metres from the centre line of a perennial water course or, where the perennial water course is greater than 20 metres in width, from the bank of the perennial water course.*
- (5) *In deciding whether to grant consent, the Council must take into account:*
  - (a) *the objectives of the clause, and*
  - (b) *the adequacy of the measures proposed by the applicant to avoid, mitigate or remedy any adverse effects of the proposed development on the ecological and aesthetic values of the perennial water course concerned and of land in its vicinity.*

It has been noted above that the Flora and Fauna report indicates that there is an ephemeral stream located within Lot 108 a little further to the north of the proposed development and parallel with the northern boundary of the Lot. It drains to the east.

The majority of the development proposed is in excess of 100m from the watercourse. However, a few elements such the sewer pump station and part of the proposed bushfire access road are located closer to the watercourse than this.

It is unlikely that either of these elements will produce negative impacts on the watercourse given that it is still a considerable distance away particularly in terms of the objectives set out in sub clause (3) of Clause 23. Any potential impact on the watercourse during construction will be addressed by way of best practice measures with respect to erosion and sediment control.

Clause 25:

**25 Steep lands**

- (1) *This clause applies to land within Zone No 1 (a), 1 (b), 1 (c), 1 (d) or 1 (e) which has a slope in excess of 20% (1:5).*
- (2) *The objectives of this clause are:*
  - (a) *to protect soils from erosion,*
  - (b) *to protect the water quality of surface waters, and*
  - (c) *to protect the visual amenity.*
- (3) *Despite clause 9, the consent of the Council is required for any development, including land clearing and forestry, on land to which this clause applies.*

- (4) *In deciding whether to grant consent, the Council must take into account:*
- (a) *the objectives of this clause, and*
  - (b) *the adequacy of any measures proposed by the applicant to avoid, mitigate or remedy any adverse affects on soils, water quality or the visual amenity.*

From the site analysis material it is evident that no land within the site has a slope in excess of 1 : 5.

Clause 26:

- 26 Soil, water and effluent management**
- (1) *A person must not carry out development that relates to the habitation of land by humans unless and until arrangements satisfactory to the Council have been made by the applicant (and if the applicant is not the owner, the owner also) for the provision of a water supply, facilities for the removal of sewage, and for the drainage of stormwater and other surface water from the land.*
  - (2) *In deciding whether arrangements for drainage of stormwater and other surface water and the treatment and disposal of effluent are satisfactory, the Council must take into account whether the proposed systems can be accomplished in a manner which meets the following objectives:*
    - (a) *economical feasibility and practicality in terms of design, installation and maintenance,*
    - (b) *protection of public health,*
    - (c) *protection of surface water,*
    - (d) *protection of ground water,*
    - (e) *encouragement of the utilisation of wastewaters as a resource rather than a waste for disposal, and*
    - (f) *protection of community amenity.*
  - (3) *Despite any other provision of this plan, except clauses 2, 9 (3) and 21 and the objectives of the zone in which development the subject of this clause is proposed, the Council may consent to the construction of devices which, in the opinion of the Council, are to be used principally for the purpose of soil and water management or water pollution control.*
  - (4) *The Council must not consent to the carrying out of development on the following land involving the need for effluent disposal unless it is satisfied that any habitable building erected or to be erected on that land will be connected to a reticulated sewerage system linked to an operating sewage treatment plant for the locality:*

From the discussion set out in Chapter 4 it is evident that negotiations have been entered into with Shoalhaven Water with respect to the provision of water and sewer to the site. These negotiations indicate that both water supply and sewer services can be provided to the proposal in a manner that satisfied Shoalhaven Water, subject to development consent being achieved. More specific aspects of the proposed services are explored in the report prepared by Martens and Associates which is contained in Appendix D of the original SEE.

Information is also set out in Chapter 4 that describes the proposed manner of providing stormwater to the proposal. This material is also based on work undertaken by Martens and Associates which was found at Appendix E in the original SEE.

From this information it is evident that the proposal can achieve the objectives set out in sub clause (2) of Clause 26.

**Clause 28:**

**28 Danger of bush fire**

- (1) The Council must not grant consent to the carrying out of development on bush fire prone land if it is of the opinion that:
- (a) the development may have a significant adverse effect on the implementation of:
    - (i) any strategies for bush fire hazard reduction or risk management adopted by the Council, or
    - (ii) any relevant provisions of the Act or the Rural Fires Act 1997, and
  - (b) the development, including the arrangements for access to and from the development, may constitute a significant threat to the lives of residents, visitors or emergency services personnel, and
  - (c) the development may give rise to an increased demand for emergency services during bush fire events that will result in a significant decrease in the ability of the emergency services to effectively control major bush fires.

*Note.* Section 146 of the Act provides that bush fire prone land is land recorded by the Council as such on a map certified by the Commissioner of the NSW Rural Fire Service as a bush fire prone land map for the area of the Council.

