

Resource Planning and Development Commission

Land Use Planning and Approvals Act 1993 and Resource Planning and Development Commission Act 1997

TASMAN PLANNING SCHEME 1979

Draft Amendment 1/2008
Permit Application No DA 115/2007

Draft amendment

The draft amendment is to vary the scheme by adding clause 5.5.15 as a specified departure to allow the use of the site at South Street Taranna for a Caravan Park, only for self-contained motor homes.

The permit is for the use and development of a motor home park at 38 South Street Taranna.

Date and Place of Hearing: Thursday 11 December 2008 Council Chambers
Tasman Council Nubeena.

Delegation

In accordance with its decision dated 21 October 2008 and in exercise of the power conferred upon it by s.8 of the *Resource Planning and Development Commission Act 1997*, the Commission delegated to Mr Robin Nolan and Commissioner Roger Howlett jointly and severally:

1. its powers and functions under sections 40, 41, 41A, 41B, 42(1), and 42(2), 43G, 43H, and 43I of the *Land Use Planning and Approvals Act 1993* (LUPAA) in relation to draft amendment 1/2008 and permit DA115/2007 to the Tasman Planning Scheme 1979; and
2. in connection with the exercise of those powers in performance of those functions, its powers under Part 3 of the *Resource Planning and Development Commission Act 1997*.

Documents supplied by Planning Authority

- Certified draft Amendment.
- Council planner's s.35 report.
- S.43A combined permit application for motor home park and Traffic Impact Assessment dated July 2008.
- Copy of s.39 report including Council minutes of 21 July 2008 and the representations received.

Representations

Six representations objecting to the draft amendment were received from:

Ms Y. Young & Mr S. Leslie

Mr J. Hamilton, Tasmanian Devil Conservation Park

Ms M. Young

Mrs G Skeggs, Department of Infrastructure, Energy and Resources (DIER),

Mr L. Brown & Ms L. Matassini Norfolk Bay Convict Station

Mr & Mrs M & M Copping

Issues raised in Representations

The issues raised by the representations included:

- Adverse impact on traffic safety.
- Adverse impact on the environment.
- Environmental impact of sewerage and sullage disposal.
- Adverse impact on other caravan parks.
- Adverse impact on adjoining business.
- Adverse impact on land valuation.
- No limit on the length of stay on the site.
- No limit on number of motor homes.
- Use will attract undesirable long-term tenants.
- No definition of motor home or motor home park in planning scheme.
- Lack of detailed information for the permit.

Council's Response to the Representations

Council's s.39(2) of LUPAA report considered the draft amendment, documents submitted by the applicant and the representations. Council resolved to no longer support the draft amendment.

Appearances at the hearing

Council: Mr R Higgins appeared for the Tasman Council

Applicant: Mr B Terrens and Ms A Parson

Representors:

Ms Y. Young
Mr S. Leslie
Mr J. Hamilton
Mr S Ingles representing DIER
Mr M Copping

Summary of evidence to the hearing

Mr Terrens referred to the lengthy process of applications and differing advice from Council officers on matters principally concerning site facilities, waste-water disposal and approval processes.

Mr Terrens contended:

- There was an established need for motor home facilities that was not being met by existing caravan parks.
- The Arthur Highway carries trucks and buses already contributing to a noisy traffic environment.
- The junction was previously used by slow moving vehicles from the HEC, DMR and Telstra Depots based in South Street.

The representors elaborated on their written representations concerning:

- Traffic and safety.

- Uncertainty through lack of detail in the application on what was proposed.
- Increased numbers of people using the Coastal Reserve.
- Increased night noise and light pollution particularly from outdoor living associated with caravan/motor home living.
- Potential for a reduced biosecurity for the Tasmanian Devil Park.

Commission's assessment of the draft amendment

Preliminary

At the hearing the question of whether the Council had fulfilled the requirements of s.39(2) of LUPAA on the basis that the report provided to the Commission did not provide 'its opinion on the merit of each representation', was deferred for further consideration.

Advice provided to the Commission in that regard is that although the Council failed to fulfil the requirements of s.39(2)(b) of LUPAA, that failure is not fatal to the statutory process. Therefore it follows that the Commission can proceed to determine the merits of the draft amendment and permit applications.

The draft amendment

The draft amendment states:

'5.5.15 Notwithstanding clause 5.3 a Camping Area, only for self-contained motor homes, is a permitted use for land contained in Certificate of Title 217571 Folio 3&4'

Site and locality

The subject land fronts the western section of South Street, Taranna. The site also has frontage to the Esplanade (coastal reserve). The total area of the site is 5.843ha. The current land use as described on the application is 'residence and primary industry'.

The property is zoned coastal protection. The surrounding land is zoned public open space to the north and west for the Crown coastal reserve (public recreation reserve), coastal protection to the south (The Devil Park and Copping land), business & commercial for land fronting the Arthur Highway and coastal village to the east (land owned by Young and Leslie).

