

<b>Technical Report</b>			
<b>Application No:</b>	<b>PA19/1009</b>		
<b>Lodgement Date:</b>	<b>04/10/2019</b>	<b>DAU Date:</b>	
<b>Address:</b>	<b>15 Covenant Lane, Byford</b>		
<b>Proposal:</b>	<b>Amendment to Approval – Tavern</b>		
<b>Land Use:</b>	<b>Tavern</b>	<b>Permissibility:</b>	<b>See assessment</b>
<b>Owner:</b>	<b>Byford Bare Super Pty Ltd</b>		
<b>Applicant:</b>	<b>Mackay Urban Design</b>		
<b>Zoning:</b>	<b>Urban Development</b>	<b>Density Code:</b>	<b>N/A</b>
<b>Delegation Type:</b>	<b>12.1.1</b>	<b>Officer:</b>	<b>Heather O'Brien</b>
<b>Site Inspection:</b>	<b>Yes</b>		
<b>Advertising:</b>			
<b>Outstanding Internal Referrals:</b>	<b>No</b>		
<b>External Referrals:</b>	<b>No</b>		
<b>Within a Bushfire Prone Area:</b>	<b>Yes</b>		

### **Introduction:**

On 4 October 2019, the Shire received a development application that seeks to amend the development approval for the Glades Village Centre development. This amendment is to add a new use of 'Tavern' to the existing 'Restaurant' use known as The Strand Lakeside Café.

Approval would allow the operators to apply for a Tavern liquor license, the service of liquor without food being the primary difference between the two land uses.

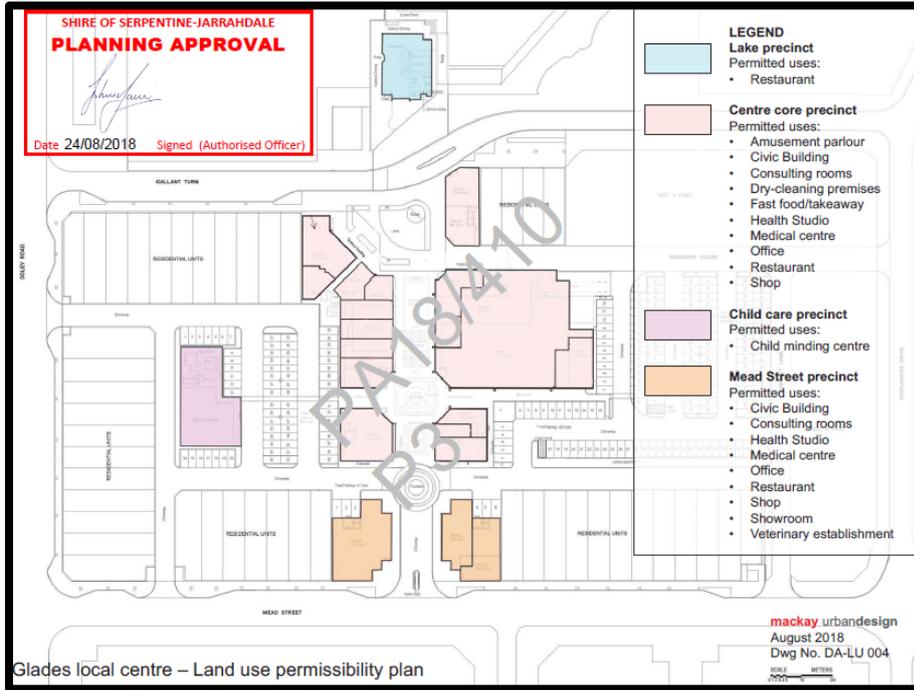
Following assessment in accordance with Shire of Serpentine Jarrahdale Town Planning Scheme No. 2, the application is recommended for approval.

