

ADDENDUM

REPORTS THROUGH THE GENERAL MANAGER

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

a26 [PR-CM] Class 1 Appeal in Relation to DA11/0456 for Additions to Existing Manufactured Home Estate Including 32 New Manufactured Home Sites, Recreation Area, Visitor Parking and Extension of Internal Road and Revegetation Work at Lot 193 DP 1014329 No. 34 Monarch Drive, Kingscliff

SUBMITTED BY: Development Assessment

FILE NUMBER: DA11/0456 Pt4



Civic Leadership

SUMMARY OF REPORT:

At its meeting on 25 October 2012, Council refused Development Application DA11/0456 for additions to an existing manufactured home estate including 32 new manufactured home sites, recreation area, visitor parking and an extension of an internal road and revegetation work at Lot 193 DP1014329, 34 Monarch Drive, Kingscliff.

Council has been served notice of a Class 1 Appeal against Council's determination in the NSW Land and Environment Court. A telephone directions hearing has been set down for Friday 12 April 2013 and it is requested that Council's position on defending the Appeal be determined to enable engagement of solicitors and consultants.

RECOMMENDATION:

That Council in respect of its decision to refuse DA11/0456 for additions to an existing manufactured home estate at Lot 193 DP1014329, 34 Monarch Drive, Kingscliff, determines to either:

- 1. Engage its solicitors to negotiate Consent Orders for the proposed additional 32 manufactured home sites; or**
- 2. Engage its solicitors to defend the refusal of the proposed additional 32 manufactured home sites.**

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REPORT:

The proposed development (DA11/0456) is for the addition of 32 new manufactured home sites located on the northern side of the on-site lake/artificial waterbody. Each new home is proposed to be constructed off-site and transported and installed on the property. Each manufactured home will contain two bedrooms and a study or media room as well as a garage.

The proposal also comprises an internal road from Monarch Drive, recreation area, additional car parking, and emergency access point from Tweed Coast Road, an acoustic fence located adjacent to Tweed Coast Road and revegetation/compensatory habitat.

The proposed additional dwellings will use this access and continue through the existing internal road network, from Les Noble Drive along the north-west boundary and the northern perimeter of the lake.

The proposal includes filling and retaining walls around the north and western boundary of the lake to support the internal access road and to achieve a flat surface for dwelling platforms. Fill height ranges from approximately 2m to approximately 3m.

Each of the 32 manufactured dwellings will be partially cantilevered over the existing lake and in part supported by fill material, retaining walls and pier structures. The fill is required for dwellings to achieve Council's design flood level of 3.2m AHD and minimum habitable floor level of 3.7m AHD. The fill is to be supported by retaining walls 2.9m in height above the water line (with approximately 1.4m of retaining wall remaining below the water line), with the pier foundations located in the lake itself.

The site is described as Lot 193 DP1014329 and is located at 34 Monarch Drive, Kingscliff. It has an area of approximately 21.9 hectares and includes a large artificial lake on the northern portion of the site.

The site is relatively flat, with the land adjacent to the northern boundary at approximately RL 1.7m AHD with the site sloping down towards the lake to approximately RL 0.70m AHD.

The allotment is currently improved with 254 existing manufactured homes, an existing community building, internal roads, services and a recreational hall.

The development application was notified and advertised for a period of 30 days, during which time approximately 130 submissions were received.

Council officers submitted a report to Council's meeting of 25 October 2012 recommending approval of DA11/0456, subject to conditions. At this meeting Council resolved to refuse the application based on the following reasons:

1. In accordance with Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979 the proposed development is considered to have a detrimental impact on the natural and built environment and detrimental social and economic impacts in the locality as the development will result in:
 - Loss of visual amenity for existing residents in the development because of loss of vegetation and change of view to urban environment;
 - Loss of amenity for existing residents due to loss of access to the nature walk;
 - Loss of amenity for existing residents due to increased noise from the proposed residences affecting the open space on the southern side of the lake;

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- Loss of visual amenity to adjoining properties due to the impact of the proposed fill, retaining walls and noise attenuation fencing;
 - There is insufficient information to demonstrate that the development will not have a negative impact on flooding affecting neighbouring properties; and
 - The noise level impact assessment indicates noise from the adjacent trotting track will exceed background noise levels.
2. Pursuant to Section 79C (1)(c) of the Environmental Planning and Assessment Act 1979 the site is not considered suitable for the proposed development for the following reasons:
- The proposed development will have a negative impact on the natural environment as the site is of ecological significance as part of a regional wildlife corridor and in providing habitat for wading birds and other wetland species, a number of which are listed as threatened on the Schedules of the Threatened Species Conservation Act 1995 and significant parts of the existing vegetation is proposed to be removed.
 - A geotechnical report addressing the potential impacts of the development has not provided certainty that the site is suitable for the development.
 - The design of the internal road as a combined road and walkway will adversely affect the safety and amenity of all residents.
 - The development requires excessive fill and alteration to the natural landform and the proposed cantilevered buildings overshadowing the lake which demonstrates that the proposal is an overdevelopment of the site.

OPTIONS

1. Negotiate Consent Orders; or
2. Defend the Appeal.

Council officers recommend Option 1.

COUNCIL IMPLICATIONS:

a. Policy:

Corporate Policy Not Applicable.

b. Budget/Long Term Financial Plan:

Not Applicable.

c. Legal:

Council will be required to engage legal representation regarding the Appeal. As Council staff recommended approval for the application it will also be necessary to engage planning, ecological and engineering consultants to be expert witnesses on behalf of Council if it is resolved to defend the Appeal. Considerable legal costs will be incurred as a result of the Appeal.

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d. Communication/Engagement:

Not Applicable.

LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 1 Civic Leadership
- 1.1 Ensure actions taken and decisions reached are based on the principles of sustainability
- 1.1.1 Establish sustainability as a basis of shire planning and Council's own business operations
- 1.1.1.3 Assessment of new developments (Development Assessment unit)

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.
