

MAJOR PROJECT ASSESSMENT:

CASUARINA TOWN CENTRE

Lot 144 DP 1030322, Lot 3 DP 1042119, Lot 13 DP 1014470, and Part Lot 223 DP 1048494 TWEED COAST ROAD, CASUARINA BEACH

Proposed by KINGS BEACH (NO.2) PTY LTD

Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979

August 2009



Casuarina Town Centre Site – Tweed Coast Road, Casuarina Beach
(source: Environmental Assessment)

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EXECUTIVE SUMMARY

This report is a concept plan application and concurrent Stage 1 project application proposed by Kings Beach (No.2) Pty Ltd (the proponent) for the Casuarina town centre at Tweed Coast Road, Casuarina Beach (Lot 144 DP 1030322; Lot 3 DP 1042119; Lot 13 DP 1014470; and, part Lot 223 DP 1048494) (the proposal).

The Casuarina town centre is part of the Casuarina Beach master planned community which has been constructed across varying stages since 1999. The proposed town centre development will provide residents with retailing, commercial and community services in combination with low and medium density residential housing. The project in its entirety is proposed to be developed in four stages, with essential services being provided based on the needs of the community and population growth.

The proposed concept plan is generally in accordance with the approved Kings Beach Development Plan, which was prepared for the Casuarina Beach locality and granted consent by the NSW Land and Environment Court on 16 December 1998 (consent S96/135).

The **Concept Plan** application seeks approval for:

- the subdivision of land comprising low and medium density residential, commercial and mixed use lots;
- a retail centre incorporating a supermarket, restaurants and retail outlets;
- a hotel;
- associated road network and car parking;
- services; and
- landscaping works.

The concurrent **Stage 1 project application** seeks approval for:

- bulk earthworks and vegetation clearing;
- the subdivision of land into 61 allotments of varying sizes and uses;
- construction of a 2500m² supermarket and 1160m² of retail shops;
- construction of the road network and car parking;
- landscaping works; and
- works to connect to reticulated services (water, sewerage, telecommunications).

The estimated capital investment value of the concept plan is \$386,000,000 and \$26,630,000 for the stage 1 project application. The proposal is expected to create 250 full-time equivalent construction jobs and 250 full-time equivalent operational jobs.

The Environmental Assessment for the proposal was publicly exhibited at four exhibition locations and on the Department's website for a period of 34 days. Throughout the public exhibition period, the Department received a total of 404 submissions. Of these, eight submissions were received from public authorities and 396 submissions were received from the general public. The submissions received from the public included 140 which were supportive of the proposal and 59 objections. The remaining 197 submissions were generally supportive, however objected to certain aspects of the development. Approximately 270 of the public submissions received were form letters.

Key issues that were considered in the Departments assessment of the proposal included:

- filling of the drainage easement and the associated impacts on stormwater drainage, public open space, the existing vegetation, and public amenity;
- the location and quantity of floor space associated with the proposed supermarket;
- the road network and car parking provisions;
- consistency with previous development plans;
- earthworks and contamination;
- flora and fauna; and
- public facilities.

The Department has assessed the merits of the proposal and is satisfied that the impacts of the proposed development have been addressed via the proponent's Statement of Commitments, modifications to the concept plan, and the recommended conditions of approval. The Department is satisfied that the site is suitable for the proposed development and will provide the following environmental, social, and economic benefits to both the future residents of the town centre and the wider Casuarina Beach community:

- a core retail centre containing a supermarket, retail shops and restaurants for the benefit of existing and future town centre residents;
- a variety of low and medium density housing options;
- accommodation options to attract tourism to the region;
- a substantial amount of dedicated public open space with public facilities;
- improved public infrastructure including upgrades and extensions to the existing pedestrian cycleway network; and
- a maintained foreshore area with improved public access to Casuarina Beach.

The Department considers the development to provide a substantial benefit to both future and existing residents of Casuarina Beach and the Tweed local government area, and subsequently recommends that the project be approved, subject to modifications of the concept plan and conditions of project approval for stage 1.

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1.0 BACKGROUND

1.1 THE SITE

1.1.1 Site Context and Location

The subject site is located on Tweed Coast Road, Casuarina Beach on the New South Wales North Coast, approximately 4km north of Cabarita Beach and 5km south of Kingscliff (refer **Figures 1** and **2**). The site encompasses a total area of 26.2ha and is formally described as Lot 144 DP 1030322; Lot 3 DP 1042119; Lot 13 DP 1014470; and, part Lot 223 DP 1048494 within the Tweed local government area (Tweed LGA). The site is bound to the north and south by a combination of recently constructed low and medium density residential dwellings and tourist accommodation, known as Casuarina Northern and Central precincts respectively. Dianella Drive is situated to the north-west; the Casuarina Beach foreshore to the east; and Tweed Coast Road (formally Old Bogangar Road) to the west. Kings Beach (No. 2) Pty Ltd is the registered owner of the site. The development will require works within land owned by Tweed Shire Council (Council) on Lots 10 and 13 DP 1014470 in order to upgrade existing public facilities and undertake stormwater drainage works. The proponent has obtained land owners consent from Council to undertake the proposed works.



Figure 1: Site Location (source: Explore Australia Publishing)



Figure 2: Aerial view of Casuarina Beach (source: Google)

1.1.2 Existing Site Features

The subject site covers a total area of approximately 26.2ha and is located on a low lying coastal plain adjacent to the Casuarina Beach foreshore. Vegetation covers most of the site consisting of overgrown coastal shrub-land including Coastal Banksias; Coastal Tea-Trees; Wattles; and, Coastal Oaks. Extensive sand mining which was conducted throughout the 1960's and 1970's has assisted in the formation of the current topography and levelling of the site. A low ridge running north to south along the centre of the site – a result of intensive sand mining – has a maximum height of between 10-12m AHD.

The site contains an existing man-made drainage swale of approximately 36m wide and 2-3m in depth which runs in an east-west direction extending along part of the north-eastern boundary of the site before diverting to the south-west toward the adjoining area of public open space which is currently utilised for sporting and recreational uses. The swale is within a 36m wide easement which was established during bulk earthworks activities in 2001 for the adjoining Casuarina Northern precinct development. The proponent advises that it was created as a temporary channel to serve the purpose of directing stormwater flows and drainage collected from the adjoining development sites towards Cudgen Creek on the western side of Tweed Coast Road. An area of sparse vegetation consisting predominantly of native shrubland is currently contained within the swale, creating a vegetated buffer between the subject site and several properties which adjoin the northern boundary, including the Santai resort. On the southern side of the swale is a pedestrian and cycleway providing a link between the existing sporting fields to the south west of the site and the foreshore pedestrian and cycleway. **Figure 3** shows the an aerial view of the subject site and identifies the location of the existing drainage easement and cycleway.



