

NT PLANNING COMMISSION HEARING

PROPOSED EXCEPTIONAL DEVELOPMENT PERMIT PA2019/0348

Section 3181 (398) Mermaid Circuit, Dundee Beach, Hundred of Glyde

Agenda Item Number: **1**

Meeting Date: 9 June 2020

Attachment A – Exhibition Material

Attachment A1 – Additional Information

Attachment A2 – Site Photos

**Attachment B – Public Submissions
Received**

**Attachment C – Service Authority
Comments**

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Report to the Commission

This report is prepared under section 22 of the *Planning Act 1999* and considers the submissions made in relation to the proposal.

1. GENERAL INFORMATION

ADDRESS:	Section 3181 (398) Mermaid Circuit, Dundee Beach Hundred of Glyde
ZONE:	Zone SN1 (Specific Use Namarada)
PROPOSED LAND USE:	Hostel comprising six guest rooms (maximum 15 guests) in 1 x 5 bedroom single storey building and 1 x 1 bedroom two-storey building, managers residence in a single storey building, combined staff accommodation and storage in a 1 x 4 bedroom single storey building, ablutions and associated storage with reduced side setbacks
APPLICANT:	Northern Planning Consultants Pty Ltd
LAND OWNER:	Emma Louise Cartwright
AREA:	4480m ²

2. LEGISLATIVE REQUIREMENTS

The Minister for Infrastructure, Planning and Logistics (the Minister) is responsible for determining an application for an exceptional development permit. The *Planning Act 1999* (the Act) establishes the requirements relating to the exhibition, consultation and reporting of proposals for exceptional development permit applications.

Under section 22(2) of the Act, the Commission must hold a hearing if public submissions are lodged during the exhibition period.

Under section 24 of the Act, the Commission must provide the Minister with the submissions and a written report about issues raised in the submissions, the issues raised at the hearing and any other matters the Commission considers the Minister should take into account when considering the proposal.

3. PROPOSAL

On 9 September 2019, Northern Planning Consultants lodged an exceptional development permit application on behalf of the landowner, Emma Cartwright, to develop Section 3181(398) Mermaid Circuit, Dundee Beach, Hundred of Glyde (the land) for the purpose of a Hostel comprising six guest rooms (maximum 15 guests) in 1 x 5 bedroom single storey building and 1 x 1 bedroom two-storey building, a managers residence in a single storey building, combined staff accommodation and storage in a 1 x 4 bedroom single storey building, ablutions and associated storage with reduced side setbacks.

Anglers Choice is an established fishing charter business that has operated from the land for approximately 15 years. It provides fishing and accommodation packages for up to 13 guests. This application seeks consent for the existing operation and a further expansion, to accommodate up to 15 guests, between two and four staff and resident manger(s). Whilst the application was not explicit, it is estimated that approximately 21 persons are intended to be accommodated on site. However, as the current operation has capacity to accommodate

20 persons the maximum persons on site without changes to the existing number of beds could reach 30 persons.

Anglers Choice use four boats; one boat is stored on the land and three boats are stored elsewhere in Dundee. A minibus is also stored on the land, which is used to transport guests from Darwin and to and from the boat ramp, reducing the number of visitors requiring on-site parking.

The Northern Territory Planning Scheme applies to the land to which the application relates and the land is located in specific use Zone SN1 (Specific Use Narmada). The purpose of SN1 is to:

- a) ensure that development of the land is consistent with the conservation of the natural environment and the services and infrastructure that are available and
- b) to protect the aquifer from salt water intrusion.

The land may be used with or without consent as the case may be in accordance with the provisions of Zone RR (Rural Residential). No bore or well may be sunk on land subject to this zone.

The purpose of Zone RR is to provide for rural residential use. Proposals for rural residential development are expected to demonstrate the relationship of the proposal to existing and proposed future land uses, identifying impacts on facilities and services and the amenity of the locality. If lots are unsewered, provision for the disposal of effluent must be made on-site so that the effluent does not pollute ground or surface waters.