The constructed section of South Street is some 200m from its junction with the Arthur Highway. The street is of gravel formation except at the road junction, and described in the applicant's Traffic Impact Assessment (TIA) as having a trafficable width of 3.0m.

In its simplicity Mr Terrens' objective is to be able to provide overnight parking spots for 20 self contained motor homes. The application simply refers to a change of use for 'self contained motor home park and associated facilities'. Matters about extending South Street or bringing vehicles through the current property access, defining parking spots and a location for an ablution block (if necessary to provide) were not resolved to any conclusion on the application. It was simply proposed to disperse the motor home parking on gravelled sites amongst the trees along the boundary of the property with the Crown Reserve.

Mr Terrens submitted that the provision of ablution facilities was at the suggestion of a Council officer and was not a facility he considered necessary to provide.

Planning scheme provisions

The intent for the coastal protection zone is confined to clause 8.13.1.

8.13.1 The intent of this zone is to retain land for agricultural purposes and maintain the rural character and high scenic quality of the coastal landscape.

Schedule 1 of the scheme provides the tenor for the planning scheme. The principal statement relevant to the application is under Goal 1 objective F 'To encourage future development to be concentrated with (in) the existing settlements'. Other objectives support uses of the nature proposed in the current application.

In terms of use class for motor homes, the best fit is 'camping area' which is prohibited in the coastal protection zone. Camping area is defined as:

'means any area of land used as a site for two or more caravans, tents or similar structures of a temporary nature including structures ancillary thereto, and includes a caravan park.'

Clause 7.9 of the scheme relevantly states:

7.9 Development Adjoining Public Land or Public Roads

7.9.1 No building shall be erected, or land developed or subdivided if such action results in the intensifying of the use of adjoining public land or public roads by development or subdivision unless provision is made to accommodate such additional persons and vehicles as stipulated below. The requirement relates to the construction of roads including service roads, deceleration, acceleration and storage traffic lanes on main highways and to the provision of adequate parking and standing areas.

7.9.2 Determination of what has to be provided will be made by the Department of Main Roads with respect to State Classified Roads and by the Local Government Authorities with respect to Council Roads.

Commission's assessment

Neither the zone intent nor clause 7.9.1 readily supports the draft amendment. Clause 7.9.1 raises the issue of traffic safety on public roads and as discussed below the junction of South Street and the Arthur Highway is fatal to the application.

Representations

Relevant issues raised by the representors were in terms of:

- Traffic and safety;
- environmental impact of waste water disposal;
- adverse impacts on properties in the vicinity; and
- lack of specific details on the proposal

Traffic and Safety

The representators raised concerns about an increase in vehicle numbers and size of vehicles on South Street and the safety of the street junction with the Arthur Highway.

The applicant's Traffic Impact Assessment (TIA) assessed the use would generate some 15-18 vehicle movements during the afternoon and morning peak hours with significantly

less traffic generation during the winter months. The report did not identify any safety concerns for the increase in traffic on South Street.

In terms of the junction of South Street and the Arthur Highway, the report identified a major sight deficiency for traffic exiting South Street and viewing to the south. The TIA referred to the safe intersection sight distance standard requiring 165m, but the available distance is 86m. The report considered the sight deficiency could be rectified by clearing vegetation along the western side of the highway and inside the fence line of the corner (Copping) property and observed that there may also be a need to relocate the fence back from the highway for that corner property. The TIA assessed the available sight distance with the vegetation cleared as 155m. The report also referred to slowing the north bound traffic speeds to within the posted speed limit. The TIA concluded that there was a need to address the sight distance deficiency.

The representation for DIER advised the following:

- the Tasman Highway at the junction of South Street has a speed limit of 70kmph;
- there are no facilities for turning from the highway into South Street and the junction is sight deficient; and
- no commercial advertising will be permitted in the State Road reservation.

The DIER review on the TIA noted the vegetation that restricts sight lines from South Street towards the south comprises several mature trees within the property boundary of the residence on the corner of South Street within the Arthur Highway. DIER commented that the removal of these trees may prove problematic but considered it a matter to be resolved between the applicant and the property owner.

DIER further advised that unless this vegetation is removed the available sight line to the south is very deficient. Until removal is completed, the resulting available sight line is difficult to determine, but maybe within the range suggested in the TIA. It was also submitted that regardless of vegetation management the sag curve immediately south of the South Street junction impacts on sight lines as the sag curve is sufficient for northbound vehicles to disappear completely within it. DIER confirmed that the removal of vegetation does not resolve the issue of the sag curve to the south of the junction or has the potential to only improve the situation marginally.

