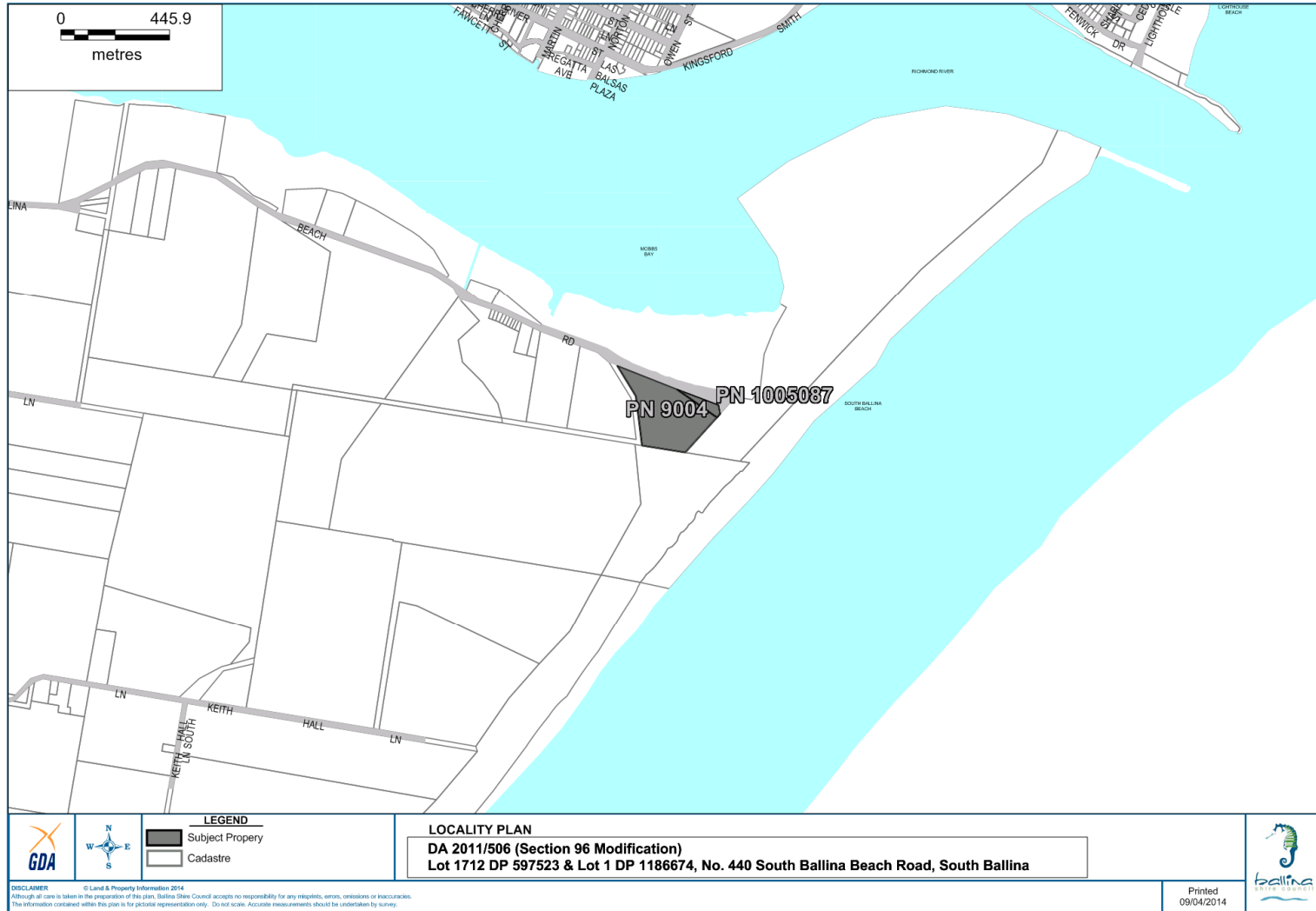



8.2 **DA 2011/506 - Section 96 - South Ballina Beach Caravan Park.DOC**



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11 February, 2014

General Manager
Ballina Shire Council
P.O. Box 219
Ballina 2478

Re. Section 96(2) Application:

**Variation Sought to Condition
D.A. 2011/506**

“Expansion of Existing Caravan Park comprising addition of 123 short term accommodation sites (65 Van sites & 58 camping sites, indoor recreation hall and associated amenities buildings, additional deck adjoining existing kiosk / shop and office / reception, managers cabin, associated facilities, infrastructure and rehabilitation works”.

***Lot 1712 D.P. 597523 and Lot 1 DP 1186674,
No 440 South Ballina Beach Road,
South Ballina.***



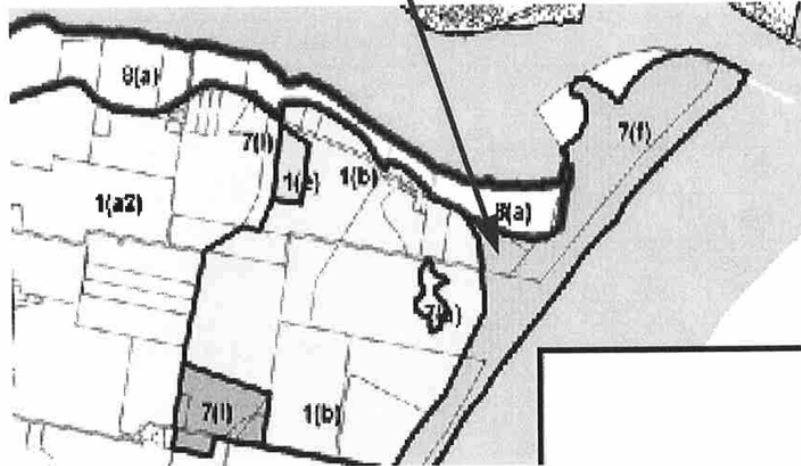
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Zoning & Locality Plan

Lot 1712 D.P. 597523 and Lot 1 DP 1186674,
No 440 South Ballina Beach Road, South Ballina



1 INTRODUCTION

I act for Merkat Investments Pty Ltd the owner and operator of the "South Ballina Caravan Park"

On behalf of my client, I seek the amendment of conditions of Consent 2011/506 which granted consent to the following development:

"Expansion of Existing Caravan Park comprising addition of 123 short term accommodation sites (65 Van sites & 58 camping sites, indoor recreation hall and associated amenities buildings, additional deck adjoining existing kiosk / shop and office / reception, managers cabin, associated facilities, infrastructure and rehabilitation works."

The development is being undertaken on Lot 1712 D.P. 597523 and Lot 1 DP 1186674 (440 South Ballina Beach Road, South Ballina)



2. Approval History

<u>Application Number</u>	<u>Description of Development</u>
76/271	Caravan Park
555/78	Amenities Block for Caravan Park
79/491	Main Dwelling, Kiosk, Managers Residence
625/80	Shop and Dwelling
897/1982	Shed
1992/7125	Alterations / Additions to Relocatable Home
596/1993	Alterations / Additions to Relocatable Home
1999/817	Awning
2002/520	Water Treatment Plant
2003/1145	2 Pools
2004	Approval to Operate On-Site Sewer Treatment Plant
2006/224	Machinery Shed Camp Kitchen
2007/239	2 Amenities Blocks

3. Background to the Application

As Council is aware, prior to my client's purchase of the property and the business (the South Ballina Beach Caravan Park) they did extensive due diligence with Ballina Council. No issues of non-compliance were raised in the course of the due diligence.