A hostel is a prohibited use in SN1 and Zone RR (Rural Residential) and consent can only be granted by an exceptional development permit.

On 1 June 2020, the applicant provided additional information in response to submissions and the requisite report and plans for additional water storage and an new onsite wastewater system capable of treating the black water to Grade A, suitable for onsite irrigation. The onsite waste water system has been designed to manage wastewater for up to 20 people.

The exhibition material, additional information and site photos are at Attachment A, A1 and A2, respectively.

4. SITE AND LOCALITY CONTEXT

Dundee Beach is a small coastal and rural community comprising permanent residents, weekenders and holiday homes. The permanent resident population counted in the 2016 Census was 207 people. Private dwellings numbered 200. A local school serves Dundee Beach and the wider rural area comprising Dundee Forest, Dundee Downs and Bynoe Harbour.

The land is located at the southernmost extent of Dundee Beach. Mermaid Circuit is unsealed. Access to Dundee Lodge and the boat ramp, approximately 7km to the north is via Namarada Drive, a sealed road. The remaining roads in the community are unsealed with road maintenance undertaken by the Northern Territory Government. Reticulated power is provided to lots. However, there is no reticulated water or septic system.

The foreshore itself is one parcel of land Section 2881 and in Zone CN (Conservation). All blocks in the western (foreshore) area identified as SN1 are subject to the requirements of Zone RR or RL (Rural Living). Larger blocks to the east and inland are Zone R (Rural). Land to the north in the vicinity of Dundee Lodge is Zone TC (Tourist Commercial) (Figure 1).



Figure 1 Dundee Beach Locality Map

The subdivision of foreshore land in Dundee displays a unique layout, designed to optimise access to the foreshore and water views. One roadside block, with a central access to the foreshore is flanked by two battleaxe blocks, enabling three lots access to the foreshore where there would ordinarily be two (Figure 2).



Figure 2 Foreshore lot layout

5. PUBLIC EXHIBITION

On 10 December 2019, the Minister determined under section 39(1)(a) of the Act to place the proposal in the application on exhibition.

The proposal was on public exhibition for a period of 28 days, in accordance with the requirements of the Act, and was advertised in the NT News on 24 January and 7 February 2020. The exhibition closing date was 21 February 2020.

Public Submissions

28 written submissions about the proposal from members of the public were made under section 22 of the Act. A petition was signed by 15 individuals/couples; three signatories to the petition also made individual detailed submissions.

The matters raised during the public exhibition are summarised below as follows:

Table 1 - summary of key themes raised in support of the development

Table 2 - summary of key issues raised by objectors

Figure 3 - map of submitters within 3km of the land, persons who support, object and signed the petition are marked

Table 3 - summary of each submission listed by individual submitters.

The complete submissions are at Attachment B.

Table 1 Themes in support of the application

Theme	No of Submissions
Anglers Choice provides local employment	9
Anglers Choice contributes to the NT tourism industry	9
Business contributes to the local economy and supports other local Dundee businesses	8
Don't believe the business impacts the community in a negative way	7
Anglers Choice contributes to the community (fundraisers etc)	4

Table 2 Themes objecting to the application

Theme	No of Submissions
Inadequate water supply for the development leading to overuse of the community bore for commercial purposes	11
Scale of the development does not accord with the purpose of Specific Use SN1/ Zone RR limited to one dwelling and one independent unit	10
Inadequate wastewater management for the scale of the development may result in impacts to health, groundwater, result in seepage onto the beach	10
Development has occurred within the 5m boundary setback	10
Traffic Impacts – noise, dust, damage to the road surface	9
Impact on rural residential amenity, expectations for a quiet, low density community	7
Illegal bore creates risk of salt water intrusion and groundwater contamination due to proximity to septic	7
Commercial scale of the existing and proposed development not compatible with rural residential	6
Approval of the development would set a precedent for further commercial uses to be established and further incursions into the 5m boundary setback	5
Application and plans did not accurately reflect the current use of the site	4