Mr Ingles representing DIER referred to the ambient traffic speed of 80kmph. Mr Ingles submitted that the alternative safe stopping distance standard for the junction would be acceptable. However the safe stopping distance standard is 91m at a driver's height of 1.05m. The current intersection sight distance was assessed at being just over 80m.

Mr Ingles referred to the difficulty of using traffic legislation to require the removal of vegetation and agreement with the land owner was preferred. Mr Ingles confirmed that the traffic issue was not the potential number of vehicles using the junction but the available sight distances and the junction being used by slow vehicles.

Mr Copping advised that his front fence was correctly located on the front boundary following land resumption for highway improvements. Mr Copping's house is now 2.5m from the front boundary he advised that he would not consent to the removal of the tree that affects sight distance as it had sentimental value.

Mr Copping claimed that the depots previously in South Street were removed because of the sight distance difficulties at the Arthur Highway junction.

Commission's Assessment

Strictly on traffic generated by the proposed use, there was nothing to suggest that the number of vehicle movements posed a traffic volume or safety issue apart from the junction of South Street and the Arthur Highway. However the TIA was based on up to 20 motor homes and formed its assessment on a peak load of 15-18 vehicles.

Representations identified the potential for greater traffic generation through visitors, motor homes with additional vehicles or vehicles accessing the sewage dump point without staying overnight. This view on traffic generation beyond that recognised in the TIA is supported.

The TIA has highlighted the problem with the junction that currently exists. The next question is whether it is appropriate to intensify the use of the junction prior to sight line difficulties being addressed. On this, Council's s.39(2) of LUPAA report simply acknowledges the problem of the sight lines as existing without suggesting whether it was intended to fix the problem. Without resolution of the safety aspect of the junction, and there does not appear to be scope for such a resolution at this stage, then the change of use should not be approved.

The TIA and Council's assessment did not identify any requirement for upgrading South Street west of the junction. Nevertheless it is observed that the street is of minimum construction and two motor homes would have difficulty passing.

Environment Impact of waste water disposal

The application is for the parking of self contained motor homes and associated facilities. The associated facilities were clarified as a small ablution block.

The proposed permit conditions addressed the issue by requiring:

- Only self contained motor homes;
- An approved on-site waste water disposal system; and
- The provision of a drop point (s) for black and grey water to a holding tank and pump out or linked to the on-site disposal system.

Taranna is not served with reticulated water or sewerage system. The site of almost 6ha is presumably capable of an approved waste water disposal arrangement that protects the environment, health and safety of the site. Alternatively a pump-out for a sewage drop point may be required. Wastewater disposal is not seen as fatal to the proposal.

Adverse Impacts on properties in the vicinity

The subject property is in the vicinity of the Tasmanian Devil Conservation Park, the Norfolk Bay Convict Station Bed and Breakfast business and mussel and oyster farms in Norfolk Bay. Mr Hamilton's representation for the Tasmanian Devil Conservation Park detailed the development plans for the Devil Park that has existed on the site for some 30 years. Mr Hamilton claimed the motor home park would have critical adverse effects on the existing and future operations of the park. Mr Hamilton contended the motor home park will:

- Operate 24 hours with light and noise interference particularly affecting night time tour operations including the Tasman Bird Trail conducted within the Devil Park;
- Motor home parking adjacent to the Norfolk Bay boundary will severely compromise the natural bay side views from the wildlife property and destroy the waterfront experience generally in Taranna;
- The proposal will ruin the concept of the ‘Unzoo’ project comprising the wildlife park property, waterfront and surrounding natural bush land;
- The motor home park offers no unique global benefits; and
- Security of the park’s quarantine status will be at risk with increased visitation on the South Street property although this was not considered a high risk.

Mr Brown and Ms Matassini of the Norfolk Bay Convict Station claimed impacts on views and from noise and light would affect guests at their bed and breakfast accommodation. This written representation objected to the development in the coast protection zone and claimed it was contrary to the State Coastal Policy. The representation also raised issues concerning the disposal of waste including the contamination of the bay with adverse affects including that on oyster farms.

The representations for Ms Young and Mr Leslie comprised a combined representation but with the representors wishing to be treated as two separate representations.

The representors’ business is a mussel farm in the bay and water quality and traffic capacity on South Street (for moving of farm equipment) were principal concerns. The representation contended many issues common to other representations but in addition raised issues with the amendment including:

- no limitation of the size of the motor home park;
- no requirements for full protection of the environment of the bay; and
- disposal of waste water including from vehicles not staying overnight required to be addressed.

Mr Copping contended the amendment;

- would set a precedent for other camping ground in the coastal protection zone;
- South Street junction is an inappropriate junction for increased traffic; and
- adequate facilities exist on the peninsula for motor homes and caravans.