Figure 3: Aerial view of site (source: Environmental Assessment)



Figure 4: Proposed supermarket location with adjoining sporting fields in the background



Figure 5: Existing drainage easement with Santai Resort in the background

1.1.3 Surrounding development

The subject site is situated among a number of recently constructed Casuarina Beach development stages, incorporating both residential housing and tourist accommodation. The northern boundary of the site is adjoined by the Casuarina North and Northwest development precincts, including the three-storey Santai Resort. The Casuarina Central precinct adjoins the site to the south. Each of these precincts contain low to medium density residential housing and tourist accommodation (refer **Figure 6**). An area of open space consisting of grassed sporting fields adjoins the site at the south-western boundary. Tweed Coast Road segregates the site from the Cudgen Nature Reserve and proposed Kings Forest residential community to the west. The Casuarina Beach foreshore and area of public open space borders the site to the east. Established population centres in proximity to the site include Kingscliff approximately 4km to the north and Cabarita 4km to the south.



Figure 6: Site Context (source: Environmental Assessment)

1.1.4 Zoning

The site is zoned predominantly 2(e) Residential Tourist, with a thin portion of the eastern boundary within the 7(f) Environmental Protection (Coastal Lands) under the *Tweed Local Environmental Plan 2000*. **Figure 7** below illustrates the zoning arrangement within the town centre site. Permissibility with the zone objectives is further discussed in **Section 3.2**.

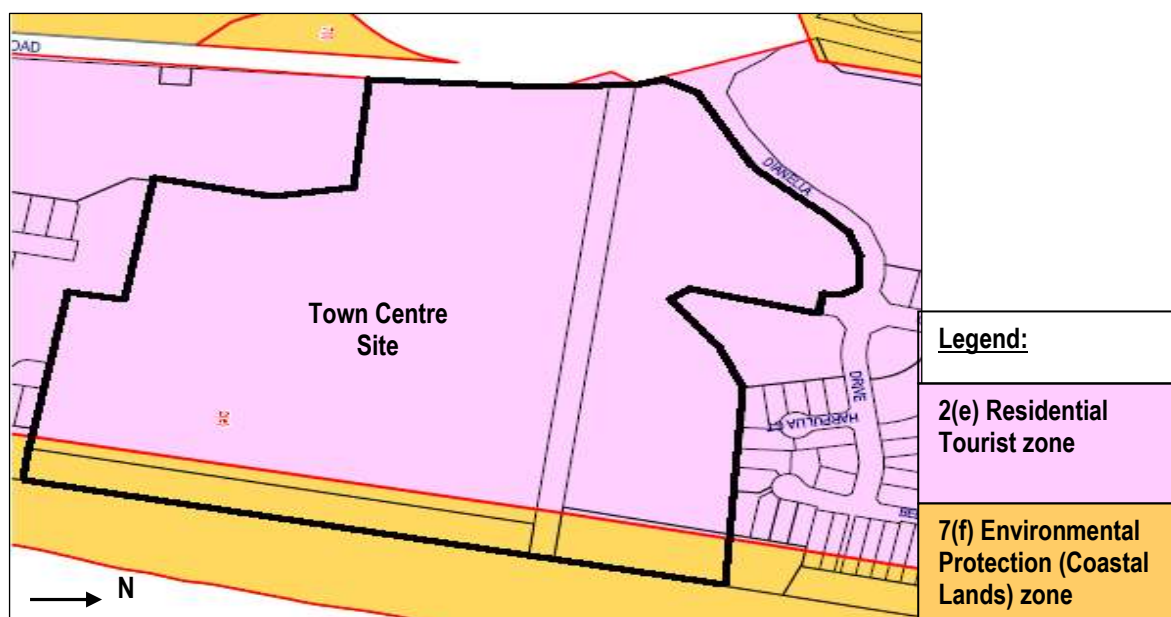


Figure 7: Zoning (source: Tweed Local Environmental Plan 2000)

1.2 SITE HISTORY

The broader Casuarina location is a master planned integrated tourist, residential and commercial development site on the eastern side of Tweed Coast Road fronting the Casuarina foreshore. Following approval of the Kings Beach Subdivision Plan and associated Kings Beach Development Plan in the NSW Land and Environment Court in 1998, the 3.5km stretch of beachfront land has progressively developed throughout various stages and generally in accordance with what was proposed in the Kings Beach Development and Subdivision Plans. The plans outlined the general layout of future lots; arrangement of future development precincts; and potential road network configurations for Casuarina Beach. The town centre site was identified as “Seaside & Beachside Villages” on the development plan, and was identified as an appropriate parcel of land to accommodate a core retail, commercial, and residential type development to service the needs of Casuarina Beach residents as population grew and demand dictated.

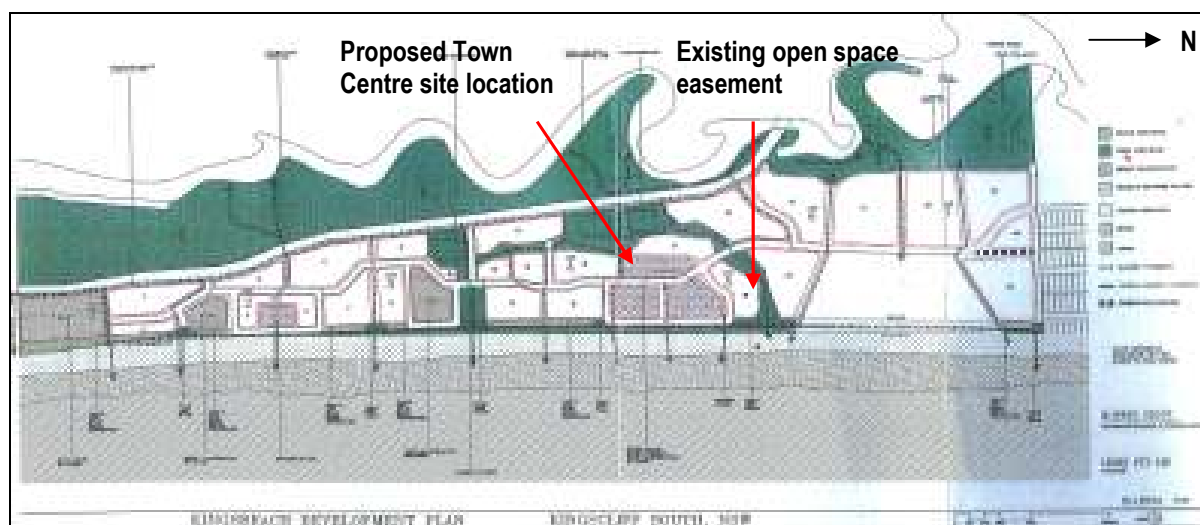


Figure 8: Approved Kings Beach Development Plan (source: Environmental Assessment)

2.0 THE PROPOSED DEVELOPMENT

2.1 PROJECT DESCRIPTION

This is an application for concept plan approval with a concurrent Stage 1 project approval. Descriptions of the concept plan and project application are provided independently below.