- (2) The Council must not grant consent to the carrying out of development on bush fire prone land unless it is satisfied that adequate measures are proposed to avoid or mitigate the threat from bush fire, having regard to:
- (a) the siting of the development, and
  - (b) the design of, and the materials used in, any structures involved in the development, and
  - (c) the clearing of vegetation, and
  - (d) the provision of asset protection zones, landscaping and fire control aids (such as roads and water supplies).
- (3) Before deciding to grant consent to any development on bush fire prone land, the Council:
- (a) must have regard to the requirements set out in *Planning for Bushfire Protection* (ISBN 0 9585987 8 9), prepared by Planning & Environment Services, NSW Rural Fire Service in co-operation with the Department of Planning (as it then was), and published in December 2001, and
  - (b) must be satisfied that those requirements will be met as far as is practicable in the circumstances.
- (4) The Council must not consent to the erection of any building on the following land within the set-backs identified by building lines on the map describing that land:

*Callala Beach, Griffin Street area—land shown as being within Zone No 2 (c) on the map marked "City of Shoalhaven Local Environmental Plan 1985 (Amendment No 77)".*

It was noted in the site analysis material that the outer perimeter of the site is mapped as being bush fire prone land buffer area. At the same time it has been noted that caravan parks are generally treated as a special fire protection purpose by the relevant bushfire controls. Accordingly a bushfire management assessment has been prepared by Martens and Associates and is contained at Appendix G of the original SEE. This work assesses the proposal relative to the prevailing context in accordance with the requirements of the Planning for Bushfire Protection Guideline document. In this respect the proposal includes the provision of appropriate asset protection zones and other associated measures.

This approach addresses the requirements of Clause 28 and enables Council to assess the proposal relative to this issue.

Clause 54:

**54 Caravan parks prohibited**

- (1) *Despite any other provision of this plan, a person must not carry out development for the purpose of a caravan park on land fronting Inyadda Drive, Manyana, as shown edged heavy black on the map marked "City of Shoalhaven Local Environmental Plan 1985 (Amendment No 136)".*
- (1A) *Despite any other provision of this plan, a person must not carry out development for the purpose of a caravan park or dwelling on land within Zone No 7 (f1), shown on the map marked "City of Shoalhaven Local Environmental Plan 1985 (Amendment No 193)".*
- (2) *For the purposes of this clause, **caravan park** means land which is used or intended to be used for the parking of a moveable dwelling or the erection of camps, or both.*

Amendment 136 applies to the land lying on the eastern side of Inyadda Drive and therefore does not apply to the site.

## 6. CONCLUSION :

As noted in the Introduction, Council determined DA 08/1258 in November 2008 by way of a refusal giving the following reasons:

- The site is considered to be unsuitable for the proposed development in respect to the location and character of the land;
- The likely social impact of the development is unacceptable;
- The site is not suitable for the development due to the relative isolation of the site, and
- The development is not considered to be in the public interest due to the negative social and economic impacts associated with the proposal.

The S82A Review material presented above seeks to address these matters. The performance of the proposal, as modified to provide 75 short term dwelling sites, can be summarised as follows:

### The suitability of the site with respect to location and character

The site is well suited because:

- Manyana is a desirable tourist location with a range of tourist activities such as surfing, fishing etc;
- The site is sufficiently removed from existing residential areas;
- The site is on the entrance road to the village and is easy to access and find and is in a convenient location;
- All the services necessary for tourists looking to come to a coastal village are either available or will be provided in the caravan park (eg shop). Higher order services such as doctors etc are available in Milton/Ulladulla. This is only a 25min drive away and this is quite an acceptable distance for tourists to travel should they ever require these.
- Other caravan parks and tourist facilities have been permitted and are located in the general area and are viable. Clearly, the location is suitable for this use. This is demonstrated by the Council operated facility at Bendalong.

### Social impact

The likely social impact is acceptable because:

- the proposal is for short term tourist sites. Tourists coming to visit to the caravan park will do so at their own choice having regard to the services that are available. The tourists will not put a strain on key social services as the services utilised by the long term residents in an on going manner (eg schools, doctors, hospitals etc) are not commonly used by tourists. The village is a tourist location and therefore tourist use is not uncommon. Crowding of a shopping centre etc is not an issue as there isn't such a facility in Manyana - by contrast the proposal will be providing a shop in the caravan park.

- The increase in tourist population due to the caravan park will not be especially significant with regards to the overall swelling of the population during these seasonal times of the year. Tourist numbers in the Shoalhaven swell approximately 3.5 times across the coastal towns and villages in the high season. Consequently, if the full-time population of Manyana/Cunjarong Point/Bendalong is about 1,000, this grows to about 3,500 people in the peak. The total population in the caravan park at its peak is likely to be around 270 people which constitutes about 8% of the local population - not a sufficiently significant quantity to affect services.
- The traffic report has shown that the increase in traffic will not adversely impact the road network even with tourist traffic.

#### Relative isolation of the site

For the proposed use, the site is not isolated because:

- it is on the entrance road to the village and so is very convenient and well-located for tourists.
- Having said that, the site is also well suited as it does not immediately adjoin existing residential development. In this respect it is sufficiently removed to avoid any potentially negative impacts.