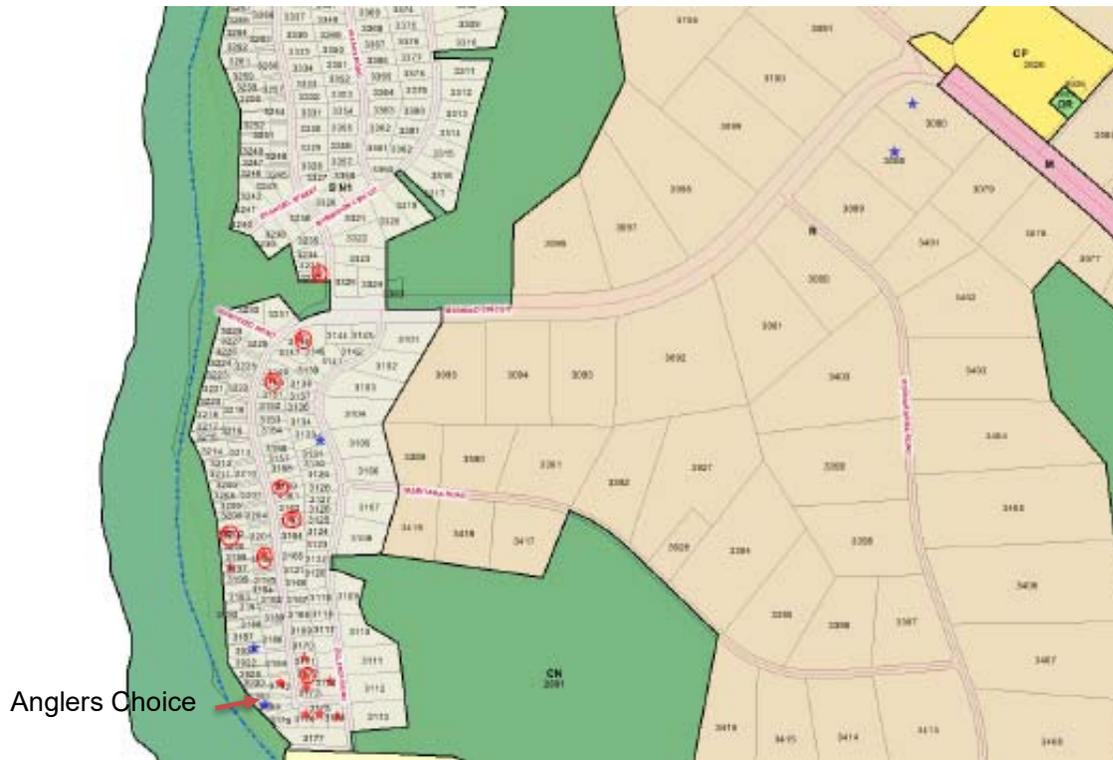


Figure 3 Location of submitters within 3km

★ Support ★ Objection ○ Petition Objection

Table 3 Submission Summary

Submitter	Submission summary
Geoffrey and Veronica Warham (B01)	<ul style="list-style-type: none"> Dundee residents, support the business long standing friends believe the business is considerate of neighbours value Emma's contribution to the community local employment for 8 residents utilises other local businesses winner of a 2018 Brolga Award
Karyn Jessop (B02)	<ul style="list-style-type: none"> locally owned business employs local people promotes Dundee established Annual Reel Women's Fishing Competition believe there has been no negative impact business built with hard work and determination supports expansion of the business
Anne Dobson (B03)	<ul style="list-style-type: none"> wonderful thriving business provides local employment has visited the business and can attest there is no impact on the residential area
Robbie and Tony Syme (B04)	<ul style="list-style-type: none"> highly regarded tourism business established part of the community area would benefit from more boutique style accommodation as an owner of a B&B the submitter has first-hand experience that Angler's contributes to prosperity and brings in local and interstate visitors in turn supporting other local business want to see the business continue