2.1.1 Concept Plan

The proponent seeks concept plan approval for:

- the subdivision of land comprising low and medium density residential, commercial and mixed use lots;
- a retail centre incorporating a supermarket, restaurants and retail outlets;
- a hotel;
- associated road network and car parking;
- services; and
- landscaping works

The entire town centre proposal is to be developed over four development stages. Stage 1 is the subject of a project application and is described in Section 2.1.2. Stages 2 to 4 incorporate:

- Stage 2:
Development of mixed use lots 5, 12 and 17;
Development of commercial lot 2; and
Development of medium density residential lot 3.
- Stage 3:
Development of mixed use lots 6 and 13; and
Development of medium density residential lots 4, 10, 11 and 16.
- Stage 4:
Development of medium density residential lots 7, 8, 9, 14 and 15; and
Development of hotel lot 18.

Figure 9 below illustrates the arrangement of the proposed staged development, while **Figure 10** shows the concept plan as envisioned.



Figure 9: Town Centre Staging Plan (source: Preferred Project Report)



Figure 10: Town Centre Concept Plan (source: Preferred Project Report)

2.1.2 Project Application

The project application seeks approval for Stage 1 of the development involving;

- bulk earthworks and vegetation clearing;
- the subdivision of land into 61 allotments of varying sizes and uses;
- construction of a 2500m² supermarket and 1160m² of retail shops;
- construction of the road network and car parking;
- landscaping works; and
- works to connect to reticulated services (water, sewerage, telecommunications).

Those aspects which are incorporated within the stage 1 project application are further discussed below.

2.1.3 Bulk Earthworks and Vegetation Clearing

The proponent seeks approval to carry out bulk earthworks activities in order to achieve a consistent surface level across the entire site. Site profiling will involve approximately 180,000m³ of bulk earthworks (cut and fill) to achieve the desired surface levels. The removal of all existing vegetation across the site will be required to facilitate the required earthwork activities. The existing 36m wide east-west drainage easement is to be filled to a 20m width, allowing an appropriate amount of space for the continued functioning of an open drainage channel. **Figure 11** below displays those areas of the site proposed to be cut and filled.

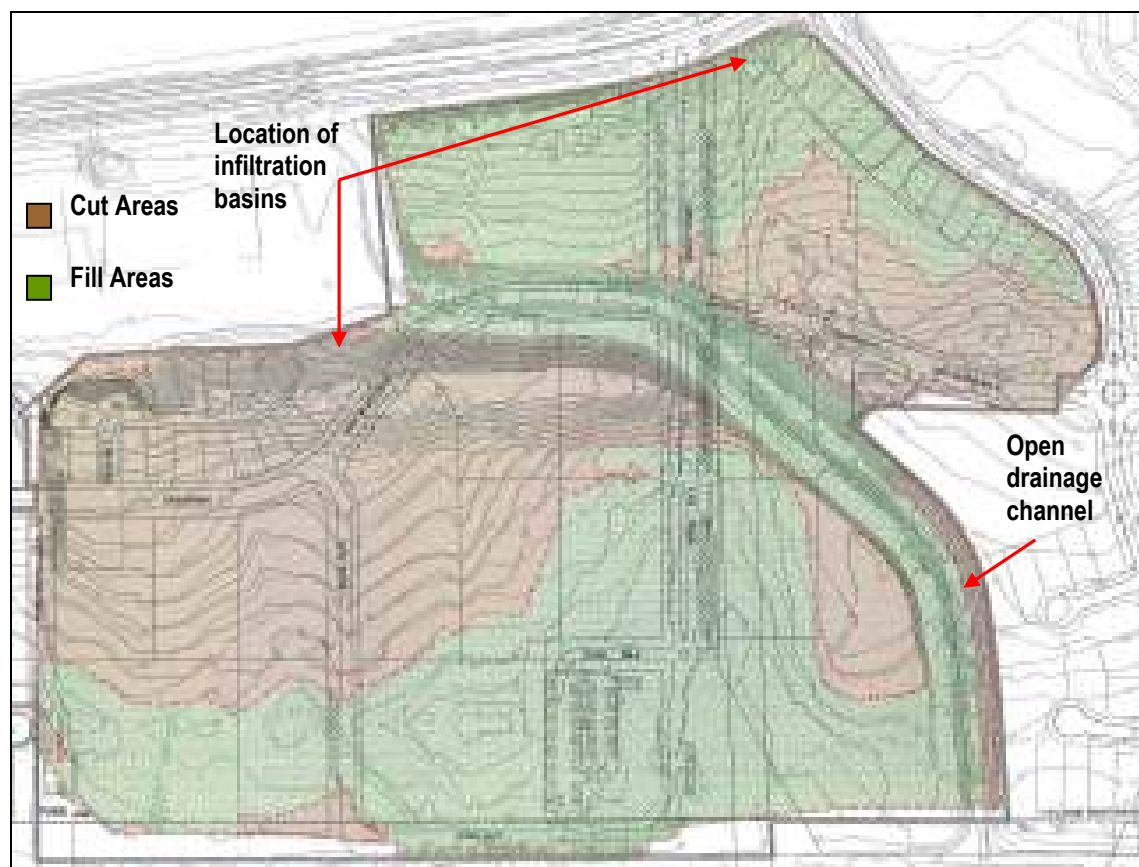


Figure 11: Proposed Cut and Fill areas (source: Environmental Assessment)

2.1.4 Subdivision of Land

The site is proposed to be subdivided into a total of 61 lots of varying sizes and uses. Of the 61 lots; five are to be dedicated to Council including two drainage lots; two open space lots; and one cycleway easement lot. Open space and easement dedications are further discussed in Section 5.1.2 of the report. **Table 1** below outlines the make up of the proposed subdivision; outlining the total area for each of the intended uses. **Figure 12** displays the proposed subdivision layout.