#### Whether the development is in the public interest

The development is in the public interest because:

- Based on Tourism Research Australia figures the project is likely to produce real economic benefits in the locality and the region. This includes expenditure in the local economy in the order of \$0.5M per annum and up to 6 full time jobs (in the park and the wider community) throughout the year. In peak periods the park will employ 6 full time people with additional casual employment. Consequently, the caravan park has the potential to help reduce local unemployment rates and it is understood that, if approved, it will represent the only commercial operation in Manyana.
- All the environmental, traffic and social factors have been assessed, the site has access to the recently completed Lake Conjola Sewerage Scheme (\$55M) and therefore additional ratepayers (the caravan park operation) will help to fund the capital outlay of the infrastructure.
- The revised SEE material indicates that there will not be adverse impacts as a result of the proposed development.
- The town is a tourist destination and the South Coast relies on tourism to sustain its economy.
- The contributions flowing to the Council from the development will help sustain local services.

## Development Committee - Item 7

- The analysis of surrounding area and caravan parks shows there is a shortage of vacant sites and therefore this caravan park will supplement/complement the other tourist providers in the area

For all the above reasons it is clear that the modified proposal addresses the concerns previously expressed by Council and provides a development that will be of benefit to the community.

Based on this submission it is requested that Council give favourable consideration to this development application.



**Appendix A**

**Advice from Martens re Stormwater, Geotech/Contamination, Bushfire,  
Sewer/Water based on a proposal for 75 short term dwelling sites.**

Posted	<input type="checkbox"/>	02 9439 3282
Faxed	<input type="checkbox"/>	
Emailed	<input checked="" type="checkbox"/>	asoovoroff@malbec.com.au;
Courier	<input type="checkbox"/>	
By Hand	<input type="checkbox"/>	
Contact:		Andrew Norris
Our Ref:		P0701752JC08_V1.doc
Pages:		2
cc:		-

December 8, 2008

MALBEC PROPERTIES PTY LTD  
Attn: Alex Soovoroff  
GPO Box 2641  
SYDNEY, NSW, 2000

Dear Alex,

**RE: MANYANA CARAVAN PARK APPLICATION – INYADDA DRIVE, MANYANA - CHANGE FROM LONG TERM TO SHORT TERM SITES**

It is understood that a Section 82A review of the development application is to be lodged with Shoalhaven Council and that, as a part of the review, the proposed 75 sites' classification is to change from long term to short term. The implications of this change for each of our project reports are detailed below.

**P0701752JR01 – Stormwater Management** – the change will results in either no change or an improvement in the hydrological and hydraulic stormwater outcomes for the site. The areas of the site to be modified through the development are understood to be unaltered. Where, as a result of the reclassification, sites are used for caravans or camping rather than permanent structures, the hydrological effect of these shall be less than was assessed for long terms sites.

**P0701752JR02 – Geotechnical and Stage 1 Contamination Assessment** – the change in site classification has no material impact on the assessment requirements, findings, conclusions and recommendations of this report.

**P0701752JR03 – Bushfire Assessment** – the change in site classification does not alter the developments bushfire classification of 'special fire protection purpose - SFPP' in accordance with Planning for Bushfire Protection (2006). Therefore the outcomes and recommendations of the assessment report are unaltered.

**Sewage and Water Supply** – the results of previous discussions and negotiation with Shoalhaven water based on the original long term site proposal are considered to remain valid. The revised proposal for short term sites will either not change, or will reduce the water demand and sewage generation rates of the site. Should cabins be put on short term sites the ultimate ET capacity of the site shall be equivalent to the long term proposal. If sites are not developed with cabins, but are used for caravans and camping, the ultimate ET of the site shall drop by as much as 70 %. Shoalhaven water makes an allowance of 0.15 ET / short term site compared to 0.4 ET and 0.6 ET for 2 and 3 bedroom cabins respectively.

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In summary the previously completed and submitted analyses address the proposed modified development appropriately. The findings and recommendations of the assessment reports remain unaltered and the amended development is considered to be acceptable in terms of matters considered by those reports.

**For and on behalf of**

**MARTENS & ASSOCIATES PTY LTD**



**ANDREW NORRIS**

BSc(Hons), MEngSc, MAWA

Director, Senior Engineer

**Appendix B**

**Advice from Colston Budd Hunt and Kafes Pty Ltd  
based on a proposal for 75 short term dwelling sites.**

## Colston Budd Hunt & Kafes Pty Ltd

as Trustee for C & B Unit Trust  
ABN 27 623 918 759

Our Ref: JH/6711/jj

Transport Planning  
Town Planning  
Retail Studies

8 December, 2008

Malbec Properties Pty Limited  
Level 5  
280 George Street  
SYDNEY NSW 2000

Attention: Alex Soovoroff  
Email: [asoovoroff@malbec.com.au](mailto:asoovoroff@malbec.com.au)

Dear Sir,

### **RE: PROPOSED CARAVAN PARK, MANYANA**

1. As requested, we are writing with regards to the Section 82(A) application in relation to the above development. We have previously prepared a report<sup>1</sup> which was submitted with the development application. A copy of that report is attached. The conclusions of our previous report were as follows:
  - i) *the proposed parking provision is considered appropriate;*
  - ii) *access, servicing and internal layout are considered appropriate;*
  - iii) *the proposed development would have a low traffic generation, equivalent to an average of one vehicle every two minutes during peak hours; and*
  - iv) *the road network will be able to cater for the traffic generated by the proposed development, as well as other development in the area.*
2. We prepared a subsequent letter of 16 July 2008 in relation to matters raised by Council during the assessment of the application. The application has been refused by Council.
3. The Section 82(A) application involves changing the 75 sites from long term sites to short term sites. A new amenities block will be included on the site. Access, internal circulation and layout would be as previously proposed.

