

Please Quote  
Council Ref: GS4/96/135  
Your Ref No: MP06\_0258  
For Enquiries  
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Casuarina Town Centre  
Submission (2) (2)

3 October 2008

NSW Department of Planning  
Coastal Assessments  
Att: Nathan Wort  
GPO Box 39

### **Sydney NSW 2001**

Dear Nathan

### **Council Submission on Major Project Application MP06\_0258 - Concept Plan and Project Application for Casuarina Town Centre, Casuarina Beach**

Reference is made to the abovementioned major project application currently on public exhibition.

As indicated to the Department and the applicant several times previously, the Council is not supportive of the proposed concept plan layout and project application for the reasons outlined below.

#### **Subject Site – Owners Consent**

Part of the development area (Lot 13 on DP1014470) is owned by Tweed Shire Council, and the applicant is seeking concurrence of Council to include this parcel in the application.

Council's records do not indicate that owner's consent has been provided for Lot 13.

It is not considered appropriate for the Department to determine the EA without owners consent.

#### **Development Plan and Subsequent Concept Master Plans**

The Land and Environment Court approved a development layout and broad land use categories for the area known as Kings Beach (Consent No s96/135, 16/12/98) in 1998. This is reflected in the "Kings Beach Development Plan".

Subsequent development applications for subdivision of various stages of the Development Plan have included more detailed concept plans, including "Kings Beach Concept Master Plan" (included in the 1999 SEE for DA k99/1360 Kings Beach Stage 2 and subsequent stages of Casuarina Beach up to Stage 6).

These plans have consistently provided for:

- Open space to accommodate drainage and cycle / footpath connections through the site (provided in the easement discussed below);

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- Location of the retail facilities away from Tweed Coast Road;
- A greater length of esplanade road; and
- Provision of a sports centre with associated car parking and access to the adjacent active public open space area.

The proposed development is not consistent with these elements of the Development Plan and is not acceptable as discussed in greater detail below. Despite repeated requests, the applicant has not satisfactorily amended the proposal to reflect the original, accepted concept master plans.

### **Easement**

The easement (over Lot 223) is for drainage of water (registered on DP 1031933), drainage of sewerage and right of carriageway (registered on DP 1048494). Accordingly, a large drainage swale, a cycleway and linear open space, and sewerage infrastructure have been constructed within the easement.

The location and arrangement of this easement and the associated infrastructure is consistent with the "Kings Beach Development Plan" (contained in Court approval for Kings Beach development, s96/135, 16/12/98) and the developer's "Kings Beach Concept Master Plan" (included in the 1999 SEE for DA k99/1360 Kings Beach Stage 2 and subsequent DAs for stages of Casuarina Beach up to Stage 6). The easement provides a vital east-west link for both stormwater drainage and pedestrian/cycleway access between Tweed Coast Road and the beach front, as well as sewerage services for the entire northern Casuarina precinct.

Prior to the easement being created in an earlier stage of the Casuarina/Kings Beach development, the developer requested that the land tenure be an "easement" rather than a "reserve" because land levels could change along the southern boundary when the future Town Centre precinct was developed. Council agreed to this request as it was considered a more flexible land tenure arrangement if future optimisation of the southern boundary of the easement was required. It was never Council's understanding at that time that a future Town Centre proposal would seek the elimination of the easement.

The easement has not been included in the EA's Site Analysis, and the easement and its associated infrastructure have subsequently been deleted in the concept plan drawings. This is despite discussion in the EA relating to consultation with Council dating back into the 1990's, which enabled "the underlying principles of the development to be established and agreed at the start of the process" (including this easement), and for those approved plans referred to above to be compiled (which depict the easement area outside of the development footprint). The current proposal is a significant departure from these initial meetings. When the current proposal to delete the easement was discussed with Council officers in more recent consultation, the applicant was advised that there was no intention of releasing the easement. These discussions are not addressed in the EA.

### Stormwater Drainage

With respect to stormwater drainage, the applicant's consultant engineers propose to delete the east-west swale contained within the easement, and provide an alternate piped service on a different alignment. This is not an acceptable alternative to Council, as piped drainage systems have capacity constraints and blockage issues (particularly at inlets) that do not occur in open drainage systems of the kind currently provided in the easement. The east-west swale provides the crucial drainage link between the coastal swale, to which much of the Casuarina development drains and Cudgera Creek, the lawful point of discharge for the subdivision.