<p>Robert Pattemore (B05)</p>	<ul style="list-style-type: none"> • regard the business as a successful charter drawing guests from all over Australia • clients spend money at the Dundee Lodge • believe the business does not have negative impacts
<p>Rebecca and James Campbell (B06)</p>	<ul style="list-style-type: none"> • owners of Bynoe Retreat • Principal of Dundee Beach School • fellow business operator • Anglers employs local staff • Emma mentored the submitter in the development of their business
<p>Meryll and Paul Gomm (B07)</p>	<ul style="list-style-type: none"> • property owner immediately south of Anglers Choice • permanent resident of 10 years • satisfied through experience and regular contact with Ms Cartwright that their amenity would not be adversely impacted by the development • have found Emma to be a considerate neighbour who has ensured the business has rarely impacted their peace and quiet • Emma has undertaken property improvements to cater for predominantly interstate and international guests • manages guests to limit noise generation to very reasonable hours • has found Ms Cartwright to be a much more amenable, considerate and quiet neighbour than many neighbours they've had the misfortune to share boundaries with in suburbia
<p>Jen Clarke and Chris Campbell (B08)</p>	<ul style="list-style-type: none"> • Dundee residents • local business owner – Barramundi Contracting NT • venue manager Lodge of Dundee • support Anglers as it creates business and employment • Anglers gives back to the community in many ways and always sponsor fundraising events
<p>Phil and Rae Garstone (B09)</p>	<ul style="list-style-type: none"> • local business owner of Dundee Mechanical and Recovery • Anglers supports other local businesses • reliable sponsor for fundraisers • provide local jobs to local people who would otherwise have to travel over 100km to the next available work opportunity • brings fishing tourism to the NT contributing to NT tourism • should be more businesses of this standard
<p>Scott (B10)</p>	<ul style="list-style-type: none"> • owner/operator of Humbug fishing charters • own a property on Mermaid Circuit (no address supplied) • supports the application to run a fishing business from home • do not think there are negative impacts • Anglers creates tourism and employment opportunities • contributes to the economy
<p>David and Kanchana McClelland (B11)</p>	<ul style="list-style-type: none"> • local electrical contractor and massage beauty business • Anglers is well known for delivering quality fishing charters for small groups of interstate and overseas anglers • Emma always tries to hire local services and supports their business • a quality fishing lodge is ideally suited to the small community
<p>Vilma Cockin (B12)</p>	<ul style="list-style-type: none"> • Full time resident of Dundee since 1993 • Has seen many businesses commence and fail • Anglers is a successful business in operation for 15 years • The area benefits through the business Anglers brings into the community • Anglers supports local community events • Good location for a high end fishing lodge

<p>Christine Schultheis (B13)</p>	<ul style="list-style-type: none"> • employed by Anglers for the past 5 years • single mother with children aged 7 and 9 and able to work school hours • has seen the business grow and more than double in size employs local people • boosts the tourism industry • brings money into the community • any business expanding or starting in the community needs to be supported • more people starting businesses will allow more people to move to Dundee
<p>Grayson Bernard (B14)</p>	<ul style="list-style-type: none"> • owner of lot 380B Mermaid Cres • familiar with the operation of the business over the last 15 years • supports the business and the benefits it brings the local area • brings business to the NT • employs staff
<p>Narelle Clancy (B15)</p>	<ul style="list-style-type: none"> • Dundee resident • not aware of complaints • guests fish, enjoy the beauty of Dundee and are very respectful • Anglers provides a great tourism product and the application should be approved
<p>Michelle Lee (B16)</p>	<ul style="list-style-type: none"> • local property owner • Appropriate business for the area • Fishing community • Anglers supportive of other businesses
<p>Chris and Helen Cochran (B17)</p>	<ul style="list-style-type: none"> • demountable 0.860m from side boundary • overdevelopment of blocks • believe that there are 14 guest beds and the applicant is seeking accommodation for a further 5 rooms additional 10 beds • staff also live on site • areas described as storage are operating as accommodation • plan did not include a further air conditioned shipping container • managers residence includes a "store room" with a double bed • wastewater discussion doesn't mention two outdoor showers and laundry • in reality 5 showers and 5 toilets/ kitchen and hand basins • bore installed October 2018 is not registered • potability of water a concern with reln drains in close proximity (2 within 30? metres) • undertaken land clearing on Section 2881 – impact on Zone CN – cleared to provide an ocean view for new demountables • incomplete application - Operates a fishing charter business from the premises – 14 years • received 50,000 grant for upgrades – how does this happen without approval ? • problem of increased traffic on a dirt road • no respect for neighbours or crown land • approval would set a precedent
<p>John Jones (B18)</p>	<ul style="list-style-type: none"> • retired at the property 2001 • long standing issue – 4 years ago demountable placed too close to boundary – air conditioner 300mm • walk past the buildings to get to the beach • another structure - and toilet and shower block • concerns that water supply is not adequate • block too small for scale of development • approval would set a precedent