<sup>1</sup> Transport Report for Proposed Caravan Park, Manyana, January 2008.

Colston Budd Hunt & Kafes Pty Ltd

4. Our previous report assessed a peak hour traffic generation for the development of 30 to 35 vehicles per hour two-way based on surveys undertaken by the Roads and Traffic Authority for small residential dwellings. These surveys found traffic generation rates of 0.4 – 0.65 vehicles per hour two-way in peak hours, on the basis that parking is provided at one to 1.5 spaces per dwelling. Hence, traffic generation is some 0.4 vehicles per hour per space (two-way).
5. With no change in the number of sites proposed, morning and afternoon peak hour traffic generation of the proposed development would be similar to that assessed in our previous report. The change from long term sites to short term sites would not be likely to result in significant changes to peak period traffic generation, compared to that previously assessed.
6. The conclusions of our previous report therefore remain valid with respect to the Section 82(A) application.
7. We trust the above provides the information you require. Finally, if you have any queries, please do not hesitate to contact us.

Yours faithfully,

COLSTON BUDD HUNT & KAFES PTY LTD



J Hollis  
Director

**Appendix C**

**Relevant responses to Council comments and advice from Key Insights  
based on a proposal for 75 short term dwelling sites.**

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50 King Street  
Sydney 2000

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T 02 9262 6188  
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W [www.pikepikefenwick.com.au](http://www.pikepikefenwick.com.au)  
ABN 77 357 538 421

PIKE PIKE & FENWICK  
LAWYERS

1 April 2008

Malbec Properties  
GPO Box 2641  
SYDNEY NSW 2001

Dear Sir

**ADVICE RE: INTEGRATED DEVELOPMENT  
BERRINGER ROAD, MANYANA  
Our ref GAG/RVV:cw:M1606**

We refer to your request to address the issues raised in Council's letter of 13 March 2008 in relation to development application DA 08/1258.

#### **THE PROPOSAL**

We are informed that the site contains a buffer area for the adjoining bushfire prone land. A 100 metre buffer area has been incorporated into the proposal. The proposal is for long-term dwelling sites within a caravan park.

#### **INTEGRATED DEVELOPMENT**

It is at the Applicant's discretion whether or not to nominate proposed works as integrated development when submitting an application to a consent authority. We refer you to *Maule v Liporoni and Anor* [2002] NSWLEC 25.

The Applicant does not dispute that this proposal may be integrated development, however it reserves its right to nominate when the integrated assessment will take place. As made clear by his Honour Justice Lloyd in *Maule v Liporoni and Anor*, "the granting of a development consent for integrated development does not avoid the need to obtain any other relevant approvals." That is to say any integrated approval can be obtained after development consent has been granted by the Council. His Honour also goes on to say at paragraph 87 of this judgment that there is nothing unlawful in an applicant development consent letting not to nominate development as integrated, nor is there anything unlawful in Council's behaviour to process a development application as if it were not for integrated development, nor does it involve a jurisdictional error. We would suggest the Council can refer the application to external government bodies for comment as it thinks fit without the development application being treated as integrated.

#### **CONCLUSION**

While the development may be integrated, it is at the Applicant's discretion to nominate it as such at the time of development application lodgement. In our



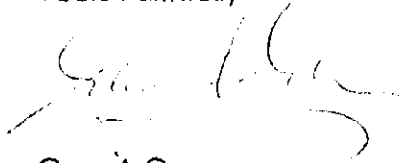
Development Committee - Item 7

1 April 2008  
Malbec Properties  
Page 2

opinion of the legislation and current case law, the Council can consider this application in its current form.

Should you have further queries, we would be happy to discuss.

Yours Faithfully

A handwritten signature in dark ink, appearing to read 'Gary A Green', with a long horizontal flourish extending to the right.

Gary A Green  
Partner

By his employed solicitor  
Ros Vickers  
E [rvickers@pikepikefenwick.com.au](mailto:rvickers@pikepikefenwick.com.au)

**Matt Philpott**

---

**From:** Alex Soovoroff [asoovoroff@malbec.com.au]  
**Sent:** Wednesday, 3 December 2008 3:16 PM  
**To:** 'Rick Bardsley-Smith'  
**Cc:** Matt Philpott  
**Subject:** FW: Manyana

Rick,

Advice from Key Insights attached.

Kind Regards,  
**Alex Soovoroff**  
Development Director

---

**MALBEC  
PROPERTIES**

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---

**From:** Ellen Davis-Meehan [mailto:ellen@keyinsights.com.au]  
**Sent:** Wednesday, December 03, 2008 3:05 PM  
**To:** Alex Soovoroff  
**Cc:** Donna Bain  
**Subject:** Manyana

Dear Alex

Further to my conversations with you about the changed proposed use for your Manyana site from long term accommodation to a short term stay site I advise that you do not require further social impact assessment work. Holiday makers are likely to make use of the caravan park for a week or two and most likely during the summer months. They will not have the social infrastructure requirements of more permanent communities such as schools, pre-schools, permanent GP facilities and so on. Social infrastructure for long term residents was Council's major concern and demand for those types of services will not be an issue for short term holiday makers. Given the nature of the short term market there are no significant social impacts that need to be addressed for your revised proposal.