### **Background:**

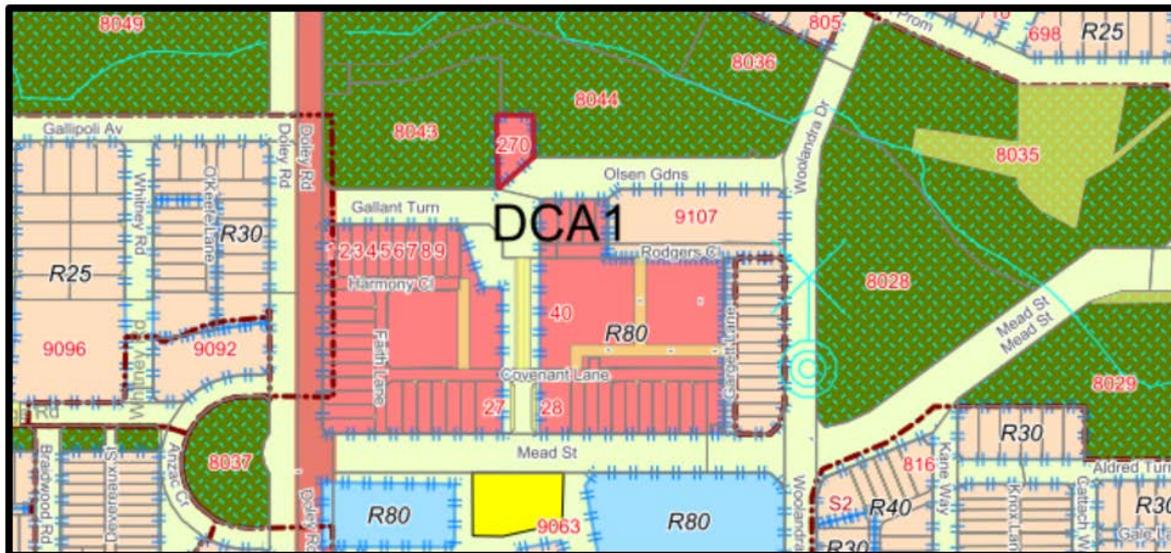
#### Existing Development:

The Glades Village Centre was approved under delegated authority on 29 August 2016 with approved land uses including 'Restaurant' (The Strand Lakeside Café), 'Child Minding Centre' (Nido) and 'Shop' (all other tenancies). As the site is zoned 'Urban Development' under TPS2, changes to any of these land uses required development approval.

On 24 August 2018, under delegated authority, the Shire approved a development application to allow for various uses across the site. This approval allows for tenancies to be changed to specific land uses without the requirement of development approval. The permitted land uses are shown on the plan below. Tavern is not one of those uses, and requires consideration in accordance with the prevailing planning framework to determine whether it should be permitted.



The subject site is established as The Strand Lakeside Cafe ('Restaurant'), in accordance with the above approvals. The development is a standalone building located on the northern side of Olsen Gardens and surrounded by a lake and Public Open Space.



**Figure 1 – Location Plan**

Proposed Development/Site Context:

The proposal seeks approval for a 'Tavern' land use in addition to the existing 'Restaurant' land use. This would allow the operators to apply for a Tavern liquor license which permits the sale and consumption of liquor without food.

**Community / Stakeholder Consultation:**

Advertising was carried out for a period of 21 days, from 14 November 2019 – 5 December 2019. Letters were sent to 14 surrounding landowners however, no submissions were received.

**Statutory Environment:**

- *Planning and Development Act 2005*
- *Planning and Development (Local Planning Schemes) Regulations 2015*

State Government Policies

- Metropolitan Region Scheme
- Draft South Metropolitan Peel Sub-Regional Framework Towards Perth and Peel 3.5 Million

Local Planning Framework

- Shire of Serpentine Jarrahdale Town Planning Scheme No.2
- Byford Structure Plan
- Byford Main Precinct (Glades) Local Structure Plan
- Local Planning Policy 3.6 – The Glades Village Centre Design Guidelines
- Draft Local Planning Scheme No.3

**Planning Assessment:**

A comprehensive assessment has been undertaken in accordance with section 67 of the Planning and Development Regulations 2015, the assessment can be viewed as part of the attachment.

Land Use:

'Tavern' is defined under TPS2 as *"land and buildings the subject of a Tavern Licence granted under the provisions of the Liquor Act, 1970 (as amended)"*.

The site is zoned 'Urban Development' under the Shire's Town Planning Scheme No. 2 (TPS2), and has its land use and development objectives framed through the associated Structure Plan and Local Planning Policy.

The Glades (Main Precinct) Local Structure Plan designates the site as 'Village Centre'. The Structure Plan states that the provisions, standards and requirements for this designation are to be in accordance with a Glades Village Centre Local Planning Policy (LPP3.6).

LPP3.6 states that the preferred land use is 'Restaurant' however, other land uses can be considered in accordance with the land use requirements and permissibility of the 'Commercial' zone in accordance with TPS2.

Under Table 1 – Zoning Table of TPS2 the land use of 'Tavern' is an 'SA' use in the 'Commercial' zone which means *"Council may, at its discretion, permit the use after notice of the application has been given in accordance with Clause 64 of the Deemed Provisions"*.