<p>Colin and Dorothy Brown (B19)</p>	<ul style="list-style-type: none"> • not concerned with current development • don't want to see an expansion • concern about wider impacts and commercialisation in the area • concern that up to 20 – 28 people could be continuously on the property – 15 guests, 4 staff, Managers, a further room • unsealed road concerned with increased visitors increased traffic dust and corrugations • supposed to be a quiet low density holiday/retirement area • no reticulated water • no reticulated sewage concerned that black waste could seep into the ground, water table and seep onto the beach • use of quads without care for creating dust • water needs to be trucked in – more traffic and pressure on roads • impact of 28 people on the character of the area concerned with noise, reduced side setback • no fire breaks
<p>Mr and Mrs Garry Burrows (B20)</p>	<ul style="list-style-type: none"> • owner of 2 properties in the neighbourhood • built in the area to enjoy ambience • quiet beach walks • extra traffic noise and dust with visitors to the property • noise from number of guests on the property • too many buildings on the site • not enough water • heard there is a bore on the property • two septic and relm drains - contamination • buildings too close to the fenceline should be 5m from boundaries • will encourage other property owners to build close to the boundaries and ignore buffers
<p>John and Valerie Davidson (B21)</p>	<ul style="list-style-type: none"> • Request that the application be rejected and the site return to operating as a residential use • Concerned approval would see commencement of similar operations • built a weekender/ retirement home and didn't expect a commercial business opposite • subject to lights vehicle noise very early in the morning through to late in the day bus and vehicle movements • movements during the day staff, water carting, visitors, rubbish removal • account for more than 50% of traffic on Mermaid circuit in a given day • some days 8 trips to carry water (1800 litres) filling 60,000 litre tanks equates to 16 vehicle movements • saw a reduction in water carting and rumoured that a bore was sunk on site • water use needs to cover swimming pool, laundry, showering, kitchen, garden watering – difficult to supply sufficient water for large groups on site • concern with septic/ drainage on site and seepage into groundwater and out onto the beach • water naturally drains from the cliffs and onto the beach • not against bed and breakfast or rental housing but the use is too big for the site/locality • business has 4 boats operating usually 4 fisho's 1 guide per boat – more than specified in the application • plans note storage in the existing transportable and 1 guide room – all set up for guests – number of personnel on the ground exceeds numbers in the application • believe that fishing guides are fifo and accommodated on site • believe more people will be on site than the number specified • year round operation will lead to damage to the unsealed road in the wet season • business operators contravene regulations over many years – ignore setbacks, • over use of power and blowing the primary fuse • illegal plumbing without certification