Kind regards

Ellen Davis-Meehan

Ellen Davis-Meehan  
Director  
Key Insights Pty Ltd  
PO Box 210 Islington NSW 2296  
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F: 61249614996  
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11/12/2008



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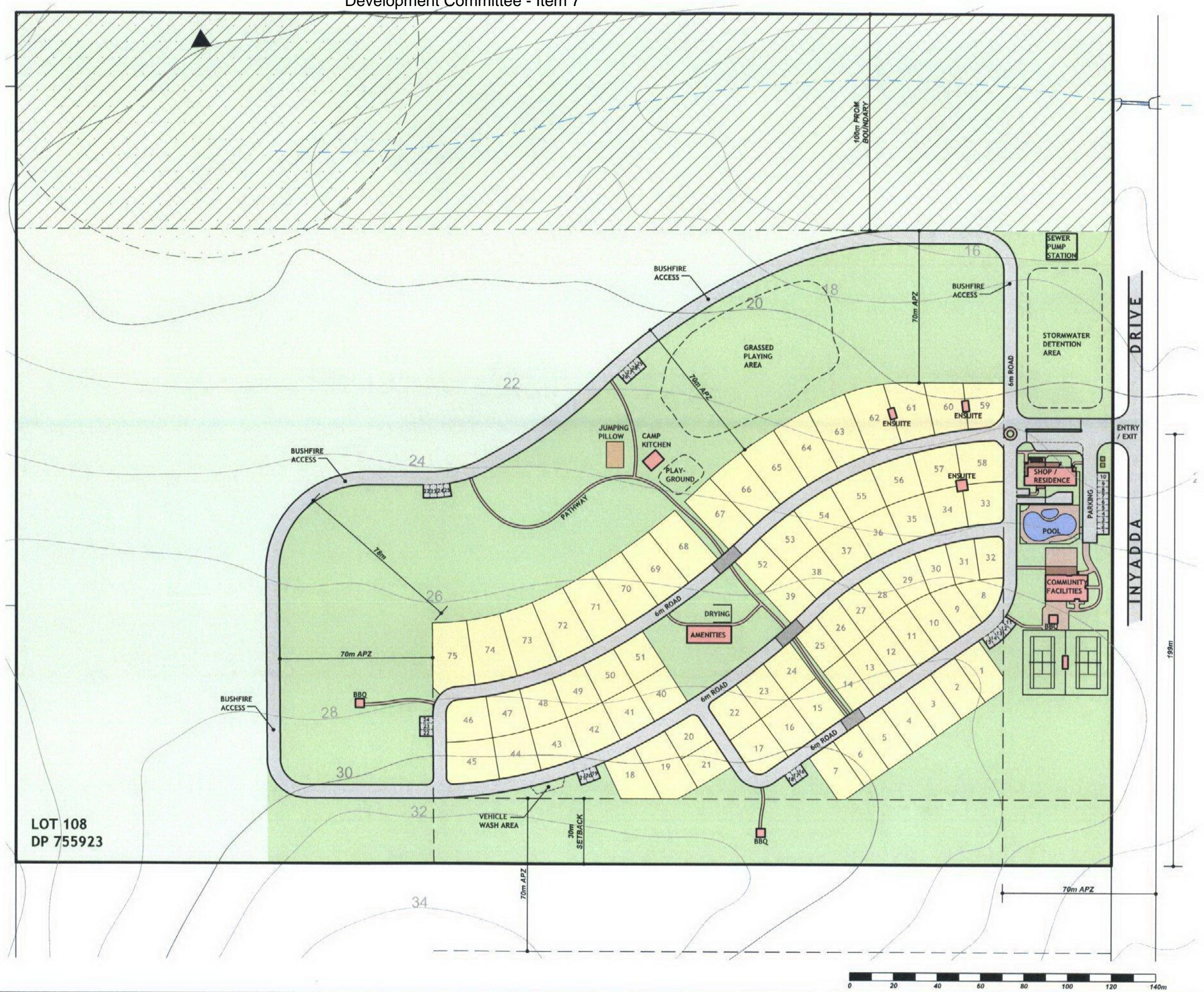
**KEY**

- SQUIRREL GLIDER DEN TREE
- 100m BUFFER TO SQUIRREL GLIDER DEN
- APZ 70m BUFFER
- SENSITIVE COASTAL LOCATION
- UNDEVELOPED LANDS FORMING PART OF THE SITE
- PROPOSED CARAVAN PARK OPERATIONAL AREA
- DWELLING SITE

TOTAL: 75 SHORT TERM DWELLING SITES

**REVISION HISTORY**

Rev.	Date	Modification
A	Apr 08	Addition of carwash bay
B	July 08	Bushfire access road alignment
C	Nov 08	75 short term sites & amenities







REVISION HISTORY

Rev.	Date	Modification
A	Nov 08	Interchange location of community hall & office / residence

NOTES:  
Planting shown is indicative only. See drawings prepared by James Pfeiffer for landscape concept.