Orderly and Proper Planning:

Byford Structure Plan

The subject site is identified as a Neighbourhood Centre' under the Byford Structure Plan and sets out that a Local Structure Plan should be prepared for this area. The proposal is considered consistent with this plan.

Glades (Main Precinct) Local Structure Plan (LSP)

The objectives of the Structure Plan include to *“Provide a vibrant and active Village Centre, in accordance with the Byford Structure Plan 2005 (as amended)”*. The function of the Village Centre is to provide retail convenience and a range of services to meet the daily needs of the residents in the locality. The intent of the Village Centre is to create a community focal point through a variety of land uses. As previously stated, the land use of 'Tavern' is one that can be considered for approval under the Structure Plan.

The Structure Plan contains an Urban Design Framework Plan that sets out land uses and urban form. This plan identifies the subject site as a landmark building for land uses such as Café/Restaurant/Shelter, however this does not prevent the consideration of other land uses.

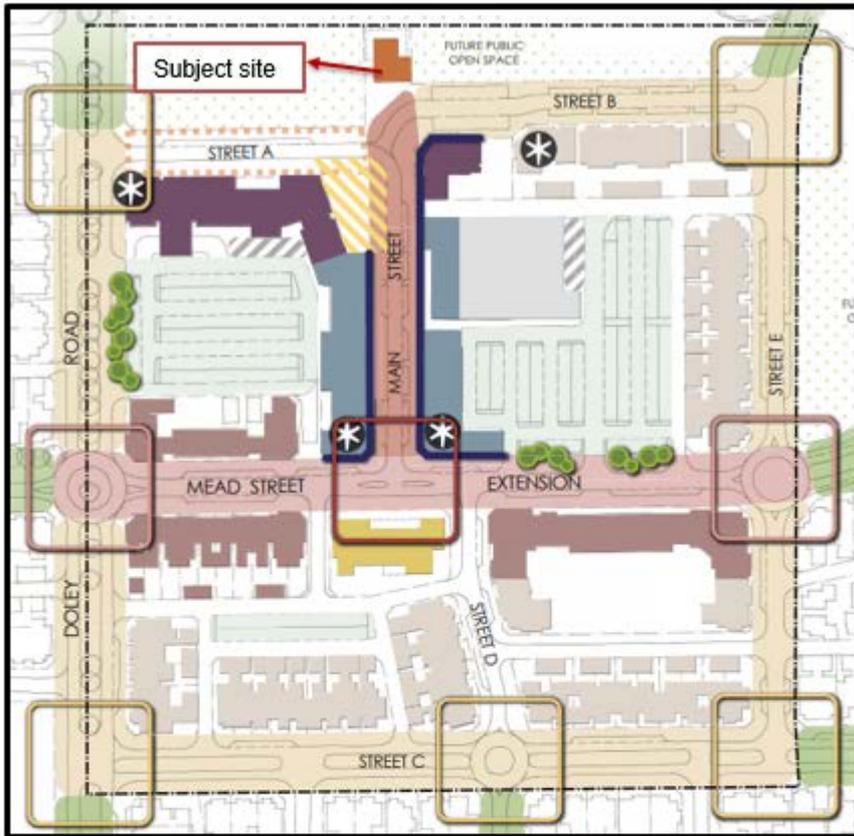


Figure 2 - Urban Design Framework Plan

LEGEND	
<b>Land Use</b>	
	Medium-High Density Residential Facilitating a diversity of higher density residential dwelling choices.
	Mixed Use Potential Key area for growth of commercial land use, including a mix of residential.
	Leisure and Commercial Taverns, cafes and restaurants, and some offices, overlooking public spaces.
	Civic Building Hall/activity and meeting rooms/Post Office
	Landmark Parkside Building Cafe/Restaurant/Shop
	Focal grip for supermarket and specialty retail shops, including potential for upper-floor residential.
	Supermarket Site
	Key Service Area Screened, well-maintained

Notwithstanding the Urban Design Framework Plan not designating the site for 'Tavern', the overall intent of the structure plan was to include this land use as indicated within the 'Leisure and Commercial' area of the plan.

The two areas intended for uses such as a tavern, as indicated on the above plan, have approval for alternative land uses. The area to the west has been subdivided for residential development and the area to the south is currently being developed as a Child Play Centre.