Within a few months of the purchase, they were informed by Council that they were in breach of their licence and needed to address those non-compliances. Council's advice was to submit a DA to "regularise" the alleged non-compliances.



My client lodged the DA which resulted in the grant of consent (Consent 2011/506). The Consent as issued contains many onerous consent conditions.

Conditions 34 and 11, if enforced, would have the effect of shutting down the business. A third condition (8) would be seriously damaging.

4 Condition 34 Developer Contributions.

The Condition of the Consent requires almost \$600,000 in levies/contributions for a "development" expected to cost of the order of \$100,000. The required S94 contributions consist of:

a.	Roads	\$421,698
b.	Open Space	\$58,143
c.	Community Facilities	\$110,404
	<u>Total</u>	<u>\$590,245</u>

There should be no contributions required under this consent. My client puts its case on the following bases.

- A. The section 94 Contributions Plan with respect to roads does not provide for levies to be paid by Caravan Parks or Camping Grounds
- B. There is no, or an insufficient, nexus between the development and the infrastructure that is said to be required by the development.
- C. On any view the contributions are unreasonable.

These are dealt with in turn below.

- D. The section 94 Contributions Plan with respect to roads does not provide for levies to be paid by Caravan Parks or Camping Grounds

It is well known that a condition of consent can be imposed in a consent to require a "contribution" towards public amenities and public services that are required as a result of that development (s.94(1)).



However the condition can only be imposed if allowed by, and is determined in accordance with, a contributions plan:

94B Section 94 or 94A conditions subject to contributions plan

- (1) *A consent authority may impose a condition under section 94 or 94A only if it is of a kind allowed by, and is determined in accordance with, a contributions plan (subject to any direction of the Minister under this Division).*

Neither the S94 Roads Plan nor the Roads Plan Technical Background Report make any mention of caravan parks at all, only "tourist accommodation – 1, 2 or 3 bedrooms". The Development does not provide any "bedrooms". The S94 Plans identify a particular type of tourist development – and the development the subject of the consent does not satisfy the description of the development in the S94 Plan.

Levies cannot be applied to "developments" not explicitly named in a S94 plan. As Council has stated "...contributions can only be levied in accordance with a plan". (P 88 Agenda Council meeting 19/12/13).

- E. There is no, or an insufficient, nexus between the development and the infrastructure that is said to be required by the development.

Council admits that both S94 plans (that is Roads & Community Facilities) have no basis (no data) for any of their road usage or community facility assumptions for visitors.

P23 of the Ballina S94 Plan states "*there is, at the time the plan was prepared, no comprehensive profile of tourist usage of facilities*". P21 states "*the tourist population in the Shire at any one time is difficult to calculate because of a lack of detailed information*"

(In fact there is NO profile & NO details are provided.)

Council claim to rely on the "RMS Guide To Traffic Generating Development". That document in turn states on P3.13 for Caravan Parks: "*NSW based data is not available – See the ITE Trip Generation manual for comparable (sic) rates from the USA*". The US "Recreational Vehicle



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Parks" are certainly not a close model for a remote tourist and retreat facility here. Council has also used comparisons to Brisbane and Gold Coast parks – clearly not remote wilderness campgrounds.

This suggests that Council are estimating (guessing) what demand is generated by visitors. The operators of the Caravan Park have actual accurate data for the numbers of visitors and occupancy rates.

South Ballina is quite different from the main part of the town & shire being very isolated from the township. It is at the northern tip of 20Km peninsula which is almost entirely rural. The main access is by a car river ferry.

The vast majority of the park's tourist customers come from South East Queensland on State & Federally funded roads - they do not generally frequent the town. In any event the traffic to the site is not new (it is existing). In addition to the traditional tourist visitors, the park host several residential retreats every year. The vast majority of these residential retreat customers generally do not leave the premises while their retreats are in progress.

With the opening of the Pacific Highway upgrade – Ballina bypass, the vast majority of visitors to the site do not even go into town – they stay at park. Some trips are taken for shopping purposes where access to all the shopping centres is via the old Pacific Highway – fully paid for and maintained until about a year ago by the State.

The route used by almost all visitors to the site is via the Council ferry. This introduces several major disincentives to any additional trips during stays at the property:

- Cost – at least \$9.60 for a return trip for a car, and \$19.20 for a car with trailer and caravan.
- Delays – anything from 5 to 20 minutes.



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- Limited hours – operates 6am till midnight, with scheduled maintenance outages of ½ day per month and two weeks per annum, as well as numerous unscheduled ones.

The alternative route is via the Pacific Highway to Wardell and by River Rd – a total of over 40 Km, with no new works along that route in the S94 Plan.

There is virtually no nexus between roads usage by visitors to the site and the road works identified in the S94 Roads Plan (the S94 Roads Plan pre-dates the bypass).

While visitors to the Park do indeed use the beach and coastal reserves, these are not managed or maintained by Council, nor are they part of the S94 plan.

Tourism customers do not use at all:

1. Libraries,
2. community centres, and
3. public swimming pools.

Council do not provide ANY community facilities South of the Richmond River (except for the town of Wardell – over 20kms away), nor are there any works proposed for this geographically isolated area in the S94 Road Plan or Community Facilities. Council does not manage the South Ballina Beach or the South Bank of the Richmond River – all are controlled by NPWS & Lands Department.

- F. The quantum of the condition must be reasonable. On any view the contributions required by the consent are unreasonable.

Subsection 94(1) is quoted above – ss.94(2) is noted below:

- (2) *A condition referred to in subsection (1) may be imposed only to require a reasonable dedication or contribution for the provision, extension or augmentation of the public amenities and public services concerned*



Ballina Community Amenities S94 Plan – See P4 – monetary contributions – occupancy rates for tourism are assumed to be 33.33%, page 23 table 3.3 – for caravan parks assumes 25% occupancy rates and over half of all sites in the other Ballina caravan parks are permanent. The DA does not seek consent for ANY permanent sites. Occupancy rates for short term are 20% and camp sites 5% with an average of about 13%.

It is important to note that this part of the contributions plan recognizes that the contributions for tourist facilities should "discounted" because of the nature of their use – they are not in full use at all times. There is no similar discount for roads.

By comparison, one of the two largest shopping centres in Ballina with two very large retailers, many other shops and 615 car parking spaces paid S94 road levies of \$137,000.

That Council had difficulties calculating the quantum of a reasonable contribution is illustrated by the calculations undertaken by Council staff. Council apparently has trouble substantiating their S94 levies. Three differing calculation methods were used, without any reasons provided for the change in the calculation – other than the obvious reason that the rate of contribution went up as the matter was reviewed. The calculations varied widely. The difficulty is clear evidence that even within Council different views are available.

Having regard to the above this application seeks an amendment to the Consent so that:

- Community & open space S94 levies should be \$0, (as per Council's original email analysis)
- Road levies should also be \$0, as caravan parks are not included at all in the roads S94 plan, and Council's attempt to fit us into the plan is artificial & unreasonable.



5. Condition 11 – Banning and Restrictions on Dogs

This condition was not recommended in the Report to Council.