9 April 2009

Peter Johnston  
Senior Southern Development Planner  
Development & Environmental Services Group  
Shoalhaven City Council  
PO Box 737  
ULLADULLA NSW 2539

**RE: Review of Correspondence by Mr Brendon Ryan**

Dear Peter,

Thank for your requesting that **ngh**environmental complete a review of correspondence submitted to Shoalhaven City Council (SCC) in relation to the proposed caravan park at Manyana (Council ref- RD 08/1004 – DA 08/1258-04).

This review has been undertaken using the information relating directly to the proposal, the previous review undertaken by **ngh**environmental<sup>1</sup> and other relevant material. It should be noted that **ngh**environmental have not visited the subject land as part of this review, or the previous review, and as such it is entirely desktop based.

Several concerns are raised by Mr Ryan and discussed in his correspondence to SCC. This review provides comments on each point raised by Mr Ryan as a separate item.

**1. There are Aboriginal sites immediately adjacent to the site**

**ngh**environmental have not conducted a review of aboriginal sites, nor the heritage assessment provided with the development application. Therefore, **ngh**environmental are unable to confirm the presence of aboriginal sites immediately adjacent to the site.

As Council would be aware, under that Sections 84 and 90 of the National Parks and Wildlife Act 1974 (as amended) statutory protection is provided for any physical/material evidence of Aboriginal Occupation of NSW and places of cultural significance to the Aboriginal community. It is an offence to knowingly disturb an Aboriginal object, irrespective of its nature of significance, without the prior written consent of the Director-General of the NSW Department of Environment & Climate Change.

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<sup>1</sup> **ngh**environmental 2008 A review of the flora and fauna assessment and agency comment for a proposed Caravan Park at Lot 6 and Lot 108, DP 755923, Manyana, NSW.

### 2. There is no assessment of cumulative impact

Cumulative impact is, in many cases, difficult to assess when conducting a flora and fauna impact assessment for a proposed development. In most cases, the authors of such reports are not privy to other development proposals or approved developments on the adjoining lands or in the study area. If such information is not available to the consultant, an assessment of cumulative impact cannot be accurately provided.

Mr Ryan makes reference to the recently approved 170 lot subdivision immediately adjacent. It could be considered that if the consultant was aware of this proposal, then an assessment of the cumulative impact in accordance with the DECC guidelines<sup>i</sup> (page 3-42) be provided. In the absence of such, cumulative impact could only be reasonably considered by the determining authority having access to approved developments or developments under consideration. It may however be appropriate for Council to request that the proponent consider the cumulative impact of this should that adjacent subdivision potentially impact on abundance of habitat to threatened species. **ngh**environmental have not been provided with this information.

### 3. Biodiversity impacts

**ngh**environmental have conducted a review of previous reports and correspondence relating to the proposed development. These included:

- Flora and Fauna Assessment Report and Appendices, Whelan Insites (February 2008)
- SCC Threatened Species Officer comments (March 2008)
- Department of Environment and Climate Change (DECC) comments (April 2008)
- Flora and Fauna Assessment, BES (2005).

Mr Ryan raises concerns that the assessment of impact on biodiversity has been completed for only a small number of species by the consultant and that discrepancies occurred in relation to the actual threatened species recorded on the site or adjacent lands. Further, Mr Ryan expressed concern on the presentation of past and current survey data which made review difficult and confusing. **ngh**environmental have previously raised concern in section 3.1.4 of the recent review<sup>2</sup> that there was a level of confusion as to the number of threatened species recorded based on the consultants presentation. Mr Ryan reports that an assessment was not provided for the Eastern bentwing bat, a threatened species appearing in the species list. While this is correct, the consultant has also provided a 'generic' Assessment of Significance (AoS) for other threatened species which could potentially occur on the subject land, and not specifically addressed in single-species AoS.

It is procedure for consultants to provide assessments of threatened species, communities or populations in reports for development applications under Part 4 or 5 of the *Environmental Planning and Assessment Act 1979*. The impacts on threatened species, communities and populations and their habitats must be assessed, therefore, there is no framework to provide an assessment on non-threatened entities. Mr Ryan advises that small mammals were not considered, even though a number were recorded. Long-nosed bandicoots are commonly recorded in urban and residential areas (pers.obs) and it is presumptuous to assume that similar sized threatened mammals would occur on the subject land. However, in the absence of the detection of any threatened species, the consultant does provide a 'generic' AoS for other threatened species which could potentially occur on the subject land which appears appropriate given the information provided within the consultants report. However, it should be reiterated, that **ngh**environmental have not undertaken a site visit, and this is based on the information provided within the consultants report in relation to the habitat of the subject land.

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<sup>2</sup> DEC 2004 Working Draft Threatened Species Survey and Assessment Guidelines.

Mr Ryan is partially correct in his view of the consultants use of relevant databases. Recently, it was determined that the consultant did review the flora records of the DECC wildlife database<sup>1</sup>. However, it does appear that no review was undertaken by the consultant of other relevant databases. This was also determined in section 3.1.5 and 3.1.6 of the previous review by **nghenvironmental**<sup>1</sup>.