The swale also provides filtration and treatment of stormwater flows, and utilises the infiltration properties of the underlying sand to reduce downstream impacts of the development. Piped drains generally cannot provide these same opportunities. While the applicant may be able to demonstrate adequate alternative treatment systems at other locations within the development site, as Council does not intend to release the easement, this land should continue to be utilised in part as a drainage swale.

### Road Crossings of the Easement

With respect to the proposed Casuarina Way link (between Dianella Dr and Steelwood Ln) which needs to negotiate the existing easement, the approved Development Plan and concept master plan documents (see above) show a transverse (perpendicular) road crossing and the new road generally located through the centre of the town centre site. The proposed concept plan departs from this approved alignment, with the road located further west to maximise the size of the town centre development between the road and the beach front. On this alignment however the road runs longitudinally within the easement, which would make the provision of other services within the easement unfeasible. This issue was highlighted in the DGRs (21/3/07) as follows:

*PART B: Key issues to be addressed in the Project Application Environmental Assessment for Stage 1 works*

#### *3 Water Cycle Management & Watercourses*

- *Potential impacts of the proposal on stormwater within the drainage swale on site. (Note: Council state that Casuarina Way would cross this swale for 130m. This length should be minimised with measures proposed to ensure the ongoing effective management of stormwater).*

The applicant's response to this DGR is to delete the drainage swale, without acknowledging the existence of the easement. The road footprint as proposed is incompatible with the stormwater/access/ sewerage easement and must be relocated outside of the easement, and where crossing(s) of the easement are necessary, these should be designed as transverse crossings. This will significantly alter the concept plan arrangement and a complete redesign of the road/lot/landuse layout will be necessary.

### Cycleway / Pedestrian Links

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The easement provides for open space and pedestrian / cycleway infrastructure. In summary, the open space and pedestrian cycleway infrastructure are fundamental and essential links in the Casuarina Beach open space and movement network.

These links have always been recognised in the masterplanning of Casuarina/Kings Beach in the Land and Environment Court approved "Development Plan" and in subsequent concept plans lodged by the developer for further stages of the subdivision. This infrastructure has been in place for a number of years and is well used and valued by the current residents of Casuarina. Its removal (as required by this proposal) would represent a substantial loss of amenity and public benefit for the Casuarina community.

This east/west open space/movement corridor has also been seen as part of the regional connection from the Kings Forest urban release area (to the west of Casuarina) to the Coastline.

The preservation of the easement for drainage of water for the reasons discussed above would ensure that movement networks remain in their current location and continue to provide their current level of service.

Further detailed discussion of the impacts of the proposal on the cycleway and open space networks are discussed below.

Given the important stormwater and cycleway / pedestrian functions provided by the easement, Council is not likely to agree to its extinguishment. Please refer to attached advice provided by a submitter in relation to consent required for extinguishment.

### **Roads and Traffic Movements**

The partial deletion of the Esplanade Road is not supported. The road should be constructed as per the Court approved Development Plan. Suitable traffic control devices can be designed to control speed. Interconnectivity of streets is current urban design best practice and should be provided as shown in the Development Plan and subsequent concept master plans. Greater length of the esplanade road is required to maximise public benefit, through increased access to the beach.

### **Cycleway**

The existing cycleway and pedestrian path is part of an important pedestrian and cycleway loop extending from the Coastline Cycleway at Casuarina Central Park (Pirie Lane), through the Casuarina Sportsfields and returning to the Coastline Cycleway via the above easement (see map below).



The cycleway has been redirected through the proposed town centre. This relocation is unacceptable and will result in a less desirable outcome due to the following:

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- Filtering through the road system offers a reduced recreation experience and reduces the cycleway's amenity and functionality.
- Crossing what is apparently private open space (area marked as 'future precinct development') is unacceptable and provides no certainty of public accessibility.
- Usability for cyclists is decreased as potential safety issues associated with traffic are increased.

### **Sportsfield Access and Associated Car Park**

The Kings Beach concept master plans (including that dated September 1999), identified proposed location of carparking, access and a community sports centre adjacent to the sports fields.