The elected Council has gone further than the staff prepared report and requires the total banning of pets (that is domestic dogs) from the property. An estimated 60% of the parks visitors bring their dogs to the village (which mirrors the national statistic that 60% of households have dogs) and the park has a very well working pet management system. This new condition appears to come from a DCP adopted by Council in 2012 which is based on the area being zoned E2 (currently excised by NSW Department of Planning/Minister Hazzard). This DA precedes this DCP. The property has been operating as a pet friendly park since its inception. The local National Parks & Wildlife office does not support actions by Council to enforce such a ban on private property and have so advised Council. There are a number of reasons as to why this condition should be deleted from the Consent.

- A. The condition is not required by NPWS, who in fact encourage well-managed pet friendly accommodation as pets are not allowed in National Parks or Nature Reserves.
- B. The Letter from Office of Environment & Heritage (8/3/12) does not require dogs to be banned from the caravan park. The focus of OEH is clearly on “straying domestic dogs”.
- C. The condition that bans all dogs at all times apparently derives from Council's 2012 DCP (as quoted in the Council Staff report on 28/11/13) which assumes the area is zoned E2. While the environmental qualities of the area are recognized, it must also be recognized that development exists in this area (our development, residential development, commercial development etc) and indeed that development has led to the E2 zone not being adopted. Reliance by Council on this DCP is inappropriate.
- D. The fox baiting that is mentioned by Council is done at least 1 Km from the property boundary so there is no interference from pets. The local National Parks and Wildlife have said that they will not support Council in instituting such a ban.



Insofar as Council rely on NPWS, that reliance is based on the personal view of one officer – it is not the view of the organisation.

- E. There have been no recorded pet deaths of pets owned by guests or residents of the Ballina Beach Village as a result of fox baiting in the entire history of fox baiting at South Ballina, but particularly during the 4 years the current owners have occupied the site.
- F. Further, Council has not proposed that other residents of South Ballina restrain or fence their dogs in this way, nor have they put the same conditions on to the other (permanent) caravan park with regard to restricting pet stays during the baiting season, even though the other caravan park is operating quite openly and advertises as being "pet friendly". The nearby Patch's Beach residential area has no such restrictions despite being as close to the fox baits as the subject site (geographically the baits are located about half way between the 2 locations).
- G. This ban is to apply on private property which has had dogs on it for over a century, first as a working farm, then as a caravan park since the late 1970's.
- H. This is a quote from the local NPWS ranger:

"NPWS would acknowledge the risk of pet death if pets were to stray onto the national park and eat a bait. We get blamed for pet deaths.....even when it is not the 1080 bait. It really is an effective control option if used properly. The baiting uses best practice techniques so as to minimise all off target damage (I can explain more). NPWS political thinking is also supportive of pet friendly camping because an alternative (to no pet NPWS camp areas) should be offered to the community from other providers..."
- I. There are no other holiday villages in Ballina Shire that are pet friendly to the degree provided by the development (the other holiday pet friendly park is only so at limited times, and limits the size of dogs to 3kg). The Park meets a significant public demand and Council needs to be aware that if this demand isn't met then as a consequence, there will be more illegal and unmanaged camping with dogs in the area, including during the fox baiting time. This is known as 'displacement' in criminology.



- J By allowing dogs in the managed environment of the Village at all times including during fox baiting any harms are contained and controlled.
- K The owners have introduced a very successful pet owner education program:
1. Created awareness that dogs are not permitted in national parks, nature reserves or crown lands and in particular the beach to the east of the subject site;
 2. Promoted responsible dog ownership – must be on leads at all time, pick up after them, no barking or aggressive dogs, and no banned breeds;
 3. Hired a professional dog trainer who comes during school holidays and works with guests and their dogs to teach training techniques and reinforce the above;
 4. Installed signage informing guests of where they can and can't go with their dogs;
 5. The current operators inform guests via the website of the proximity of the Nature Reserve, again (verbally) at check in and through signage in the park;

The results are that during 4 years of ownership by the current operators:

- They have reduced the number of incidents of dogs being on the beach and in the village illegally. There have been no fines for dogs on the beach in 3.5 years incurred by any guest of the village.
- There have been no incidents of dogs eating the fox baits or attacking wildlife.

6. Condition 8 Restriction of Kiosk - Not to be used as "Refreshment Room"

- A. Council's position is that the park cannot use or have rights to
- a. serve plated food to anyone;
 - b. sell items to non-residents of the village;
 - c. hold meetings or functions; or



- d. provide entertainment.
 - e. The kiosk was part of the DA granted in 1979 and has operated openly for food service and small general store to the general public, the local community as well as to onsite guests since that time. This is as much a community service as for guests and the lack of it would greatly impact on neighbours to the property as there are no other such comprehensive facilities on that side of the river.
- B.** Council have yearly inspected and approved the food service facilities at the subject site.
- C.** The kiosk serves as the monthly meeting place of the South Ballina Community Association.
- D.** Visitors to the area including Councillors, Council staff, and National Parks & Wildlife Service staff all use the facilities, including bathrooms, general store & food.
- E.** Council's conditions would be very damaging to all these areas and the commercial viability of the development.
- F.** The term "kiosk" is not defined in the applicable 1987 Ballina LEP (although it is defined in the Ballina LEP 2012), and is commonly used in Australia for establishments serving food and refreshment.
- G.** In relation to the use of the "Kiosk" there are precedents that demonstrate the nature of the use. Attention is drawn to the "The historic Katoomba Falls Kiosk" which in its description of modus operandi states "Come and enjoy your coffee and meal at one of the tables or relax on one of the lounges, both by fireplaces." It is evident that the subject South Ballina Kiosk, approved 79/491, which predates current planning definitions, can incorporate meals based on the general nature of the term Kiosk.
- H.** DA 79/491 has no restrictions on how the kiosk may be used, nor what size it is.



- I. Whatever concerns Council may have about the operation of the "kiosk" the anticipated impacts of such a use were considered by Commissioner Bly in *Osmotherly v Baulkham Hills Shire Council* ([2008] NSWLEC 1281). The conditions serve no useful planning purpose.
- J. Further and in so far as the conditions seek to prohibit live entertainment, Council would be aware that the requirement for a separate approval for live music at a venue was abolished in (about) October 2009. Providing live music is considered ancillary to the use of such a venue. To quote from the Department of Planning's "Bringing back the music - Fact Sheet for venue operators":
- K. *"When will venues need to obtain development approval?"*
- L. *If live entertainment will fundamentally change the principal use of your venue, development approval may be required.*
- M. *However, if live entertainment is merely part of your venue's main business, you will not need additional approval."*

7. Section 96 Assessment

To assess a development application in terms of whether it is substantially the same, reference is made the Court in *Tyagarah Holdings Pty Limited v Byron Bay Shire Council* (2008) NSWLEC 1420. In that matter Commissioner Bly conveniently summarised relevant considerations (at para 10):

"The provisions of s 96 have been judicially considered on a number of occasions and the following are the relevant important findings or principles that can be utilised in considering whether or not a particular development is substantially the same development as the development for which the consent was originally granted:

Each of the important principles are referred to below in this application is assessed against those principles outlined in the judgment.

1. The word "substantially" means essentially or materially having the same essence. In assessing whether the test is met a factual comparison between the approved development and proposed modifications is required.

In this instance, the deletion of some Sec 94 components, and the amendment of Conditions 8 and 11, does not alter the design or nature of the approved Consent 2011/506 as described ("Expansion of Existing Caravan Park comprising addition of 123



short term accommodation sites..." (Consent 2011/506)). The same approved areas are maintained. As such it is "Substantially the same".

To return to the decision of the Commissioner:

2. The question must be asked and answered with respect to the particular circumstance of the individual modification application.