There is considerable discussion as to the importance of regionally significant flora or fauna that have been missed in the consultants assessment in particular the presence of antechinus on the subject land. A review of the landscape context of the development<sup>1</sup> does suggest that habitat for common ground dwelling mammals such as antechinus is widespread in the locality, not just the subject land. Mr Ryan suggests that the area is a transition between different geological formations and important as a transition zone for flora and fauna, in particular, the sympatric occurrence of the three antechinus. To understand this, a review of current geological mapping suggests that the geology is similar as described by Mr Ryan, however, the geological units comprising the Shoalhaven group of the Permian age extends as far south as Durras Lake, near Batemans Bay<sup>3</sup>. A search of the DECC Wildlife Atlas database of records for all three antechinus species suggests that the sympatric occurrence of all three species may occur along the coastal plain from the Shoalhaven region to the Victorian border. Based on this level of information, it is uncertain if the occurrence of these three species is significant on a regional level.

The final paragraph of this section in the correspondence by Mr Ryan provides further information on other species relevant to the subject land. The consultant has provide a species-specific assessment of significance for many of these species listed by Mr Ryan, and a generic AoS considers any other threatened species that could potentially occur on the subject land. Again, discrepancies in species lists from past and current surveys, as also stated by Mr Ryan, make it difficult to determine what species have been recorded in total, for the subject land.

#### **4. Literature review and collation of recent reporting.**

Mr Ryan raises concern about the reporting of the fauna species recorded on the subject land. **nghenvironmental** raised similar concerns in section 3.1.4 of their recent review<sup>1</sup>, highlighting numerous errors in the reporting of the actual number of species recorded by the consultant.

Section 3.1.3 of this review also concurs with Mr Ryans concern of whether Swamp Sclerophyll Forest on Coastal Floodplains Endangered Ecological Community (EEC) is present or non present on the subject land. **nghenvironmental** proceeded to apply the DECC guidelines for the identification for this EEC<sup>4</sup> and concluded that based on these, Swamp Sclerophyll Forest on Coastal Floodplains EEC could be present.

**nghenvironmental** agree with Mr Ryan in that an EEC can 'collectively encompass the full range of intermediate assemblages in transitional habitats'.

It is now understood that the proposed development has been positioned on the subject land such to avoid this vegetation community, despite the consultant maintaining that this EEC does not occur on the site. **nghenvironmental** recommended in their previous review, that SCC undertake field verification to make a determination as to whether the EEC is present. It was further recommended, that if an EEC was present, an AoS would need to address whether the proposed development is likely to result in any direct or indirect impacts.

Despite the omission of whether the consultant has or has not recorded the Powerful Owl, the consultant has provided an AoS for this species.

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<sup>3</sup><http://www.geoscience.gov.au/bin/mapserv36?map=/public/http/www/geoportal/250/index.map&mode=browse&layer=map250&queryon=true>

<sup>4</sup> DECC (2008) Identification guidelines for endangered ecological communities: Swamp Sclerophyll Forest on Coastal Floodplains. Department of Environment and Climate Change, Hurstville, NSW.

## 5. Poor or ineffective survey methods

Reference to a flock of lorikeets and that they were unable to be accurately identified does raise some level of concern. A review of the Whelans Insites (2008) report which SCC provided to **ngh**environmental for their August 2008 review, does not provide any information in relation to this sighting. It is uncertain as to where this statement was made. Regardless, it is agreed with Mr Ryan, that Musk and little Lorikeets are generally easy to identify from sight and call. Mr Ryans suggestion that these individuals may in fact be Swift Parrots is possible given the known nature of their flight, their speed through the canopy and their calls. If in fact these birds were the threatened Swift Parrot, the consultant has provided a 'generic' AoS that does consider other threatened species that could occur on the subject land.

The level of survey effort undertaken by the consultant is also of concern to Mr Ryan. While the detection of more than 120 species of bird on a small property in Manyana is considered high, it is uncertain over how many years of residency this list has been compiled. It is acknowledged that while a limited number of bird species have been detected by the consultant, the level of disturbance of the subject land and extent of potential habitat as stated in the consultants report, appears commensurate with the number of vertebrates species recorded. This statement is based purely on the information provided in the consultants report as no site visit has been undertaken by **ngh**environmental.

Concern is also raised on the level of bat surveys. Mr Ryan suggests that the survey effort for bats does not meet the DECC guidelines for threatened species surveys and assessment<sup>2</sup>. It should be noted that within these guidelines 'not all surveys methods detailed will be appropriate or necessary in all situations'. Further, even if a species is not recorded despite meeting the survey requirements outlined in these guidelines, it could be a false absence (ie is present, just wasn't recorded) and an assessment of habitat attributes should assist in determining if the species is likely to occur.

Relevant to Manyana, it is understood that no hollow-bearing trees are to be removed from the subject land, and therefore, only potential foraging habitat is likely to be impacted. Anabat surveys recording echolocation calls appear to satisfy the DECC guidelines. While the consultant has not undertaken harp trapping, Golden tipped bats are inhabitants of rainforest and wet sclerophyll forests, and therefore, unlikely to occur on the subject land, not warranting harp trapping. While Mr Ryan is correct in that *Nyctophilus* spp. are difficult to distinguish with Echolocation calls alone, none of the species listed under the relevant threatened species legislation from this genus are known to, or predicted to occur in the region. Based on this, harp trapping is not warranted for this species, nor should the consultant report be required to make an assessment of potential impacts on long-eared bats (*Nyctophilus* spp.).