Schedule 2 Part 4 clause 27 (1) of the *Planning and Development (Local Planning Schemes) Regulations 2015* states that "A decision-maker for an application for development approval or subdivision approval in an area that is covered by a structure plan that has been approved by the Commission is to have due regard to, but is not bound by, the structure plan when deciding the application". This allows for discretion to be exercised to depart from an approved Structure Plan. Furthermore, the Urban Design Framework Plan is a tool to provide guidance

to ensure the Village Centre contains a variety of land uses and that these are located in a suitable location to ensure a good urban design outcome.

It is considered that in this case, permitting the tavern use as part of the existing restaurant use would not be contrary to the objectives of the Structure Plan or the principles of good urban design. The tavern is considered to contribute towards the mixed range of land uses within the Village Centre and results in a vibrant community space. With regard to social impacts, it is considered that having the tavern land use furthest from the residential properties and Child Play Centre would result in a preferred outcome.

The Structure Plan allocates floor space for retail and commercial tenancies. One tenancy is allocated for 'Tavern' with a floor space of 1500m<sup>2</sup>. The subject building is located on a lot measuring 698m<sup>2</sup> with a building floor space of approximately 300m<sup>2</sup>, significantly less than is allocated for under the Structure Plan. This helps to moderate the size, scale, intensity and thus overall impact of the proposed development.

#### Local Planning Policy 3.6 - The Glades Village Centre Design Guidelines (LPP3.6)

LPP3.6 was prepared to co-ordinate development within the Village Centre and prescribes built form and streetscape outcomes to ensure a vibrant and community focused centre. The subject site is considered to have been developed generally in accordance with LPP3.6.

Clause 8.1 of LPP3.6 sets out preferred land uses and designates the preferred land use for the subject site as 'Restaurant', with the possible addition of 'Exhibition Centre' or 'Shop' land uses being complementary or incidental to the primary use. As outlined as part of the assessment against the Structure Plan, it is considered that the land use is consistent with the overall objectives of the Village Centre. The overall intent of land use designation under LPP3.6 is to "*achieve an integrated mixed-use Village Centre that provides for a range of uses and activities....*". The subject application is considered to be consistent with this intent under the policy.

LPP3.6 also identifies that a tavern is proposed. As the area designated for a tavern under LPP3.6 has already been earmarked for other land uses, it is considered the change in the location in this instance is acceptable. It is separated to the north from the centre itself, and helps to also focus activity within a contained space away from residential areas.

#### Car Parking:

Table V of TPS2 sets out the car parking requirements for different land uses within the Scheme area. A 'Restaurant' land use is required to provide 1 space per 4 persons accommodated. A 'Tavern' is required to provide 1 space per 2m<sup>2</sup> of bar and lounge area. It is worth noting that LPP3.6 acknowledges the parking requirements under TPS2 are based on isolated development and do not consider any reduction to the parking demands as a result of cross-visitation between land uses or reduced car dependency due to public transport provision. LPP3.6 also states that "*it is detrimental to the amenity of the village centre to provide an over-supply of parking that affects the urban form*".

The Strand Lakeside Cafe currently has a maximum occupancy of 190 persons as a public building, which translates to a requirement of 47.5 car parking bays as a 'Restaurant' land use. The Strand Lakeside Cafe has a lounge and bar area measuring approximately 30m<sup>2</sup> with a dining area of 98m<sup>2</sup>. Based on the bar and lounge area, this would translate to a requirement of 15 car parking bays for a 'Tavern' land use. Given the parking requirement is less under TPS2 for a Tavern land use, the change of use is not considered likely to result in any additional need for parking and would be acceptable in this regard.

It should be noted that draft Local Planning Scheme No.3 (LPS3) requires a 'Tavern' to provide 1 bay per 4m<sup>2</sup> of dining, drinking and/or lounge areas and 1 bay per 4m<sup>2</sup> of public assembly areas. This equates to a requirement of approximately 45 parking bays.

LPP3.6 states that parking provisions for the Village Centre should allow for reciprocal use of parking facilities between different land uses. Parking for the subject site should be shared across the site as has been developed. The proposed change of use would not alter the existing car parking provision to serve the Village Centre and is therefore considered acceptable.