Again, Consent 2011/506 is not altered, and the same approved areas are maintained. As such it is "Substantially the same".

To return to the decision of the Commissioner (again):

3. It is for the decision maker to decide the relevant range of facts to assist in determining the question.

The only variation from the approved development is the request that Charges associated with Sec 94 and the operation of the Kiosk and the Keeping of Dogs be approved. This does not alter the design or nature of Consent 2011/506. All other aspects of the application remain unaltered, and the same form and outcome is achieved.

To return to the decision of the Commissioner (again):

4. Even though certain modifications of development may be described as significant this does not mean that the modified development could not necessarily remain substantially the same as the approved development. A comparison process involves an appreciation of both qualitative and quantitative.

As the approved development remains the same, and as the proposed deletion of some Sec 94 Charges and permission for the Kiosk to serve non residents, and that dogs be permitted under supervision, does not alter the design or nature of Consent 2011/506. The same approved areas are maintained, it is "Substantially the same", and no significant departures occur.

To return to the decision of the Commissioner (again):

5. Any planning appraisal of the modified development is not relevant to the threshold question."

Commissioner Bly further notes at para 12:



"Each of these changes is significant in its own way but this does not in itself mean that the modified development is not substantially the same."

On this basis as the proposed deletion of some Sec 94 Charges and the permission of the Kiosk to serve non residents, and that dogs under supervision be permitted, does not alter the design or nature of Consent 2011/506. It does not change the plans approved, and the same approved areas are maintained. As the landuse remains the same, then the same development results.

The fact that these alterations do not change the approved use or density, and as the same approved Caravan Park and associated facilities will still result, then it is considered that the amendments sought will still represents the Same Development as that approved.

As such, these alterations meet the requirements of the Consent description i.e. " Consent 2011/506 for "Expansion of Existing Caravan Park ..." etc. There is an accordance with the layout of the approved plans, and therefore the SAME DEVELOPMENT results.

It is requested that the amendment of the Consent be approved, as the amendments proposed do not alter the intent of the original consent, or detract from the integrity of Councils' approval.

8. Section 96(2) Application

Section 96 of the Environmental Planning and Assessment Act, so far as is material to the development proposed provides as follows (by way of summary):

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development; and
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and



- (c) it has notified the application in accordance with the regulations; and
- (d) it has considered submissions made concerning the proposed modifications within the period prescribed by the regulations

In determining an application for modification of consent under section 96, the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development subject of the application

This Section 96(2) Modification is sought to delete some Sec 94 Charges, to permit the Kiosk to serve sit down meals and takeaways to non residents, and that dogs be permitted under supervision, do not alter the design or nature of the approved Caravan Park and its associated facilities, as detailed within the introduction.

The amendments sought, as detailed in the introduction, will in no way adversely affect the amenity of the area, and the alterations to the Consent, will not alter the planning merits or basic nature of the development approved under Consent 2011/506.

As no change to the integrity of the approval results, it is requested that these minor amendments be approved by Council.

9 Section 96(2) Application: Planning Merits of Modification Sought.

The principal reasons in support of the Section 96 modification sought is to enable better outcomes to be achieved.

The actual development approved will not be altered by this modification. As such Council can be satisfied that the development as modified is substantially the same development as granted by Consent 2011/506. Thus the changes meet the requirements of Sec. 96(2)(a) of the E.P.A. Act 1997.

The modifications relate to the desire to have a more sustainable development, without compromising the rural, natural or residential amenity of the area, or changing the fundamentals of the previous approval. This does not affect or alter in any way the intent of the existing approval as the approved landuse does not change.

As such it is most unlikely the amendments sought will be prejudicial to any person who may have objected to the development application, which is the subject of the consent.



As such the modification sought to the development satisfies the test imposed by Sec. 96(2)(a) and (d) of the E.P.A. Act 1997. The modification sought to the Consent also satisfies the tests imposed by Sec. 96(3) of the E.P.A. Act 1997 as detailed in the Section 79C(1) assessment following in this report.

10. The Same Development

The amended proposal is for the same development (i.e. Consent 2011/506) and maintains the same style and intensity of development as that which has already been approved. Thus the integrity of the Consent is maintained.

On this basis it is considered that not only will environmental impact be nil, but the impact on the rural and residential amenity of the locality will also be low, due to the effects of deleting onerous and incorrect Charges, permitting sensible access to the site by controlled pets, and by permitting the historic use of the Kiosk to serve meals and takeaways to non residents, in this remote location where no other such facilities occur, or could be impacted upon.

Therefore the amendments do not alter the nature or intent of the approval, and do not compromise the intent of the proposed plans, particularly as the sizes and configurations of the allotments remain unaltered.

On this basis the proposed deletion of some Sec 94 Charges, the permission of controlled pets, and the honouring of the historic use of the kiosk by non residents, does not alter the design or nature of the approved Caravan Park and its associated facilities and activities, which will result.

As such, the development as modified satisfies the test imposed by Sec. 96(2)(a) of the E.P.A. Act 1997.

11. Section 79C(1) Assessment.

The property is located within a single zone under the provisions of Ballina Local Environmental Plan 1987 – 7 (f) Environmental Protection (Coastal Lands) Zone.

This is due to the fact that it is a Zoning Deferred area under the New Ballina LEP 2012, and as such the previous LEP still applies to this site.



The proposed use of the approved caravan park for 123 additional sites at Stage 2, and a new Recreation Amenities Building, are landuses permissible with consent under the 7(f) landuse table.

This already developed area of the site is not constrained by either vegetation or slope, or the provisions of S.E.P.P. No 26.

On this basis the proposed 123 additional sites and a new Recreation Amenities Building, continues to utilise the approved Caravan Park without detracting from the existing approved landuse.

The relevant provisions of the Ballina LEP must be considered including Clause 28 “Tourist accommodation”:

- (1) *This clause applies to development for the purpose of tourist accommodation on any land to which clause 12 applies on which a dwelling-house is lawfully erected or on which a dwelling-house may be erected in accordance with that clause.*
- (2) *The council shall not consent to the carrying out of development for a purpose specified in Column 1 of the Table to this subclause:*
 - (a) *so as to permit the erection or use of more sites, units or cabins, as the case may be, than the number permitted by Column 2 of that Table, and*
 - (b) *if the allotment of land on which the development is to be carried out has an area less than that specified in Column 3 of that Table, shown opposite that purpose.*

Table

Column 1	Column 2	Column 3
Caravan/Camping Parks	25 sites per hectare	5 hectares
Hotels/Motels	10 units per hectare	2 hectares
Holiday Cabins	3 cabins per hectare	5 hectares

(2A) Notwithstanding subclause (2), the council must not consent to development for the purpose of holiday cabins on land within Zone No 7 (d1) of a density greater than 1 cabin per 5 hectares of site area up to a total maximum of 5 holiday cabins (not including a manager’s residence).



(3) *The council may grant consent to an application to carry out development to which this clause applies only where an environmental impact report has been lodged with the application containing the matters referred to in clause 9 (4).*

(4) *In the preparation of the environmental impact report referred to in subclause (3), the person preparing the statement shall consult with the council and shall, in completing the preparation of the statement, have regard to any requirements notified to the person in writing by the council in respect of the form and content of the report.*

The proposed use of the approved caravan park for 123 additional sites (Total 178), and a new Recreation Amenities Building, does not offend the provisions of Clause 28 of the LEP, as a total of 178 caravan sites can be approved by Council on this 7.129ha. Site.