Proposed Use	Lot Number(s)	Number of Lots	Combined Total Area
Retail	1	1	16,365m ²
Hotel	18	1	18,907m ²
Commercial	2 and 17	2	11,590m ²
Mixed Use	5, 6, 12 and 13	4	22,786m ²
Medium Density Residential	3, 4, 7 – 11, and 14 – 16	10	65,787m ²
Low Density Residential	19 – 56	38	17,954m ²
Total	1-56	56	15.3ha

Table 1: Proposed Subdivision Arrangement (excludes lots to be dedicated)



Figure 12: Proposed Subdivision Layout (source: Preferred Project Report)

2.1.5 Supermarket and Retail Stores

A supermarket, retail stores, restaurants, and office are proposed for lot 1 (retail uses lot), which is positioned on the intersection of Tweed Coast Road and the town centre Boulevard. The retail lot covers an area of 16.3ha and is to contain a 2500m² supermarket; five retail stores of a combined gross floor area (GFA) of 850m²; two restaurants covering a combined GFA of 310m²; 400m² of office space; and, amenities and storage areas covering 241m². Pedestrian access into the supermarket and retail stores will be obtained at the north-eastern corner of the building. A total of 234 car parking spaces will be provided within the retail lot, consisting of 162 spaces at ground level (6 of these spaces designated for disabled car parking), and 72 spaces at the basement level (including 3 spaces designated for disabled car parking). The basement car parking area will be accessed via a two-way internal ramp positioned at the south-western corner of the building. **Figure 13** displays the proposed site plan for lot 1.

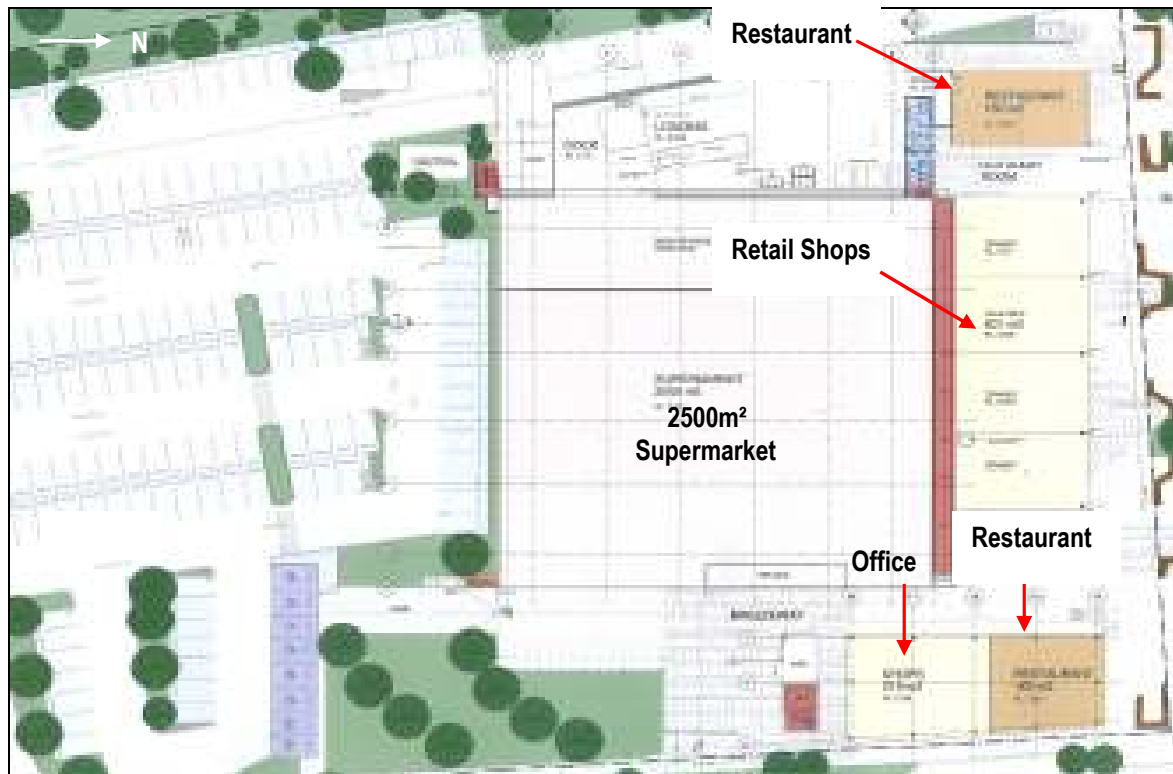


Figure 13: Site Plan for Lot 1 – Proposed Retail Lot (source: Preferred Project Report)

2.1.6 Road Network

The proposed town centre road network seeks approval for the closure of Dianella Drive which currently intersects with Tweed Coast Road towards the north-western corner of the site boundary. The creation of a cul-de-sac road will be required at the western end of Dianella Drive as a consequence of the road closure. The road closure is necessary as a means of spacing between intersections as the proposed main boulevard intersecting with Tweed Coast Road is to be constructed approximately 200m to the south of the existing Dianella Drive – Tweed Coast Road intersection. Dianella Drive will continue to service the existing the residential catchment, and also proposed low density residential lots 19 to 30. The boulevard will act as the main point of access and a significant thoroughfare through the town centre site; and will run in a west to east direction for approximately 400m from Tweed Coast Road to the foreshore, where it will connect with the esplanade road (Road No. 5).

An esplanade road (Road No. 5 – see **Figure 14**) extending off the main boulevard will run in a north to south direction for approximately 190m parallel to the Casuarina Beach foreshore, then turning in an east to west direction and connecting with Casuarina Way.

The existing Casuarina Way will act as a secondary road and is to be extended approximately 600m in a north to south direction through the site. This section of road will complete the missing section of Casuarina Way between the northern and southern boundaries; requiring an intersection to be constructed with the main boulevard, refer **Figure 14**.

Road No. 6 will extend off the southern end of Casuarina Way running in an east to west direction and extending to the foreshore. This road will service low density residential lots 49 to 56 and medium density residential lots 7 and 14. A new cul-de-sac road also extending off the southern end of Casuarina Way will be created to service low density residential lots 39 to 48 (Road No. 7 – see **Figure 14**). Proposed low density residential lots 19 to 30 along the northern boundary will obtain access from the existing Dianella Drive.

2.1.7 Car Parking

A total of 260 public car parking spaces are proposed throughout the site (this figure excludes the 234 car parking spaces proposed for lot 1 – retail lot). A total of 141 spaces will be provided within 100m of the foreshore, and a further 31 spaces within 200m.