Commission’s Assessment

The subject property fronts the northern side of South Street with the Copping property opposite on the south side. The Copping property provides at least 120m separation distance between the subject site and the Devil Park. The Copping property is predominately cleared pasture with mature trees on the perimeter. Although the Copping property provides separation between the Devil Park and the subject property, the two latter properties virtually share a common boundary save for the width of South Street (un-constructed section) were they front the coastal reserve. The overlooking of the proposed motor home park as claimed by Mr Hamilton is from part of his title that protrudes to face the subject site across the Crown reserve.

The importance of the Devil Park’s work has increased with the devil tumour disease with healthy devils kept in a bio-secure environment. Therefore the risk to the Devil Park and

other native activities relates to the common use of the Crown reserve more so than the motor home activity on the subject site itself. Loud noise is unlikely and night light pollution can be addressed through permit conditions. The direct adverse affect on representors' businesses is assessed as low.

The representation from the owners of the Norfolk Bay Convict Station raised the prospect of direct affect on the bed and breakfast with referral to the 'peaceful and undeveloped vista and that noise and light will be disruptive to our guests'. The Norfolk Bay Convict Station is over 700m from the closest point of the subject site and vegetation from the coastal reserve adjoining the subject site will block views to the site. Again direct affect on the representors' business is assessed as low.

Mr and Mrs Copping's property is closest to the subject site. The impact of a motor home park would be principally confined to dust and noise from increased traffic on South Street.

Actual adverse impact on the adjoining properties can not be readily assessed and will largely be determined by the number of motor homes visiting the park and the management regimes for the park that restrict noise and night light.

Lack of specific details on the proposal

The representors sought restrictions on the number of motor homes on the site, limits on the length of stay and a definition of motor home or motor home park:

It is accepted that the application was deficient on what was proposed but this in part appears to be attributable to the claim of differing advice received by the applicant. The officer's report to Council on the representations recommended the draft amendment be modified to limit the number of motor homes to 20 and to insert various definitions into the scheme.

There is scope to describe and to limit what was proposed by modifications to the draft amendment and by conditions on the permit. However the deficiency of the junction of South Street and the Arthur Highway is fatal to the proposal and modifications do not therefore require consideration.

The permit

The permit grants conditional planning approval for the parking of no more than 20 motor homes at any one time on the site and the develop of supporting infrastructure. As the amendment is rejected so must the permit.

Application of State Policies

State Coastal Policy 1996.

The draft amendment is assessed as being prepared in accordance with the Policy. The site location satisfies clause 2.4.2 being 'based on existing towns and townships and would represent compact and contained planned urban development and development that avoids ribbon development.

State Policy on Water Quality Management 1997

The proposed use could be capable of being prepared in accordance with the Policy subject to appropriate requirements on the disposal of waste water.

Interim State Policy on the Protection of Agricultural Land 2008

The site is agricultural land as defined in the Policy. There is no evidence to suggest that the land should be retained for agricultural uses.

NEPMs

The national environmental protection measures are not applicable to the draft amendment.

Schedule 1 Objectives

Part 1 Objectives

(a) *to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity.*

The draft amendment potentially conflicts with this objective. There is no evidence of ecological processes or genetic diversity to be protected on the site. However the adjoining Crown reserve and particularly the activities of the Devil Park in promoting native fauna are potentially compromised by the proposed motor home park.

(b) *to provide for the fair, orderly and sustainable use and development of air, land and water.*

The draft amendment is assessed as not fair, orderly or sustainable use and development in terms of the intent of the coastal protection zone to 'maintain the rural character and high scenic quality of the coastal landscape' or that represents a sustainable use of the site in terms of access to the Arthur highway at the South Street junction.

(c) *to encourage public involvement in resource management and planning.*

The applications have been through processes with public involvement under LUPAA.

(d) *to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c).*

The draft amendment would facilitate economic development but not sufficiently in accordance with the previous objectives.

(e) *to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.*

The draft amendment has involved the sharing of responsibility for resource management and planning.

Part 2 Objectives

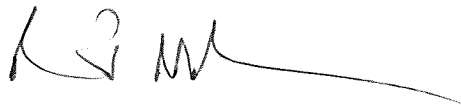
The draft amendment does not provide for explicit consideration of social and economic effects and that secures a pleasant, efficient and safe working, living and recreational environment or that protects public infrastructure in terms of safe access on to the Arthur Highway.

Conclusion

In accordance with s.40(1) of LUPAA, the draft amendment, representations and Council's report have been considered. The assessment of matters relevant to the application leads to the conclusion that the intent of the coastal protection zone and the access difficulties at the junction of South Street and the Arthur Highway do not favour the application. The draft amendment should be rejected.

DECISION

The Commission rejects the draft amendment pursuant to Section 41(b) of the *Land Use Planning and Approvals Act 1993*) and refuses the permit.



Robin Nolan
Chairman



Roger Howlett

Delegates
Resource Planning and Development Commission.
21 January 2009