With respect to S.E.P.P. No. 71 Coastal Protection the amendment of the consent continues to result in a development which meets the provisions of SEPP No. 71 as detailed in the original development application.

1.

The relevant provisions of the EP&A Act must be considered commencing with Section 5 "Objectives of the Act":

(a) *to encourage:*

- (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*

(emphasis added)

To this end the proposed regularisation of the existing activity levels within the Caravan Park, not only effectively utilises existing infrastructure within an existing caravan park, which will stimulate the local tourist market, but it assists in meeting the NSW Governments election commitment to double NSW tourism expenditure from \$18.3 million to \$36.6 million by 2020. That is the overriding target that will drive all tourism policy in NSW, and this tourism business plays an important part in achieving the infrastructure needed to achieve this target.

Section 79(1)(b) of the EP&A Act requires a consideration of the impact of the development on the environment.



The proposal deletion of some Sec 94 Charges, the ability for controlled pets to stay on site, and the freedom for non residents to use a Kiosk which serves meals as well as takeaway food, as per its historic usage, does not alter approved site works, no additional vegetation is disturbed, and no adverse environmental impact results.

The Caravan Park and associated facilities, as amended by this Sec 96 proposal, will therefore have a minimal impact on the area. Thus the propensity for this development to impact on the amenity of the area is low.

All waste is to be separated on site for collection and recycling. The development areas within the property have no habitat significance, and all habitat areas on site remain protected by the details contained in the approved design, and other proposed conditions of Consent.

Section 79(1)(c) of the EP&A Act requires a consideration of the suitability of the site. The development site is located in an established Caravan Park, and the regularised activities relate to existing developed areas of the site, which have been inspected and sanctioned by Council in this current form for many years.

The site is thus adequate in terms of it's ability to accommodate the use proposed, and as such the development in no way represents an over development of the site.

Section 79(1)(d) of the EP&A Act requires a consideration of any submissions under the Act or Regulations. The submissions made under the original DA have been considered by Council and where the concerns in those submissions remain, they have been addressed..

Section 79(1)(e) of the EP&A Act requires a consideration of the public interest. Due to the innocuous and complying nature of this landuse, and the fact that it is in keeping with the recent pattern of development inspected by Council on this site for many years without notification of objection or problem, then no off site impacts should result from the minor changes to the consent as requested. Thus the proposal will not be contrary to the public interest.



12 EFFECT ON THREATENED SPECIES SEC. 5.A. E.P.A. Act.

In the case of a threatened species, whether the life cycle of the species is likely to be disrupted such that a viable local population of the species is likely to be placed at risk of extinction.

Threatened species are protected as detailed in the studies provided to Council as part of its DA assessment, and through the enforcement of Conditions contained in Consent 2011/506, which are not challenged by this Sec 96 Application.

As such this Sec 96 Application will not prejudice the habitat needs of threatened species, particularly given its disturbed nature, and developed location of the development areas within the site. On this basis no additional seven (7) point test is deemed necessary for these conceptual changes to the consent.

13. Various matters

Impact on Scenic Quality

The proposed changes to the consent will not alter the existing scenic amenity of the local environment as the sit is visually isolated.

Thus the amended development will have no adverse impact on the visual amenity of the area.

Impact on the Built Environment

The deletion of Some Sec 94 Charges, permission to have controlled pets, and permission for the Kiosk to be used by non residents in its historic form, maintains the approved built form of the Caravan Park as envisaged by the Consent, and this meets State Regulations and complies with R.E.P., and Councils L.E.P. and D.C.P. provisions.

Social & Economic Impacts in Locality

The proposed minor changes permit the park to proceed on a reasonable basis, this assisting in broadening the social and economic base of the shire by improving the cost effectiveness of tourist accommodation provision.



Further, this development will provide a use totally compatible with the sites location in an established and developed Caravan Park site.

The proposal assists in strengthening and broadening specific sectors of the local economy as the works will add to the activity levels of the Shires' building sector.

Again, the proposed deletion of some Sec 94 Charges, permitting controlled pets, and maintaining the historic use of the kiosk for non residents, can only be seen as amendments which improve the proposal.

As such the proposed changes will have a positive economic, cultural and social effect within the Ballina Shire.

Relationship to Adjoining Development

The changes are conceptual and the resultant amended development mirrors that of the historic use of the site, thus regularising its existing low impact operation levels and characteristics. As such these changes will not result in amenity loss.

Landscaping

The existing approved landscaping is more than adequate to meet DCP and Consent requirements, and the proposed conceptual changes will not alter these visual and habitat outcomes.

14. Conclusion

The modifications sought to the development satisfy the statutory tests imposed by Sec. 96(2)(a) and (d) of the E.P.A. Act 1997

For the foregoing reasons, Council should exercise its discretionary powers to approve the Section 96(2) application and delete those conditions that imposes onerous and incorrect Sec 94 Charges, that restrict and prohibit the sensible access to the site by controlled pets, and that now purport to restrain the continued historic use of the Kiosk to serve meals and takeaways to non residents, in this remote location where no other such facilities occur, or could be impacted upon by this service activity.



Chris Lonergan – Town Planner – Environmental Assessment : Project Design : 24

The amendments sought will result in a positive long term benefit to the Shire, by optimising the use of generally unconstrained and already developed and responsibly used 7(f) lands in its historic form, and at historic activity levels, which have never in the past been questioned by Council, despite yearly licence renewal inspections.

On this basis the proposed conceptual changes will not alter the design or nature of the approved Caravan Park under Consent 2011/506.

Yours Sincerely



Chris Lonergan B.A.

11th. Feb 2014.

OEH Submission 08/03/2012 – DW 2005059



Office of
Environment
& Heritage

Your ref: DA2011/506
Our ref: FL07/10799-04, DOC12/9519
Contact: Adrian Deville - 66402511



Mr Rod Willis
Group Manager, Regulatory Services
Ballina Shire Council
PO Box 450
BALLINA NSW 2478

8 MAR 2012

Dear Mr Willis

Re: DA 2011/506, Expansion of Caravan Park Sites, Construction of Amenities/Recreation Buildings, Lot 1712 DP 597523, 440 South Ballina Beach Road, Ballina

I refer to the above development proposal upon property which borders the Richmond River Nature Reserve (RRNR) on the eastern and southern sides. The Office of Environment and Heritage (OEH) appreciates the opportunity to make a submission on the development application (DA).

While direct impacts associated with the development appear likely to be contained within existing largely cleared areas, there are a number of potential indirect impacts associated with increased intensity of usage of the site that do not appear to be fully considered in the documentation accompanying this proposal. OEH notes that the Statement of Environmental Effects (SEE) submitted to Council makes no reference to the adjoining Nature Reserve or its Management Plan. Access to the ocean beach 300 metres from the nearest caravan park boundary requires visitors to walk or drive through the nature reserve on a 4WD access track on the eastern side of the caravan park maintained by the National Parks and Wildlife Service (NPWS), (part of OEH).

Should this DA be approved, conditions of approval should ensure that management objectives in OEH's Plan of Management for RRNR are recognised and not compromised, and that no other resource cost impositions are placed upon NPWS in managing the Nature Reserve (NR) as a result of increased site usage and consequently increased visitation to and access through the nature reserve. Attachment 1 details OEH's specific concerns in regard to access, as well as potential impacts on migratory and nesting shorebirds in the vicinity and in terms of fire management and sewerage capacity. In addition to these specific issues, OEH also provides the general comments below to assist Council with its assessment of the proposal.