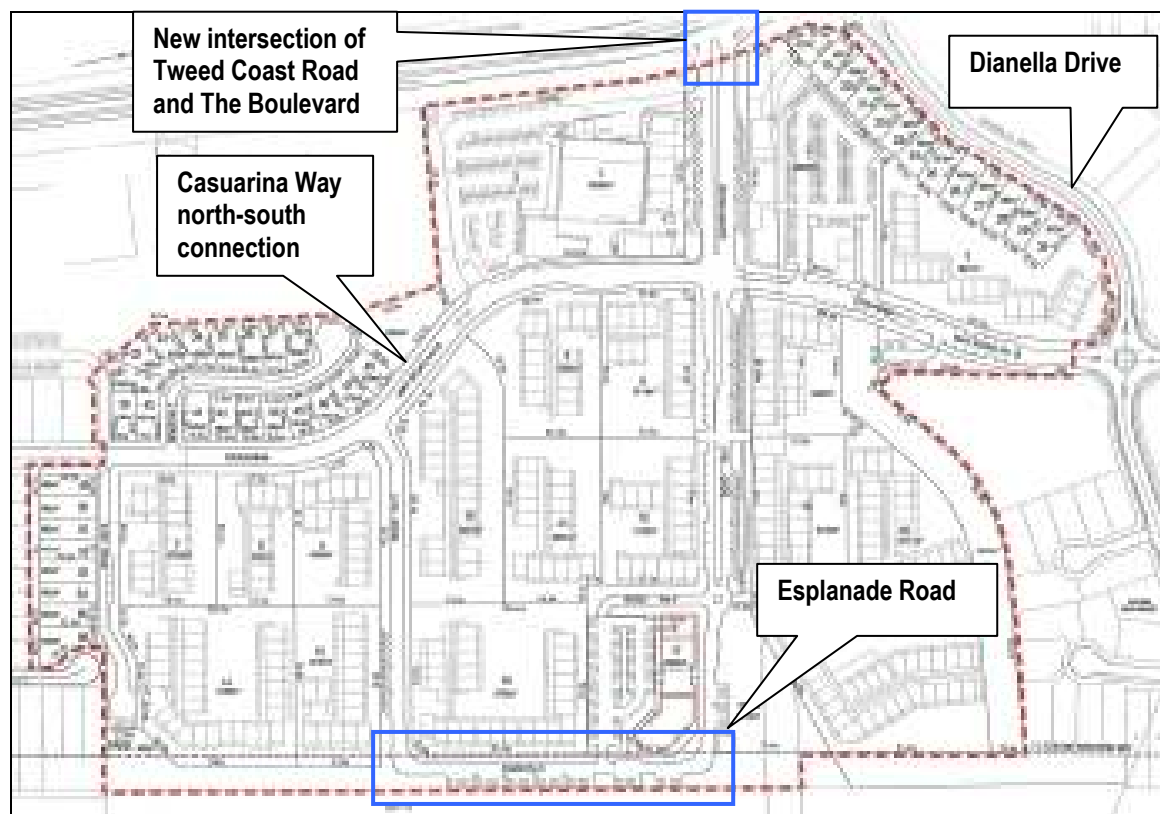


Figure 14: Proposed Town Centre Road Network (source: Preferred Project Report)

2.2 PROJECT CHRONOLOGY

- On 11 October 2006, a Preliminary Assessment was lodged with the Department.
- On 9 December 2006, The then Minister for Planning formed the opinion that the proposal is a Major Project and that Part 3A of the Act applies and authorised the concept plan submission.
- On 17 January 2007, the Director-General's Environmental Assessment Requirements (DGRs) were issued.
- On 23 June 2008, the Environmental Assessment was submitted to the Department.
- On 8 July 2008, the Environmental Assessment is deemed adequate.
- On 26 August 2008, the Environmental Assessment is placed on public exhibition until 30 September 2008.
- On 3 April 2009, the Preferred Project Report submitted to and accepted by the Department.
- On 6 April 2009, the Preferred Project Report made publicly visible on the Departments website.
- On 19 August 2009, revised plans were submitted to the Department reflecting amendments to the drainage functioning of the site and minor amendments to the supermarket car parking arrangement.

3.0 STATUTORY CONTEXT

3.1 MAJOR PROJECT DECLARATION

The proposal is identified as a Major Project under *State Environmental Planning Policy (Major Projects) 2005* (MP SEPP) as it is development for the purpose of residential, commercial and retail uses; with a capital investment value of more than \$50 million, that the former Minister for Planning determined as important in achieving State or regional planning objectives (Schedule 1, Group 5, clause 13 of the MP SEPP). The opinion was formed by the former Minister for Planning on 9 December 2006.

3.2 PERMISSIBILITY

Under the *Tweed Local Environmental Plan 2000* (Tweed LEP), the site is zoned predominantly 2(e) Residential Tourist, with a small portion of the site along the eastern boundary zoned 7(f) Environmental Protection (Coastal Lands).

The primary objective of the 2(e) Residential Tourist zone is to encourage the provision of family-oriented tourist accommodation and related facilities and services in association with residential development including a variety of forms of low and medium density housing and associated tourist facilities such as hotels and motels. The proposal to subdivide land for the purposes of retail, commercial, tourist, medium density residential, low density residential, and mixed use lots is consistent with the zone objectives and is permissible with consent in this zone.

The eastern edge of the subject site encroaches slightly within the 7(f) Environmental Protection (Coastal Lands) zone. The primary objective of the zone is to protect and enhance the scenic and environmental values of the land and to protect land susceptible to coastal erosion from inappropriate development. Permissible works to preserve the foreshore area, including additional landscaping and regeneration planting is proposed within the zone, along with upgrades to the existing foreshore cycleway network. The proposed works are consistent with the zone objectives and are permissible with consent in the 7(f) zone.

3.3 EXHIBITION AND NOTIFICATION

The Department exhibited the Environmental Assessment (EA) for a period of 34 days in accordance with section 75H(3) of the Act. The EA was on public exhibition from 26 August 2008 to 30 September 2008. Submissions were invited in accordance with section 75H of the *Environmental Planning and Assessment Act 1979* (the Act).

3.4 MINISTER'S POWER TO APPROVE

The purpose of this submission is for the Director-General to provide a report on the project to the Minister for the purposes of deciding whether or not to grant approval to the project pursuant to Section 75O and 75J of the Act.

Section 75I(2) sets out the scope of the Director-General's Environmental Assessment Report to the Minister. Each of the criteria set out therein have been addressed below, as follows:

(a) a copy of the proponent's environmental assessment and any preferred project report

The EA prepared by the proponent has been included at **Appendix D**; whilst the preferred project report has been provided for the Minister's consideration at **Appendix E**.

(b) any advice provided by public authorities on the project

All advice provided by public authorities is discussed in Section 4.3 below.

(c) a copy of any report of Planning and Assessment Commission in respect of the project

The Planning and Assessment Commission was not involved in respect to this project.

(d) a copy of or reference to the provisions of any State Environmental Planning Policy (SEPP) that substantially govern the carrying out of the project

An assessment of each relevant State Environmental Planning Policies that substantially govern the carrying out of the project is discussed in Section 3.5.

(e) except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division

An assessment of the development relative to the prevailing EPI's is discussed in Section 3.5.

(f) any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate

The environmental assessment of the project is this report in its entirety.

(g) a statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.