Further to this, the Village Centre has been developed with 237 bays, 17 more than the original condition of planning approval for the centre required. Looking more specifically at utilisation, a recent parking utilisation study showed levels to be very low – generally between 20% and 30%, which suggests that the centre is either significantly over provided with parking bays or it is undertrading, or a combination of the above. As a benchmark, the globally accepted optimal parking utilisation is 85% of bays. Specifically, at no point during the week were there fewer than 214 vacant car bays in or immediately adjacent to the centre. At no point during the weekend were there fewer than 234 vacant car bays in or immediately adjacent to the centre. The parking demand for the centre as a whole was marginally greater on a weekday than a weekend, with peak utilisation on a weekday recorded at 30.74% compared to peak utilisation on the Saturday of 24.7%. This can be explained by the relatively high proportion of non-retail uses in the centre that act to smooth out the weekend retail peak associated with retail-only centres.

Based on this, car parking is not considered to be an issue for the proposed land use addition.

#### Amenity and Social Impacts:

The proposed change of use would permit the consumption of alcohol without a meal. Given the development currently includes outdoor seating areas, this has potential to result in an increased generation of noise. The subject development is located in a designated 'commercial' precinct where these types of developments are expected to occur.

Officers are satisfied that the issue of noise can be managed through the *Environmental Protection (Noise) Regulations 1997* and will recommend an advice note that ensures the operator is aware that noise requires monitoring. Management of noise can be further considered through the Section 39 application for a liquor licence by the Shire's Health Services.

In acknowledging that the subject premises already sells liquor and has a licence for such, this is limited to the service of liquor with meals. Approval of this application will allow the operator to seek a liquor licence for the serving of liquor without food. It is widely viewed that the availability of liquor in a high-risk manner has the potential to contribute to adverse social impacts within a community. Furthermore, Schedule 2, Part 9 Clause 67 (n) (iii) requires the Shire to consider social impacts of a development, and if such manifest themselves as detrimental impacts on amenity. In this regard, it is also important to consider whether the land use is compatible with land uses in the surrounding area, noting that Council recently approved a development for a Child Play Centre at Lots 41 – 45 Olsen Gardens, opposite the subject site.

To be able to address public impact it is important to consider how the tavern would be operated including the following:

- How the licenced premises will operate;

- Hours of operation;
- Marketing and pricing of liquor;
- External advertising and signage;
- Information about the cumulative impact of nearby licenced premises; and
- Information about sensitive land uses in the vicinity (e.g. schools, youth centres, health care facilities etc.).

The applicant has provided information to demonstrate that the operations of the tavern will be conducted in a manner that is considered to not adversely impact upon the residents in the locality. It is worth noting that the proposal was advertised to landowners within the vicinity and no objections were received.

The applicant has advised that no changes are proposed to the current operations of the facility albeit the ability to consume alcohol without purchasing a meal. It is advised that approval of the application and the licence would allow the operator to better cater for occasional functions contributing towards a community environment. The hours of operation are set to remain as present from 8:00am – 10:00pm daily while the service of alcohol without a meal would be restricted to 11:00am – 10:00pm.

The premises will continue to be run as a food based business showcasing local products and all promotions would refer to the business as a 'café' rather than a bar or tavern. No further signage is proposed promoting the sale of alcohol and branding is to remain.

As part of the information provided, the applicant has including the following as nearby sensitive premises:

- a children's day-care centre (140m);
- a health centre (130m);
- Woodlands Grove primary school (820m);
- Salvado Catholic College (980m);
- Byford Secondary College (1800m); and
- SJ Community recreation centre (1400m)

The nearest facility is the health centre which is considered to have no direct relationship to the Strand Lakeside Café. The applicant considers that the proximity of the schools are far enough away for the proposal to not result in an incompatible land use. Regardless, sale of alcohol is required to be in accordance with the relevant regulations and principles of responsible sale.

It is considered that due to the main entrance to the Child Play Centre being opposite the subject site, on Rodgers Close, it will reduce active connectivity between the two land uses. In addition, the operation of the Child Play Centre is restricted to 11:00am – 5:00pm Monday to Friday and 11:00am – 7:00pm on weekends and public holidays. It is therefore considered that the location of the tavern would not be incompatible with this land use.

It is considered that social impacts can be appropriately managed through the operation of the business and planning conditions. It is recommended, that a condition is imposed to ensure that consumption of alcohol is undertaken on the premises and no retail sale for consumption off the premises is allowed to ensure the amenity of the area is maintained. This is considered to result in there being no adverse social impacts in the locality.

**Options and Implications:**

With regard to the determination of the application for planning approval under Town Planning Scheme No. 2, DAU has the following options:

Option 1: DAU may resolve to approve the application subject to conditions.

Option 2: DAU may resolve to approve the application unconditionally.