<p>Nolan and Josie Caldwell (B22)</p>	<ul style="list-style-type: none"> • purchased property in 1992 clear guidelines in places as to the location of commercial activities • block chosen to be distant from commercial activities • Initial allowance for 1 dwelling – then 1 plus unit – this property has 6 and a car parking area and is too dense for a residential area • too much pressure on the communal bore which is under stress at the end of the season • application doesn't refer to a bore on the property bore creates risk of salt water intrusion • using part of another property as a setback sets a dangerous precedent • if approved would be detrimental to lifestyle • scale of use never intended for this end of Dundee Beach
<p>Ian and Lesley Stewart (B23)</p>	<ul style="list-style-type: none"> • concern with proposed development • propose 5 additional guest rooms as additions and alterations to an existing dwelling – • question whether it can be regarded as an extension when it is a separate building • existing demountable 860mm from boundary – stated to be 3 storerooms 1 guide room – expect it will be used for accommodation for 4 guides for 4 boats • another single dwelling has 2 distinct areas with a verandah in between and internal layout omitted • ablution block is in the setback • shed is in the setback • shed inadequate to house 4 7.5m boats • fuelled boats pose a potential fire risk to guests and neighbours • not showing individual car parks because probably no room for everything • need to show access turning circles etc • don't believe locals would leave vehicles in an unsecured area to be picked up by a mini bus • constant traffic to obtain water • community bore for community consumption not a commercial business • insufficient water storage on site for all guests, staff and managers for washing, laundry, boat washing and irrigation • mysteriously late last dry season (2018) water carting stopped maybe a bore installed ? • is a septic under a verandah and in breach of the plumbing code ? • is the wastewater system big enough? • all the traffic impacts amenity and creates dust • disagree the use is consistent with land capability • lot too small to accommodate a charter business, dwelling, managers residence and hostel rooms • should relocate to a larger lot with a bore and effluent management system • reject the application and send a clear message that tourist commercial is not suitable or welcome in the zone
<p>Noel Whyte (B24)</p>	<ul style="list-style-type: none"> • some misunderstanding that the application is to rezone from RR to SN1 – however comments remain pertinent • owner has disregard statutory requirements, being setbacks, septic covered by a verandah resulting in a system that can't be serviced • installed an uncertified bore • communal bore should not be for commercial use • existing business generates traffic impinges on the neighbourhood • impact on property values • commercial operations should be on properties larger than RR blocks • concerned buildings may not have Certificates of Occupancy (building) • kitchen should be licensed • effluent systems appears inadequate to for number of people

<p>Chris Rigby (B25)</p>	<ul style="list-style-type: none"> • area designated to be used in accordance with RR • should have one residence on site • how is it that the block has excess buildings on site ? • a local plumber has said the existing septic is inadequate • in excess of 50% of native vegetation has been removed contrary to the requirements of the Namarada area plan • number of vehicles in excess of what is permissible in Zone RR • noise of vehicles entering and leaving the site at all hours through an axe handle drive adjoin two other properties • surrent owners have a disregard for neighbouring properties • excessive noise and at times vulgar noise continuously into the night and early morning • issues will be exacerbated if the proposal proceeds • other residents have complied with the requirements of the Zone • NPC comment that the development is welcomed isa fabrication • business should be relocated to a zone/area designated for such developments
<p>Ian J Stewart (B26)</p>	<ul style="list-style-type: none"> • use not in accordance with SN1 • operator should have policy of not permitting clients or boats on the property and that a staff member will always be on property when clients are the property • should be secondary treatment and reuse of water • commercial access to the community bore should not be free • approval of application should be reliant upon meeting the requirements of the Bushfire Management Act and NT Fire and Emergency Regulations
<p>Dennis and Jennifer McDonald (B27)</p>	<ul style="list-style-type: none"> • reference to rezoning – confusion re difference between rezoning and an EDP – comment remains relevant as it is a change of use • approval would create a precedent and conflicting use that is incompatible with neighbouring properties • current operation of the fishing charter business/hostel impinges • amenity of the neighbourhood • oppose more traffic and noise • property owners in the area made the purchase aware of the planning requirements it is not reasonable for one property owner to benefit to the detriment of all other property owners • enjoy the amenity • value of the property would be diminished • residents appreciate the quiet, sound of the sea the waves, fresh sea breezes • refer to drunken and boisterous behaviour and impact on the neighbourhood • SN1 blocks the smallest allowable in Dundee and never intended for commercial purposes • land for commercial development is at the northern end of Dundee • concerns re adequacy of water supply and septic • health ramifications of sub-standard systems • in contradiction with the application there is a bore on site • the bore is too close to the septic
<p>Michael Mannix (B28)</p>	<ul style="list-style-type: none"> • application does not accurately describe the business operation • application states Anglers operates 3 boats with one stored on site • has observed Anglers operating 4 boats (not 3 as in application) x 4 clients per boat – 16 guests not 15 • community bore should not be for commercial operations • will set a precedent