The **Director-General's Environmental Assessment Requirements** (DGRs) were issued to the proponent on 21 March 2007. The DGRs outlined a number of key issues to be addressed, for the concept plan application component, these included:

- Land Use Pattern and Visual Impacts
- Public Access to the Foreshore
- Traffic Management and Access
- Water Cycle Management and Watercourses
- Hazard Management and Mitigation
- Infrastructure
- Flora and Fauna
- Heritage

For the project application component, key issues to be addressed in the DGRs included:

- Compliance with requirements for the Concept Plan
- Subdivision Layout and Design
- Water Cycle Management and Watercourses
- Infrastructure Provision
- Traffic Management and Access
- Earthworks and Filling
- Noise
- Socioeconomic

The EA adequately addressed the requirements of the DGRs and was lodged by the proponent on 18 February 2008. A detailed assessment of how the proponent has addressed these issues is provided in Section 5.0.

3.5 ENVIRONMENTAL PLANNING INSTRUMENTS

3.5.1 Application of EPIs to Part 3A of the Act

To satisfy the requirements of section 75(2)(d) and (e) of the Act, this report includes references to the provisions of the Environmental Planning Instruments (EPIs) that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

The provisions, including development standards of local environmental plans, and development control plans are not required to be strictly applied in the assessment and determination of major projects under Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations as the DGRs require the proponent to address such standards and provisions. Accordingly the objectives of a number of EPIs and the development standards therein and other plans and policies that substantially govern the carrying out of the project are appropriate for consideration in this assessment as follows:

3.5.2 State Environmental Planning Policy (Major Projects) 2005

The MP SEPP applies to the project and is discussed in section 3.1 above.

3.5.3 State Environmental Planning Policy No. 55 – Remediation of Land

SEPP 55 requires a consent authority to consider the potential for a development site to be contaminated and therefore unsuitable for the use for which development is proposed. As the site requires bulk earthwork activities to be undertaken, the requirements of SEPP 55 has been considered in the assessment of the proposal. The proponent is required to conduct surface and full depth radiation investigations across the whole development site including areas in public ownership prior to any construction activities. A Remedial Action Plan and Hazardous Materials Survey are also required. It is considered the provisions of SEPP 55 have been adhered to.

3.5.4 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings

SEPP 65 aims to improve the design quality of residential flat buildings and to ensure sustainable residential development throughout New South Wales. The concept plan proposes a number of medium density residential lots to accommodate residential flat buildings in future stages of development. Any residential flat buildings proposed in future stages will be subject to the requirements of SEPP 65.

3.5.5 State Environmental Planning Policy No. 71 – Coastal Protection

SEPP 71 applies to land within the coastal zone. It aims to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast. The provisions of SEPP 71 have been considered in the assessment of the proposal and the Department considers the proposal adequately addresses the provisions of the SEPP.

3.5.6 North Coast Regional Environmental Plan

The North Coast Regional Environmental Plan (North Coast REP) provides a framework for policy preparation for the North Coast region. The proposal is generally consistent with the North Coast REP.

3.5.7 Tweed Local Environmental Plan 2000

The subject site is zoned part 2(e) Residential Tourist zone and part 7(f) Environmental Protection (Coastal Lands) zone under the Tweed LEP. The proposed development meets the objectives of both the 2(e) and 7(f) zones and is permissible with consent, as discussed in Section 3.2.

3.6 OTHER PLANS AND POLICIES

The Proposal has been considered against the following non-statutory documents:

- Tweed Development Control Plan (DCP) for Casuarina Beach;
- NSW Coastal Policy 1997 and NSW Coastal Design Guidelines; and
- Far North Coast Regional Strategy.

The proposed is generally in compliance with the provisions of these documents.

3.7 ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD) PRINCIPLES

There are five accepted ESD principles:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);
- (c) the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);

- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and
- (e) improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).

With respect to ESD, the Act adopts the definition in the *Protection of the Environment Administration Act 1991* including the precautionary principle, the principle of inter-generational equity, the principle of conservation of biological diversity and ecological integrity, and the principle of improved valuation, pricing and incentive mechanisms.

While this report generally represents an assessment of ecologically sustainable development (ESD), it is considered appropriate to consider how the project application addresses the issues of ESD. The principles of ESD have been considered as follows:

3.7.1 Integration Principle

In making its recommendation on the proposed development, the Department has taken into consideration environmental, social and economic matters. The development will have a positive impact on the local economy and society through the creation of a range of new retail outlets, commercial businesses, and residential and tourist accommodation options for Casuarina Beach. Further, the retail and commercial uses proposed for the site will provide future employment opportunities for the local community.

3.7.2 Precautionary Principle

The EA submitted has identified and assessed the range of environmental impacts of the proposal. The proposal includes the following:

- A stormwater management system that incorporates piped culverts, swales and detention basins to maintain water quality and quantity flowing from the site.
- An Acid Sulphate Soils Management Plan.
- An Erosion and Sediment Control Plan.

The proponent has proposed appropriate measures for environmental management in their Statement of Commitments, and the conditions of the project approval will assist in managing the potential environmental impacts of the development.

3.7.3 Intergenerational Principle

The Proponent has demonstrated that the subdivision design and appropriate mitigation measures will be implemented to prevent any detrimental environmental impacts. Mitigation measures are outlined in the Proponent's Statement of Commitments and/or the recommended conditions of approval.

3.7.4 Biodiversity Principle

The proponent engaged Cardno (QLD) Pty Ltd to provide an Ecological Assessment of the site as part of the Environmental Assessment. The findings of the Ecological Assessment report concluded that:

- the site contains very limited resources for threatened flora and fauna species known to occur in the site locality; and
- the site does not support, or contain critical habitat any endangered populations, threatened species, populations or endangered ecological communities declared in New South Wales.

The proposal has been assessed against the provisions of the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999* and the NSW *Threatened Species Conservation Act 1995*. The proponent is committed to the adherence of ESD principles – as outlined in the Statement of Commitments. All development on the site is to be managed and designed in an environmentally sustainable manner. The proposal incorporates a range of ESD initiatives to minimise the impacts of development on the environment including energy reduction techniques, and appropriate management of water and waste generation through compliance with on-site management plans. Consequently the Department is satisfied that the proposal will not detrimentally impact on any significant features of biodiversity value and is consistent with ESD principles.

3.7.5 Valuation Principle

The Proponent has indicated a commitment to ESD principles and has reinforced this through the Statement of Commitments. The staging of the development will be linked to market demand for residential housing and tourist accommodation supply in the Casuarina locality, with the proponent to provide the necessary infrastructure and utilities. The subdivision has been designed to promote an environmentally sustainable outcome through management of the stormwater runoff, groundwater, and sewerage. These measures will help future development applications for the site to comply with BASIX.

3.8 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of an application under Part 3A must be informed by the relevant provisions of the Act, consistent with the backdrops of the objects of the Act.