Option 3: DAU may resolve to refuse the application subject to reasons.

Option 1 is recommended

**Conclusion:**

The proposal would allow for an additional permitted use within the Glades Village Centre development, allowing for the land use of 'Tavern' at The Strand Lakeside Café, currently a 'Restaurant'. The primary difference will be the ability to serve alcohol without a meal. It is considered that the proposal is consistent with the objectives of the planning framework and would not adversely impact on the character or amenity of the area, subject to conditions.

Deemed Provisions – Cl 67 Matters to be considered by local Government

a) The aims and provisions of this Scheme and any other local planning scheme operating within the area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: The proposed development is considered to be consistent with the aims and provisions of TPS2. The site is zoned 'Urban Development' the objectives of which are facilitated through structure plans.</b>			
b) The requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> or any other proposed planning instrument that the local government is seriously considering adopting or approving	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: The proposed development is considered to be consistent with the aims and provisions of draft LPS3. The subject site is zoned 'Local Centre' under LPS3. A 'Tavern' land use is discretionary in this zone subject to advertising.</b> <b>The objectives of this zone are as follows:</b> <ul style="list-style-type: none"> <li>• Provide services for the immediate neighbourhoods that are easily accessible, which do not adversely impact on adjoining residential areas.</li> <li>• Provide for neighbourhood and local centres to focus on the main daily household shopping and community needs.</li> <li>• Encourage high quality, pedestrian-friendly, street-orientated development.</li> <li>• Provide a focus for medium density housing.</li> <li>• Ensure the design and landscaping of development provides a high standard of safety, convenience and amenity and contributes towards a sense of place and community</li> </ul> <b>These objectives are consistent with those in the existing structure plan and local planning policy. The proposal is considered to contribute to the mixed range of uses and vibrancy of the Village Centre, consistent with the objectives under LPS3.</b>			
c) any approved State planning policy	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment: The property is within a designated bushfire prone area but considering the built form is established and no amendments to this are proposed, compliance with SPP3.7 is not required.</b>			
d) any environmental protection policy approved under the <i>Environmental Protection Act 1986</i> section 31(d) – <b>None</b> <b>Applicable to this area from what I can determine</b>	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
e) any policy of the Commission	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
f) any policy of the State	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
g) any local planning policy for the Scheme area	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>

<b>Comment: Local Planning Policy 45 – Glades Village Centre – The proposal is considered generally consistent and allows for discretion to be exercised in relation to the ‘Tavern’ land use.</b>			
h) any structure plan, activity centre plan or local development plan that relates to the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: The proposed development is considered to be generally consistent with the intent of the Byford Structure Plan and the Byford Main Precinct Local Structure Plan.</b>			
i) any report of the review of the local planning scheme that has been published under the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment:</b>			
j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
k) the built heritage conservation of any place that is of cultural significance	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
l) the effect of the proposal on the cultural heritage significance of the area in which the development is located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: The proposed development does not involve any alterations to the existing established built form and is considered to be compatible with surrounding development.</b>			
n) the amenity of the locality including the following – I. Environmental impacts of the development II. The character of the locality III. Social impacts of the development	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bushfire, soil erosion, land degradation or any other risk	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>

<b>Comment:</b>			
r) the suitability of the land for the development taking into account the possible risk to human health or safety	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
s) the adequacy of – I. The proposed means of access to and egress from the site; and II. Arrangements for the loading, unloading, manoeuvring and parking of vehicles	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: The proposed development is not considered to require any further parking provision beyond what has already been established as part of the broader development.</b>			
t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity off the road system in the locality and the probable effect on traffic flow and safety	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: The proposed change of use is not considered likely to result in any significant increase in traffic volumes.</b>			
u) the availability and adequacy for the development of the following – I. Public transport services II. Public utility services III. Storage, management and collection of waste IV. Access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities) V. Access by older people and people with disability	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
v) the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
w) the history of the site where the development is to be located	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			
y) any submissions received on the application	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	N/A <input type="checkbox"/>
<b>Comment: The application was advertised for 21 days, during which time no objections were received.</b>			
Za) the comments or submissions received from any authority consulted under clause 66	YES <input type="checkbox"/>	NO <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
<b>Comment:</b>			

Zb) any other planning consideration the local government considers appropriate	<b>YES</b> <input type="checkbox"/>	<b>NO</b> <input type="checkbox"/>	<b>N/A</b> <input checked="" type="checkbox"/>
<b>Comment:</b>			