

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**DETERMINATION OF DEVELOPMENT APPLICATION NO. 148-6-2004****(FILE NO. S04/01348 PTS 1 TO 8)****CONSTRUCTION OF A TOURIST FACILITY – CARAVAN PARK AND CAMPING GROUND AT LOT 4 DP 1022342 NEW ENTRANCE ROAD SOUTH WEST ROCKS**

I, the Minister for Planning, pursuant to Section 80 (1)(b) of the *Environmental Planning & Assessment Act, 1979* (as amended), and clause 10 of State Environmental Planning Policy No. 71 determine the development application referred to in the attached Schedule 1, by refusing consent to the application subject to reasons outlined below.

1. The development proposed will have an adverse impact on the wetlands on the site, which are listed under State Environmental Planning Policy No 14 – Coastal Wetlands, as a result of the removal of wetland vegetation for the construction of an asset protection zone for bushfire mitigation and discharge of stormwater into the wetland;
2. The development proposed is inconsistent with the objectives of the 7(d) Scenic Protection Zone pursuant to Clause 9 of Kempsey Local Environmental Plan 1987 in that the proposal will result in an adverse visual impact in the locality due to the narrow buffer zone between the proposal and the Macleay River which will result in ineffective screening of the proposed development. The proposal will also result in the loss of the visual connection between the River and the Wetland which will not accord with the appearance of the landscape as required by the zone objectives;
3. The development proposed fails to manage the flood risk on the site as the evacuation plan is inadequate, the flooding information provided is insufficient and inaccurate and the proposal is inconsistent with Council's Flood Risk Management Policy given new caravan parks are not permitted and the merits of this case do not warrant approval of the proposal;
4. The development proposed is inconsistent with the objectives of State Environmental Planning Policy No 14 – Coastal Wetlands in that the proposal will have an unacceptable impact on the wetland and will not preserve and protect the coastal wetland as required by Clause 2;
5. The development proposed is inconsistent with the objectives of State Environmental Planning Policy No 71 – Coastal Protection pursuant to Clause 2 in that the proposal will not protect and manage the natural attributes on the New South Wales coast given the unacceptable impact on the wetland and the adverse impact on the visual amenity of the proposed development on the coast;
6. The development proposed does not mitigate the bushfire hazard on the site given the Bushfire Safety Authority was issued by the NSW Rural Fire Service on the basis of works which are not the subject of this development application;
7. The objection to the minimum allotment size development standard submitted under State Environmental Planning Policy No.1 does not adequately demonstrate why compliance with this development standard pursuant to in Clause 16 (1) (a) of Kempsey Local Environmental Plan 1987 is unreasonable or unnecessary in the circumstances of this case and accordingly is not well founded as required in Clause 7 of State Environmental Planning Policy No. 1; and

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GROUND AT LOT 4 DP 1022342 NEW ENTRANCE ROAD SOUTH WEST ROCKS**

8. It is considered that the proposed development is generally not in the public interest.

Frank Sartor
Minister for Planning

Sydney,

2006

SCHEDULE 1

PART A—TABLE

Application made by:	Shannon Pacific Pty Ltd PO Box 52 South West Rocks NSW 2431
Application made to:	Minister for Planning
Development Application:	No. 148-6-2004
On land comprising:	Lot 4 DP 1022342 New Entrance Road South West Rocks
Local Government Area	Kempsey Shire Council
For the carrying out of:	Construction of a Tourist Facility – Caravan Park and Camping Ground with a total of 73 sites – and subdivision of land into three (3) allotments.
Estimated Cost of Works	\$2,400,000
Type of development:	State Significant Development
S.119 Public inquiry held:	No
BCA building class:	Class 4 & 10 – Manager's Residence; Class 5 - Office/Reception; Class 6 – Shop/Convenience Store; Class 10b - Amenities and Camp Kitchen, Ensuites.
Approval Body / Bodies:	Department of Planning
Determination made on:	
Determination:	Development consent is not granted subject to the reasons outlined in the Determination.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 148-6-2004

Responsibility for other approvals / agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid, for a development application, within 12 months after the date on which the applicant received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Applicant means Shannon Pacific Pty Ltd or any party acting upon this consent.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means Kempsey Shire Council.

DA No. 148-6-2004 means the development application and supporting documentation submitted by the applicant on 16 June 2004.

Department means the Department of Planning or its successors.

Director means the Director of the Urban Assessments (or its successors) within the Department.

Team Leader means the Team Leader of the Urban Assessments (or its successors) within the Department.

Director-General means the Director-General of the Department.

Minister means the Minister for Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.