Petition (Attachments B29)

One petition with 15 signatures was received in response to the proposal. There was some confusion that the application for an exceptional development permit was equivalent to a rezoning. Despite that the comments can reasonably be interpreted as responding to a

change in use from rural residential to a more intensive commercial land use. Concern in relation to the development focused on the following themes:

- resident expectations that they were purchasing land designated for rural residential use with access to quiet pursuits such as fishing, beach walking and enjoyment of the environment. The development was regarded as impacting local ambience
- that the development would have a negative impact on neighbouring property values
- water storage may be an issue with the number of guests
- Dundee Beach communal bore is non potable
- SN1 precludes bores
- concerns with inadequate wastewater management and environmental impact
- buildings too close to the boundaries ignoring the 5m boundary setback
- impact of increased traffic on the dirt road exacerbating dust problems

Service Authority Submissions

Submissions received from service authorities are summarised at Table 4. The complete submissions are at Attachment C. No objections were received from service authorities. Rather advice was provided on the relevant standards and codes the proponent would be required to meet to undertake the development.

Table 4 Summary of service authority comments

Service Authority	Comments
Power and Water - Power (Attachment C01)	<ul style="list-style-type: none"> • the property has a limited capacity power supply from overhead electricity reticulation. Ant new development that requires additional power supply will be subject to assessment in accordance with the Networks Capital Contribution Policy • the proponent shall engage an appropriate person to prepare a maximum power demand calculation for assessment on capacity upgrade requirements • the proponents engaged electrician shall upgrade the customers internal reticulation in accordance with Power and Water requirements
Power Water - Water Services (Attachment C02)	<ul style="list-style-type: none"> • reticulated water and sewer are not available in the local area • no objections or requirements provided that the development does not incur costs to Power and Water
Department of Infrastructure Planning and Logistics - Transport and Civil Services (Attachment C03)	<ul style="list-style-type: none"> • no objection to the proposal
Department of Health - Environmental Health (Attachment C04)	<ul style="list-style-type: none"> • insufficient information provided to make comment on the adequacy of the existing septic tank system however it would appear to be undersized. The business appears to be accommodating more guests than identified on the plans in rooms marked as storage • further evidence is required to assess the relm sizing • the primary treatment systems should be installed by a licensed plumber and have CofC documentation provided to Building Advisory Services • setbacks between the Onsite Waste Water System (OSWS) and bore is not sufficient. Distance should be no less than 100m. Uncertainty as to the setback of the OSWS from bores on lot 3182 and future bores on Lot 3930 • EH suspects the rain water may be topped up by water sourced from the onsite bore

	<ul style="list-style-type: none"> • a greasetrap is required for the kitchen to be used for commercial purposes • any upgrade of the OSWS must meet the requirements of the Code of Practise • may be necessary to treat waste to a secondary level • any vehicle used to truck water from the community bore would need to be registered as a transport vehicle under the Food Act
<p>Department of Environment and Natural Resources (Attachment C05)</p>	<ul style="list-style-type: none"> • initial comment was made on the basis that there was no bore on site • whilst the statement of effect noted that the development would source rainwater it was considered that the expansion would increase reliance on the community bore • advised to ensure potability of the communal bore

6. CONCLUSION

This report provides a summary of the proposal and the key themes raised by submitters during the public exhibition of the proposal. It has been made available to the applicant and the submitters to inform the hearing. Section 22(3) of the Act requires that the hearing must be conducted with minimum of formality and in a manner that ensures procedural fairness. The issues raised at the hearing will be collated and included in the written report from the Commission to the Minister to inform a decision on whether to grant an exceptional development permit for the proposal.