1. Council should be satisfied that this proposal will not result in any significant impacts upon threatened species or their habitats as scheduled under the NSW Threatened Species Conservation Act, or upon scheduled Endangered Ecological Communities (EECs). Should Council determine that significant impacts are likely to result from this proposal, it is requested that the matter be referred to OEH for further assessment.

PO Box 498, Grafton NSW 2460
NSW Government Offices,
49 Victoria Street, Grafton NSW
Tel: (02) 6640 2500 Fax: (02) 6642 7743
ABN 30 841 387 271
www.environment.nsw.gov.au

2. Prior to determining the application, Council should also be satisfied that:

- The proposal is consistent with the provisions of the Protection of the Environment Operations Act, 1997.
- The proposal is not likely to cause impacts on areas of native vegetation, with special reference to threatened or regionally significant flora and fauna species, populations and ecological communities.
- The proposed development is consistent with the threatened species provisions of the Environment Planning and Assessment Act, 1979, State Environmental Planning Policy (SEPP) 71 - Coastal Protection and the Native Vegetation Act, 2003.
- An appropriate level of Aboriginal cultural heritage assessment has been undertaken, and that the proposal is not likely to impact on areas of cultural significance to the Aboriginal community. Also, it is important that the views of Aboriginal community groups be sought in regard to the proposed development.
- Any rezoning or development is in accordance with the NSW Government Flood Prone Land Policy which aims to reduce the impact of flooding and flood liability on individual owners and occupiers, and reduce private and public losses resulting from flooding. These objectives are set out in the NSW Government Floodplain Development Manual.
- The proposal is consistent with:
 - i) The NSW Coastal Policy 1987, which has as its central focus the ecologically sustainable development of the NSW coast;
 - ii) The Estuary Management Policy, with the general goal to achieve an integrated, balanced, responsible and ecologically sustainable use of the State's estuaries, which form a key component of coastal catchments;
 - iii) The Coastline Hazard Policy 1988, with the primary objective to reduce the impact of coastal hazards on individual owners and occupiers, and to reduce private and public losses resulting from natural coastal forces; and
 - iv) Relevant Coastal Zone and /or Estuary Management Plans.

3. Your attention is also drawn to the Commonwealth legislation, the Environment Protection and Biodiversity Conservation Act 1999. If the proposal affects any species requiring consideration under this legislation then approval may be required from the Commonwealth Department of Sustainability, Environment, Water, Population and Communities.

Should there be any other matters, or should Council be in possession of information that suggests the interests of the OEH may be further affected by the proposal, please contact Adrian Deville on (02) 66402511.

Yours sincerely



JON KEATS
Head, Biodiversity Management Unit North
Conservation and Regulation Division
Office of Environment and Heritage
Department of Premier and Cabinet

Page 2

ATTACHMENT 1: ASSESSMENT OF PROPOSAL**Overview of Richmond River Nature Reserve and its Values**

Richmond River Nature Reserve (RRNR) is approximately 254 hectares in size, located on the southern bank of the lower Richmond River at South Ballina. The reserve was gazetted in 1986 with additions in 1987, 1998 and 1999. The reserve includes Burns Point to the west, the eastern part of Mobbs Bay and part of the South Ballina Beach including the intertidal zone south of the break-wall of the Richmond River. The ocean beach part of the reserve is gazetted to mean low water. In the estuary at Mobbs Bay the reserve includes areas which are part of the waterway (ie NPWS has jurisdiction over the land underneath the waterway).

In terms of Aboriginal cultural heritage in the reserve, middens and open campsites remain in despite disturbance from sandmining and other former land uses and changing geomorphology of the mouth of the Richmond River.

The RRNR contains wetlands of State significance and Endangered Ecological Communities (EECs) of coastal vegetation in the reserve including Littoral Rainforest, Coastal Saltmarsh and Swamp Sclerophyll Forest on Coastal Floodplain.

160 bird species have been identified in the reserve and surrounding area, with 22 shorebird species protected under international conservation agreements. A plan of management (PoM) for the reserve was adopted in 2005, seeking to manage vital breeding habitat for Beach Stone-curlew (listed as Critically Endangered under the NSW Threatened Species Conservation (TSC) Act) Pied Oystercatcher (Endangered under the NSW TSC Act) and Osprey (Vulnerable under the NSW TSC Act). The NSW threatened species Atlas also indicates that the immediate vicinity provides habitat for the Greater Sand-plover (*Charadrius leschenaultii*), Sanderling (*Calidris alba*), Great Knot (*Calidris tenuirostris*), Terek Sandpiper (*Xenus cinereus*) and Little Tern (*Sterna albibrons*).

Given its habitat significance for threatened beach-nesting shorebirds, the RRNR is a priority site under the NSW Fox Threat Abatement Plan (FoxTAP). As part of the FoxTAP program, fox control is undertaken in the reserve during the shorebird breeding season from July to December each year, including 1080 ground baiting, the use of sniffer dogs to help locate active fox dens, and fox den fumigation.

Potential Impacts of the Proposal upon RRNR

The proposed development may impact upon the adjoining nature reserve and its ecological values in relation to the following issues:

- Threatened species
- erosion and sediment control
- stormwater runoff
- wastewater
- management implications relating to pests, weeds and edge effects
- fire and the location of asset protection zones

In general terms, OEH recommends that this development proposal be assessed and conditioned to ensure its consistency with our *Guidelines for developments adjoining Department of Environment and Climate Change Land (May 2008)*¹.

¹ <http://www.environment.nsw.gov.au/resources/protectedareas/080290devadjoindecc.pdf>

Threatened Species

As indicated, the RRNR provides habitat for numerous migratory and NSW listed threatened shorebirds. Bird species that make use of beach, dunal or estuarine areas for nesting and other aspects of reproduction are at particular risk from conflict with recreational uses of such areas. Wading and shore bird nests and eggs can be difficult to recognise and are easily destroyed by unaware pedestrians, vehicles and motorbikes. Breeding and nesting parent birds are readily disturbed by vehicles, walkers and domestic dogs, which can compromise the viability of eggs or nestlings exposed to birds of prey and/or the sun. It is unfortunately commonplace that despite signage and temporary fencing, human disturbance and impacts occur in marked exclusion areas, particularly in popular coastal beaches and estuaries.

OEH notes that peak holiday times in October and December/January school holidays largely coincides with the breeding season of a number of threatened shorebirds. In October, Pied Oystercatcher and Beach Stone-curlew chicks have just hatched, and many nests are lost on the east coast of NSW at this time of year from disturbance related to human activities. A declining breeding success rate in recent years among the local population of Pied Oystercatchers on South Ballina beach in particular has been observed by NPWS, thought to be a result of a number of factors including: adverse weather and coastal conditions related to storm and flood events; declining food resources due to unknown causes; increasing disturbance from human recreation on the beach; predation by cats and foxes; disturbance from domestic dogs and disturbance from water-based recreation in the estuaries. The widely endorsed Threatened Species (Pied Oystercatcher) Management Strategy (Department of Lands 2007) proposes a number of actions to arrest these declines which are relevant to numerous stakeholders.

The documentation provided in regard to this development proposal offers no acknowledgement of indirect impacts (outlined above) that may be connected to the activities of current or future visitors. It must be noted that access to and use of ocean beach and estuarine areas by people and pets are a key part of the promotion of the caravan park and that an increase in the number of sites proposed could as much as triple the number of people staying at peak periods. Taking the above discussion into account, any activity that might exacerbate pressures upon threatened shorebirds should be given significantly closer consideration than that provided.