From the consultants report, it is implied that the development footprint is within the clearings and disturbed areas of the subject land, although it is acknowledged that clearing of native vegetation will occur. Mr Ryan claims that the current survey effort is predominately outside the development footprint and that this approach does not provide sufficient information to determine biodiversity impacts. However, it is common practice for any consultant to design their survey methodology with a bias to maximising the detection of threatened species sometimes resulting in surveys in adjacent areas of a proposed development, and not within. This is done to maximise the level of understanding of a site.

Call playback is a technique more commonly used for nocturnal birds than diurnal species. However, territorial birds which are likely to respond to call playback can be detected using call playback methods and numerous references support this. The Brown Treecreeper is one such species that responds to call playback (pers.obs). While no literature specific to this species exists, the method used for other diurnal bird species does. Consultants are often faced with a lack of literature demonstrating particular survey techniques.



## 6. False or misleading AoS

Mr Ryan using several examples to demonstrate this point. As such, **ngh**environmental has reviewed each species as outlined.

For the Masked Owl, it is acknowledged that the species has been recorded on the subject land on three occasions by the consultant. Indeed, using call playback to elicit a response from forest owls is likely to attract them to the site, rather than confirm they are resident. The Masked Owl is a wide ranging species with a large home range of between 500 to 100 hectares. From the consultants report it would appear that the site provides foraging habitat for this species, as no evidence of roosting was recorded. The proximity of the site to a residential area may also infer that the species was 'attracted' to the subject land by the use of call playback, perhaps from the adjacent Conjola National Park which is likely to provide a greater level of resources for this species than the subject land. As a limitation to this desktop review, it would be unlikely that the removal of 10 hectares of 'limited foraging habitat' would constitute a significant loss of habitat considering the wide-ranging nature of the species. However, should potential roosting habitat be present, concerns raised by Mr Ryan may be justified.

For Yellow-bellied Gliders, the nature of the proposed development, the retention of the large buffer to the north providing connectivity across the site to the adjacent Conjola National Park, and the retention of hollow-bearing trees and connectivity between these features may provide some level of security to the species. It is understood that these statements are correct in relation to the most recent development application. While it is understood that the consultant has provided an AoS for this species, **ngh**environmental have not conducted a site visit, and this information is based only on the statements within the consultants report and subsequent information provided by the consultant to SCC.

For Squirrel Gliders, **ngh**environmental raised similar concerns in the previous review. Specifically, that the removal of vegetation and as many as 17 hollow-bearing trees had a high potential, *prima facie*, that the development would have a significant impact on the status of the local population by placing the local population at risk in the long term. However, it is understood that the proponent made significant changes to the proposal suggesting that no hollow-bearing trees would be removed and that any within the development envelope would retain a level of connectivity between them. **ngh**environmental agree, and have previously stated that the presence of Squirrel glider should be regarded as locally significant.

Whether the 100m wide corridor is suitable for Squirrel Gliders is also of concern to Mr Ryan. Few studies have documented the population ecology of this species in linear habitat formations. However, van de Ree (2002) studied this species in roadside corridors in Victoria<sup>5</sup>. Much of the habitat the focus of this study was between 20-50m wide. They found that gliders were resident within the linear strips and that all adult females residing in this linear habitat reproduced. Further, young were recruited into the trappable population each year and that the longevity was comparable to that estimated from within areas of continuous forest. It would appear that the dedication of a 100m wide corridor would be sufficient for this species, along with the retention of all hollow-bearing trees as identified. However, should any hollow-bearing trees be removed as part of this proposal, or in the future, or there is a reduction of this corridor around the mapped den tree, then the development could have a significant impact on the status of the local population.

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<sup>5</sup> Van der Ree R. (2002) The population ecology of the squirrel glider (*Petaurus norfolcensis*) within a network of remnant linear habitats. *Wildlife Research* **29**, 329-40.

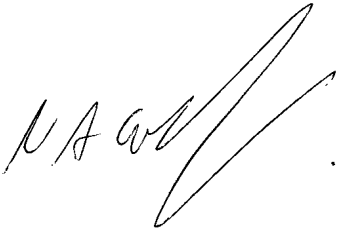
**7. Fence construction and habitat destruction**

It would appear from Mr Ryans correspondence, that clearing for fencing or hazard reduction has already occurred on the subject land. It is recommended that SCC investigate as to whether these activities do not conflict with requirements of the *Native Vegetation Act 2003* or the *Threatened Species Conservation Act 1995*.

Further, **ngh**environmental have previously recommended that the proposed activity may require a formal assessment under the Native Vegetation Act 2003. Additional information should be sought from the Southern Rivers Catchment Management Authority in relation to this Act. In general, the CMA may require 'offsets' for vegetation cleared on rural zoned land, depending on the amount, type and condition of that vegetation. It should be noted that offset ratios can be quite high in relation to threatened species habitat.

Should you require any more information please call Nick Graham-Higgs or Steven Sass on 02 6492 8333.

Kind regards

A handwritten signature in black ink, appearing to read 'N A Higgs', with a large, sweeping flourish extending from the end.

Nick Graham-Higgs  
Director

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