The original proposed location of the community sports centre provided a separation between carparking (for the sports centre and ovals) and the residence. This has less impact on resident's amenity than the existing temporary car parking arrangements. Council regularly receives complaints from residents (adjoining the current access point and car park) in relation to vehicles and associated noise.

The current proposal removes the community sports centre altogether. Not only does the community lose an expected public benefit provided through the originally proposed community sports centre, but residents had an expectation that the current access and parking arrangements were temporary and the ultimate scenario (reflected in the concept master plans) would be developed.

### **Proposed Retail and Supermarket**

#### Location

The proposed location of the supermarket adjacent to Tweed Coast Road is not supported. It is inconsistent with the previously approved Development Plan and subsequent concept master plans. The location of the supermarket adjacent to Tweed Coast Road, together with associated signage, lighting and commercial activity, will significantly detract from the existing character of Tweed Coast Road.

#### Trade Area

The proposed size (and demand) for the supermarket has been justified by identification of a trade area extending as far south as Pottsville (refer Attachment 8 of the EA, Socio- Economic Impact prepared by Conics).

The Conics report identifies a Primary Trade Area (PTA) which includes Kings Forest, Seaside City, Casuarina Beach, Salt and Cabarita Beach / Bogangar. The Secondary Trade Area (STA) extends south and includes Hastings Point and Pottsville.

#### *Primary Trade Area*

The Conics report justifies inclusion of Kings Forest in the PTA with reference to correspondence from Leda (the current developer of Kings Forest) who advise they do not intend to develop a full line supermarket (despite the future estimated population at Kings Forest is 10,000, which is large enough to support its own supermarket).

Inclusion of Kings Forest within the primary trade area is not considered to be appropriate. Despite correspondence provided from Leda, there is no certainty that the developer will not propose a full line supermarket in the future. More importantly however, failure to provide a supermarket in Kings Forest will reduce the ability for provision of walkable, self-contained neighbourhood design within Kings Forest, consistent with best practice planning and urban design (refer to section A5.4 of DCP A5 outlining desirable urban structure). This is also contrary to the Council's Retail Strategy.

### *Secondary Trade Area*

The Conics report states that the proposal will "borrow" from the Pottsville trade area (in the STA) until such time as the demand allows for development of a second supermarket on the Tweed Coast in the future.

The Conics report identifies that Casuarina is considered to be the most appropriate location for the first full-line supermarket on the coast, as the PTA contains the majority of the population. This argument is considered to be flawed as population figures provided in Table 4.1 do not include tourist population for the STA, only those for the PTA. If a comparison is to be made of population in the STA and the PTA, they should both include tourist population.

It is considered that failure to include tourist population in the STA and inclusion of Kings Forest in the PTA has skewed the basis for justifying Casuarina as the appropriate location for the first full-line supermarket.

Furthermore, it is not considered that 'borrowing' from the Pottsville trade area is appropriate as it may hinder the outcomes intended by the Council's Retail Strategy, to promote walkability and protect vibrant coastal villages, which are limited to chore based shopping functions.

### **Conclusion**

Due to the Council opposition to the fundamental elements of the proposed Concept Plan layout and Project application and given that Council has raised the abovementioned issues with the applicant and the Department repeatedly (prior to lodgement and at adequacy stage), Council considers that the Department should refuse the Concept Plan. As such, detailed assessment of the following matters will not be undertaken until Council is in receipt of an acceptable amended concept plan layout.

- Stormwater management,
- Acid sulphate soils and aquifer resource,
- Contaminated land and fill,
- Remediation,
- Land use definitions (beach retailing),

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- Impacts on residential amenity including, impacts from noise, lighting, car parking, waste management, hours of construction, signage, clinical waste, food, footpath trading, road traffic noise, water quality management plan,
- Construction management plan and earthworks management plan,
- Proposed intersection design at Tweed Coast Road and the boulevard and related pedestrian safety issues,
- TRCP contributions;
- Landscaping;
- Compliance with Council's LEP, DCP and relevant policies;
- Signage; and
- Urban design.

Should you have any enquiries in relation to the above, please contact Rowena Michel of Council's Development Assessment Unit on (02) 6670 2468.

Yours faithfully,

**Rowena Michel**  
Senior Planner