In addition, despite any rules the caravan park may impose, the presence of straying domestic dogs within the RRNR represents a significant impediment to the FoxTAP program, which has been designed specifically to enhance prospects for shorebird breeding at critical times. Note that no fox baiting stations are placed within one kilometre of the adjacent caravan park, to minimise the risk to domestic dogs of sickness or death from 1080 fox baits, while statutory signage and public notification for the fox control program comply with the requirements of the Pesticides Act 1999. However, these signs and general regulatory signs are subject to frequent vandalism in the reserve and require regular replacement by NPWS staff. Again, the documentation provided in support of this proposal makes no mention of this aspect of reserve management and the possibility that the proposal may contribute to impacts upon the threatened shorebird conservation program.

In view of inadequate consideration of potential or likely impacts on threatened and migratory species management within NPWS/OEH Estate, OEH recommends that any conditions of approval for this proposal (if it is to be approved) must at minimum reflect a recognition of and ensure complementarity with the existing Plan of Management for the Richmond River Nature Reserve. Similarly, the proposal should be conditioned to ensure that it reflects a relevant degree of awareness of and complementarity with the Department of Lands Threatened Species (Pied Oystercatcher) Management Strategy (February 2007).

OEH also recommends that the proponent be required to consult with OEH/NPWS to facilitate the provision of a mutually agreeable strategy for the production and provision of clear educative signage within the caravan park at all relevant access points to prevent pedestrian and vehicular

entry to advise visitors of regulations within the Nature Reserve and to the sensitivity of key habitat areas.

Erosion and sediment control

Council should ensure no detrimental change to hydrological regimes or impacts of erosion and movement of sediment onto NPWS land. Erosion and sedimentation can potentially impact on habitats for fauna and flora and cultural values within the nature reserve.

Erosion can affect the landscape values assigned to a location by Aboriginal people and impact on any Aboriginal objects present through the removal and subsequent displacement of sediments. Changes to an Aboriginal site caused by erosion will affect the site's setting in the landscape which is important to Aboriginal people. The setting of a place is often as important as the objects the place may contain.

Furthermore, erosion can affect any Aboriginal objects, including stone objects, shells and rock art that may be present. It can expose objects to increased weathering and other impacts, resulting in a greater chance of displacement from the original location. Sediment accumulation over Aboriginal objects can also result in further damage if the objects are in contact with acidic soils.

OEH recommends that appropriate erosion and sedimentation control measures be implemented prior to works commencing and maintained for the duration of construction and until soil is stabilised after construction. In some cases it will be necessary to prepare detailed sediment and erosion control plans (soil and water management plans) for the proposed development. Disturbed areas must be rehabilitated and appropriately stabilised as soon as possible following construction (this includes removal of control measures, such as sediment fences, when they are no longer required).

Stormwater runoff

Potential impacts related to stormwater from the development include erosion, sedimentation, weeds and tree dieback. OEH recommend that the proposal include stormwater retention and water quality systems with appropriately managed buffer areas within the development site. Nutrient levels, stormwater flow regimes and patterns should mimic natural levels before stormwater reaches the nature reserve.

Wastewater

Detailed consideration should be given to the potential for adverse impacts on NPWS land due to wastewater generated by increases in the number of visitors during peak holiday periods. The onsite effluent disposal field is right on the boundary of the Nature Reserve, and littoral rainforest vegetation occurs within two to three metres of the heath on sand vegetation bordering this area of the caravan park. It is unclear whether treated effluent is to be discharged into the nature reserve through the coastal dune system, however, bearing the above circumstances in mind, OEH does not support the discharge of wastewater to NPWS land, including nutrient or pathogen export from effluent disposal areas.

OEH recommends that the on-site sewage treatment system, including the disposal field, be designed and installed in such a way as to prevent the migration of any effluent beyond the property boundary of the development site. In addition the proponent should consider the implementation of a protective buffer zone between the effluent disposal field and adjacent property boundaries to ensure nil effluent impacts to neighbouring properties, including the adjacent NPWS Nature Reserve. The provisions detailed in the Ballina Shire Council On-site Sewage and Waste Water Management Strategy should be closely adhered to by the proponent to ensure the Nature Reserve is not impacted by this proposal.

If any effluent pollution impacts were to occur to the NPWS Nature Reserve, the Environment Protection Authority (EPA) is likely to view this as a breach of the provisions of the Protection of the Environment Operations Act 1997.

Management implications relating to pests, weeds and edge effects

In accordance with OEH guidelines for developments adjacent to NPWS Estate, it is important to ensure that the proposed development does not have adverse effects such as:

- increased impacts from invasive species (weeds and pest animals) and domestic pets;
- unmanaged visitation, including informal tracks, resulting in negative impacts on cultural or natural heritage values;
- impacts associated with changes to the nature of the vegetation surrounding the reserve; or
- impeding NPWS access for management purposes, including inappropriate fencing.

NPWS encourages and supports the sustainable management and development of adjoining land, particularly where it is sympathetic to the protection of conservation values in parks and reserves. The Conservation Partners Program provides support for landowners interested in voluntarily protecting the conservation values of their land, and the Backyard Buddies program provides advice on how to attract and maintain native animals and plants.

The management of companion animals, such as cats and dogs is a particular challenge for developments adjoining NPWS land. OEH recommends that the consent authority investigate all available options for minimising the risks from domestic pets that may arise from the proposed development. This includes educational tools (such as signage), compliance (such as regular council patrols), physical controls (such as fencing), and other options (such as restrictive covenants where legally possible).

NPWS also encourages consideration of an appropriate buffer, vegetated where possible, or set-back between any development and NPWS land. Where managed effectively, a buffer may minimise the impact to the natural and cultural values of OEH/NPWS land, and increase the resilience of the area to counter potential impacts of climate change. Given the differences between sites and development types, it is not possible to specify a standard buffer; each development will need to be assessed on its merits. Developments that are designed to be sympathetic to adjoining lands, and to integrate with the landscape, are likely to require less need for buffers or set-backs.

Where there is no buffer, consideration should be given to developing appropriate conditions or land management practices that minimise the potential edge effects from development. This might mean requiring the retention of areas of vegetation, locating a building back from a NPWS boundary, or recommending a suitable boundary fence to contain domestic pets. OEH acknowledges that in some situations clearing of vegetation on neighbouring land is required to manage risks associated with bushfire. OEH nevertheless recommends the retention of existing native vegetation where appropriate.

Fire and the location of asset protection zones

In relation to fire management and the location of APZs, OEH recommends that Council and other planning authorities ensure that:

- approvals are not granted that involve the undertaking of bush fire hazard reduction works within NPWS land, including the establishment of asset protection zones, or include conditions requiring such an outcome.
- all asset protection measures are within the development area and that there is no implicit expectation for NPWS to change its fire management regime for the land it manages.

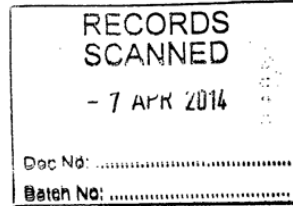
- any fencing to be erected between the boundary of the property and NPWS land be of non-combustible material and designed for the intended purpose.
- disruption to wildlife movements and impacts on fire suppression activities (including the ability of fire-fighting personnel to safely evacuate an area) always be taken into account.