The objects of the Act listed under section 5 are as follows:

- (a) to encourage:
 - (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
 - (ii) the promotion and co-ordination of the orderly and economic use and development of land,
 - (iii) the protection, provision and co-ordination of communication and utility services,
 - (iv) the provision of land for public purposes,
 - (v) the provision and co-ordination of community services and facilities, and
 - (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and
 - (vii) ecologically sustainable development, and
 - (viii) the provision and maintenance of affordable housing, and
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

Of particular relevance to the assessment of the subject application is consideration of the Objects under section 5(a). Relevantly, the Objects stipulated under section 5(a) (i), (ii), (iv), (v), (vi), (vii), (viii) are significant factors informing the determination of the application. The project does not raise significant issues with regards to (iii).

The Department has considered the Objects of the Act, including the encouragement of ESD in the assessment of the application.

4.0 CONSULTATION AND ISSUES RAISED

4.1 PUBLIC EXHIBITION DETAILS

The Environmental Assessment for the concept plan and concurrent stage 1 project application was publicly exhibited in accordance with section 75H (3) of the Act from 26 August 2008 to 30 September 2008. The EA was made available for the public at four exhibition locations and on the Departments website. Submissions were invited in accordance with section 75H of the Act. Notification of the exhibition, including instructions on how to make a submission were provided in two local publications, including:

- The Tweed Link on 26 August 2008; and
- The Tweed Sun on 27 August 2008.

The exhibition locations were:

- The Department of Planning – Information Centre, Bridge Street, Sydney;
- Tweed Shire Council (Murwillumbah branch office) – Civic and Cultural Centre, Tumbulgum Road, Murwillumbah;
- Tweed Shire Council (Tweed Heads branch office) – Brett Street, Tweed Heads; and
- The Nature Conservation Council of NSW, Level 2, 301 Kent Street, Sydney.

Letters were sent to all adjoining and nearby landowners notifying of the exhibition and inviting a submission.

A total of 404 submissions were received during the exhibition period. These comprised of 396 submissions from the general public (many of these being form letters) and 8 submissions from public authorities, including Tweed Shire Council; the Department of Environment and Climate Change; the Department of Lands; the Department of Primary Industries; the Department of Water and Energy; the NSW Rural Fire Service; the NSW Roads and Traffic Authority; and, the Northern Rivers Catchment Management Authority.

Of the public submissions received, 140 were supportive of the proposal and 59 objected. The remaining 197 submissions were generally supportive, however objected to certain aspects. A significant number of submissions were form letters – approximately 270. Some 190 of the submissions were from residents of Casuarina Beach (48%).

Of the public authority submissions, Tweed Shire Council, the Department of Environment and Climate Change, and the Roads and Traffic Authority all raised objections to different aspects of the proposal. The Department of Lands, the Department of Water and Energy, the Rural Fire Service, and the Northern Rivers Catchment Management Authority provided issues that were required to be addressed. The DPI did not raise any concerns.

A Preferred Project Report (PPR) was lodged on 3 April 2009. As the changes to the nature of the project were not considered to be significant, the proposal was not be re-exhibited. It was however made available to the public on the Department's website from 6 April 2009. The Department continued to accept submissions after the PPR was made publically visible; receiving approximately 60 submissions on the PPR. Submissions continued to be received up until the writing of this report and the issues raised have been considered in the assessment of environmental impacts under **Section 5.0**.

4.2 SUBMISSIONS FROM THE PUBLIC

4.2.1 Summary of Issues Raised in Public Submissions

The following issues were raised in the public submissions:

Impacts on Stormwater

- The easement acts as a catchment for stormwater drainage and was designed to withstand a 1 in 100 year flood event.
- A piped system is not adequate enough to deal with significant stormwater flows.
- Stormwater flows will end up in Cudgen Creek.
- Detrimental impacts on existing hydrology.
- Excess stormwater runoff during prolonged or significant rainfall events will increase as a result of additional hard surfaces (roads, driveways, buildings etc.).

Impacts on Environment Functions and Values

- The easement contains a swale which acts as a vegetation corridor between the Cudgen Nature Reserve and Casuarina Beach foreshore for a variety of fauna species.
- Areas of vegetation and environmental values of the site will be lost.

Impacts on Public Amenity

- The property values of existing lots which border the easement will be reduced.
- Public open space area is significantly reduced.
- Views to Casuarina Beach will be restricted.
- The swale provides a natural bush setting and a buffer between the town centre and adjoining properties.

Removal of the Cycleway

- The cycleway provides a linkage for cyclists and pedestrians to move between the sporting fields and Casuarina Beach foreshore.
- The cycleway is a heavily-used public facility and provides a great public benefit.
- Removal of the cycleway will see an increase in cyclist and pedestrian traffic having to use other busy roads and sidewalks.

The Retail Centre

- The supermarket should be situated on the eastern side of Casuarina Way closer to the foreshore.
- The current population demand does not yet warrant a full line supermarket in Casuarina.
- The supermarket will rely on consumers from the Pottsville area, which already has a full line supermarket.

Inconsistencies with the previous development plans

- The approved Master Plan indicated the swale/drainage easement would be retained in its current configuration.
- The proposal is inconsistent and unlike the Development Plan approved in the Land and Environment Court.
- The Development Plan identified facilities that are not proposed as part of the town centre.

Traffic and Access

- Traffic lights need to be installed at the intersection of Tweed Coast Road and the main Boulevard road.
- Public car parking spaces in residential streets will affect the flow of traffic and create congestion.
- There are an insufficient total number of car parking spaces.
- There will need to be more car parking spaces along the esplanade road.
- Angle car parking should be used along the esplanade road.
- Angle car parking along the frontage of the supermarket requires cars to back out on to the main Boulevard road – this will create a conflict of movement.
- The plans do not show the provision of bus stops and pedestrian crossings.

Public Facilities

- There are no provisions for public facilities along the foreshore such as public toilets, playground areas, barbeques, public seating, shade structures, bicycle racks etc.
- More facilities for families and children required.

The key issues listed above are further discussed and addressed in the Assessment of Environmental Impacts within **Section 5.0**.

A summary of all public submissions received can be found at **Appendix C**. The proponent responded to these submissions within their PPR, lodged with the Department on 6 April 2009. The PPR is included at **Appendix E**.

4.3 SUBMISSIONS FROM PUBLIC AUTHORITIES

The Department received 8 submissions from public authorities during the exhibition period. The submissions were received from:

- Tweed Shire Council;
- Department of Environment and Climate Change;
- Department of Lands;
- Department of Water and Energy;
- Department of Primary Industries;
- Roads and Traffic Authority;
- NSW Rural Fire Service; and,
- Northern Rivers Catchment Management Authority.

The details contained within the submissions have been summarised below.