Office of
Environment
& Heritage

Your reference: 2011/506 Mod 1
Our reference: DOC14/29282
Contact: Krister Waern (02) 6640 2503

General Manager
Ballina Shire Council
PO Box 450
Ballina NSW 2478



Attention: Mr Rod Willis

Dear Mr Hickey

Re: S96 Modification to South Ballina Caravan Park DA 2011/506

Thank you for letter dated 25 February 2014 providing the Office of Environment and Heritage (OEH) with a copy of the above proposed modification proposal. I appreciate the opportunity to provide comments.

OEH previously provided comments on the proposed development DA 2011/506 dated 8 March 2012 and has no further comments on the proposed S96 modification. Council should refer to OEH's previous comments in relation to the proposed S96 modification and in particular paragraph 4 on page 6 of those comments which stated:

"The management of companion animals, such as cats and dogs is a particular challenge for developments adjoining NPWS land. OEH recommends that the consent authority investigate all available options for minimising the risks from domestic pets that may arise from the proposed development. This includes educational tools (such as signage), compliance (such as regular council patrols), physical controls (such as fencing), and other options (such as restrictive covenants where legally possible)".

Please note, due to the OEH realignment, future correspondence on planning and assessment matters should be sent to me as per the contact details below:

Dimitri Young
Senior Team Leader Planning, North East Region
Locked Bag 914
Coffs Harbour NSW 2450

If you require further information or clarification please contact Mr Krister Waern, Senior Operations Officer, on telephone (02) 6640 2503.

Yours sincerely

Dimitri Young 31 March 2014

DIMITRI YOUNG
Senior Team Leader Planning, North East Region
Regional Operations

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Brenda Wright

From: Helen Allen <helen.allen30@gmail.com>
Sent: Sunday, March 02, 2014 5:51 PM
To: Ballina Shire Council
Subject: Expansion of Ballina Beach Caravan Park

The General Manager
Ballina Shire Council
PO Box 540
Ballina NSW 2478

ATTENTION: Rod Willis
cc Anthony Peters

Re: Submission in support of Section 96 Application to Modify Consent - Modification to the development consent 2011/506, Expansion of the Ballina Beach Caravan Park.

As neighbours and long time residents of South Ballina we fully support the expansion and continued existence of the park. Without this park South Ballina would not have any community facilities as we get no support at South Ballina from the Council in this regard at all.

The South Ballina community uses the park for public meetings. The defibrillator which was funded by the local community is located at the park and is available to the public.
The park is a base for the fire fighting equipment for South Ballina.

We support the deletion of each of the conditions of consent relating to the payment of exorbitant developer contributions, the restriction that guest and visitors dogs are not permitted on site and especially the restriction that the Kiosk is not used as a refreshment room.

We feel that if the Councillors and staff took the time to come over to South Ballina they just might see how good the park at South Ballina is and what a great benefit and asset to the community of South Ballina this park is.

Council should be doing everything in their power to nurture and support business within the whole shire and especially South Ballina as private enterprise is one of the few job generators within the economy.

We the undersigned have not made political donations to any Ballina Shire Councillors nor have we made gifts to any employees of Ballina Shire Council.

GW (Bill) Allen
Helen Allen

SOUTH BALLINA INVESTMENTS

PO Box 466, PARAP, NT 0804
Telephone: 08-82615499 Facsimile: 08-82612908
Email: SouthBallinaInvestments@ballina.nsw.gov.au

28th February 2014

The General Manager
Ballina Shire Council
PO BOX 450
Ballina NSW 2478

Email: council@ballina.nsw.gov.au

ATT: Rod Willis
cc. Anthony Peters

**RE: Submission in Support of Section 96 Application to Modify Consent -
Modification to development consent 2011/506, Expansion of the Ballina
Beach Caravan Park**

We have been connected to the South Ballina area via the South Ballina Sand quarry and some of the surrounding lands for nearly twenty years. Our lands make us neighbours to the Ballina Beach Village Caravan Park.

We write to confirm we fully support the continued existence of the Park.

We also fully support the deletion of each of the conditions of consent relating to the payment of developer contributions, the restriction that guest and visitor dogs are not permitted on-site and the restriction that the kiosk is not to be used as a refreshment room.

If Council insists on levying those exorbitant developers contribution, the Caravan Park will probably be forced to close. It appears ludicrous that such charges should be levied when there are no amenities or community facilities at South Ballina. Council does not manage the South Ballina Beach or the southern bank of the Richmond River, which are the responsibility of NPWS and the Department of Lands. There are no planned upgrades of the local road network, which is very limited in any case.

The current owners of the Park have done a sterling job at improving the Ballina Beach Village and having the kiosk available for simple meals and get togethers has been a great bonus and assisted in creating a local community space.

There is great community benefit in having such facilities for the locals to use and interact with each other in what is quite an isolated part of the Ballina Shire, where the Council itself does not provide any community facilities.

Council should be fostering the continued existence of a viable Caravan Park at South Ballina. Council should do all in its power to support such business, which is providing a low-key tourist facility in South Ballina.

Instead, it appears that Council is hell bent in obliterating this business by imposing preposterous s.94 contributions, by prohibiting the use of the kiosk for refreshments, which can be used by the local community and by forbidding the visitor's dogs, which have been a key draw card for Park users.

We the undersigned have not made political donations to any local Ballina Shire Councillor, nor have we made gifts made to any local Councillor or employee of Ballina Shire Council.

Yours sincerely
SOUTH BALLINA INVESTEMNTS



**SHARON WILSON
MANAGING PARTNER**

Ballina Environment Society Inc
PO Box 166 Ballina
NSW 2478 Australia
Email: BES2478@gmail.com
Ph: 0421-551-768



The General Manager
Ballina Shire Council
Tamar Street
BALLINA, NSW 2478

7th March, 2014

**SUBMISSION OPPOSING APPLICATION TO
ALTER CONSENT CONDITIONS FOR DA 2011/506**

Ballina Environment Society supports the Councils considered conditions of consent in respect to DA 2011/506 and strongly opposes any removal or watering down of these conditions.

BES is disappointed that the proprietors of the South Ballina Caravan Park are not more conscious of the precious natural assets they hold in custodianship and those under their influence in the adjoining river, beach and nature reserves.

An application to increase the capacity of this park must not include any potential increase in dog numbers and must include measures to limit and mitigate the impact of canine and human impacts on these fragile ecosystems.

We urge council to uphold their present position and utilise the powers enabled by the EPBC Act to not approve the proponents application to modify the current consent conditions.

Fiona Folan
President



NATIONAL PARKS ASSOCIATION OF NSW
protecting nature through community action

Far North Coast Branch

317 Pimlico Road, Pimlico, NSW 2477

fncoast@npansw.org.au

07/03/2014

Ballina Shire Council – Development and Environmental Health Group

Submission

DA 2011/506

Section 96 Application to Modify Consent – Modification to development consent 2011/50

Dear Sir/ Madam

I am writing on behalf of the Far North Coast Branch of the National Parks Association of New South Wales to object to the above application to modify consent, particularly in relation to the request to allow guest and visitor dogs on-site.

This establishment borders onto the Richmond River Nature Reserve and pet animals are not conducive to this environment.

This organisation commends Ballina Shire Council on its conditions for consent of this development and believes those conditions should stand.

Sincerely

Neil Denison

Sec. National Parks Association, Far North Coast Branch