4.3.1 Tweed Shire Council

Tweed Shire Council (Council) made a detailed submission in relation to the proposal. The key issues contained in the submission to the Department included:

Inconsistencies with the approved Master Plan

The proposal is inconsistent with the Land and Environment Court's approved Master Plan for Casuarina Beach ("Kings Beach Development Plan") and subsequent concept plans that have been developed throughout the varying stages of development for the Casuarina Beach locality. The previous Master Plans that have been produced consistently provide for the following elements:

- Retail facilities situated away from Tweed Coast Road and closer towards the foreshore.
- An esplanade road extending the entire length of the foreshore.
- The provisions of a community sporting centre and associated car parking with access to the adjacent public open space area / sporting fields located on Tweed Coast Road.

Drainage Easement and Open Space Area

The existing easement running in an east-west direction along the northern boundary of the site is utilised for the drainage of water, drainage of sewerage and a right of carriageway. The easement has a width of 36m at its widest point and contains areas sparse vegetation and shrubland; this provides somewhat of a buffer for properties along the northern boundary and the proposed development site. Filling of the easement will have adverse impacts on stormwater management and visual buffering to adjoining land.

Running alongside the length of the easement is an existing concreted pedestrian / cycleway which provides an open space linkage / movement corridor between the Casuarina Beach foreshore to the east and the Kings Forest urban release area to the west. It is considered the proposal will hinder access between the foreshore in the east and future urban areas to the west.

Stormwater Drainage

The proposal to remove the existing drainage easement and provide an alternative piped drainage system is not considered acceptable. Piped drainage systems have capacity constraints and are prone to blockages. The easement also provides filtration and treatment of stormwater flows through the underlying sand; piped drainage systems cannot provide the same opportunities.

Supermarket and Retail Areas

The location of the proposed supermarket adjoining Tweed Coast Road is not supported. The proposed location is detrimental to the existing character of Tweed Coast Road as a result of signage, lighting, and commercial activity. The proposed size of the supermarket and quantity of retail space has not been justified.

Cycleway

Concern was raised over the issue of safety for pedestrians and cyclists who will be forced to cross two road crossings (the Boulevard Road and Casuarina Way) when travelling from the foreshore to the adjacent sporting fields, or vice-versa.

Road and Traffic Movement

The esplanade road extending along only a portion of the foreshore is not supported. An esplanade road extending the entire length of the section of foreshore within the site should be provided, as shown on the earlier Concept Master Plans. The extended road maximises public benefit through increased access to Casuarina Beach.

The issues raised by Council are further discussed in the Assessment of Environmental impacts under **Section 5.0**.

4.3.2 Department of Environment and Climate Change

The Department of Environment and Climate Change (DECC) raised concern with flooding considerations to be in accordance with NSW Government Flood Prone Land Policy. DECC did note however, that the site was unlikely to be affected by a 1 in 100 year recurrence flood. Flooding and stormwater issues have been addressed in **Section 5.0** of the report.

DECC also raised some concern with potential impacts to Aboriginal cultural heritage. These concerns have been addressed by the proponent in the Preferred Project Report (see **Appendix E**) and in the Statement of Commitments.

4.3.3 Department of Lands

The Department of Lands (Lands) raised concerns of the impacts on Crown Reserve 1001008 which is located in the 7(f) Environmental Protection (Coastal Lands) zone running along the eastern boundary of the site. Access from the site to Casuarina Beach is obtained through the reserve and any works within this area is to be approved by Lands. Lands raised further concerns regarding:

- The Pink Nodding Orchid (*Geodorum densiflorum*) is an endangered species found within the site locality. Surveys should be undertaken to identify any species on the site and mitigation measures provided to reduce the impacts should they be located.
- Contributions for the rehabilitation and management should be expanded to ensure additional weed control is undertaken.

4.3.4 Department of Water and Energy

The Department of Water and Energy (DWE) concerns including:

- The use of infiltration basins for disposal of stormwater to the underlying freshwater aquifer.
- The lack of water quality assessment and volume impacts on the aquifer from proposed disposal methods.

The Department has thoroughly considered the issue directing stormwater flows maintaining infiltration basins. DWE's concerns have been addressed in the assessment of environmental impacts.

4.3.5 Roads and Traffic Authority

The Roads and Traffic Authority (RTA) advised on a number of traffic and parking related issues with the proposal, including:

- A traffic study required to determine when traffic signal installation will be warranted at the intersection of Tweed Coast Road and Main Street (Road No. 1).
- The angled car parking arrangement along Main Street (Road No. 1) is in close proximity to road traffic signals and could adversely impact on the safety of road users. Parallel car parking is the preferred option along this section of road.
- The provision of bus bays should be considered in the parking layout. There is no bus bays provided along Main Street (Road No. 1) north of Casuarina Way (Road No. 3).

The requirements of the RTA have been addressed by the proponent's PPR and conditions of approval.

4.3.6 NSW Rural Fire Service

The NSW Rural Fire Service (RFS) advised that the proposal is to comply with a number of provisions contained within the *Planning for Bushfire Protection* 2006 (PBP 2006) document, including:

- Asset Protection Zones – proposed stage 1 is to be managed entirely as an 'Inner Protection Zone' as outlined in PBP 2006 and the RFS document *Standards for Asset Protection Zones*.
- Water and Utilities – adequate measures to provide for access to water, electricity and gas is to be provided.
- Access – public roads need to provide safe access to structures and water supply for emergency services.

- Design and Construction – to comply with Appendix 3 of PBP 2006.
- Landscaping – to comply with Appendix 5 of PBP 2006.

The requirements of the RFS have been included in the proponent's Statement of Commitments.

4.3.7 Northern Rivers Catchment Management Authority

The Northern Rivers Catchment Management Authority (Northern Rivers CMA) raised concerns over the increased volume and quality of stormwater runoff from the development site into Cudgen Creek and Casuarina Beach. Northern Rivers CMA advised that the concerns raised in their submission on the EA had been addressed and were satisfied with the response provided by the proponent in the PPR.

5.0 ASSESSMENT OF ENVIRONMENTAL IMPACTS

Key issues considered in the Department's assessment of the Environmental Assessment and the Preferred Project Report and consideration of the proponent's draft Statement of Commitments include the following:

- Filling of the drainage easement
 - Impacts on Stormwater Drainage
 - Reduction of Public Open Space Area
 - Removal of the Swale Vegetation
 - Impacts on Public Amenity
- Retail Development
 - Location of the Retail Centre
 - Quantity of Retail Floor Space
- Road Network and Car Parking
 - Traffic Generation and Impacts on the Existing Road Network
 - Closure of Dianella Drive
 - Length of the Esplanade Road
 - Car Parking
 - Pedestrian and cyclist access
 - Circulation around supermarket
- Consistency with Previous Development Plans and Urban Design
 - Consistency with the Kings Beach Development Plan
- Earthworks
 - Contamination
- Flora and fauna
 - The Pink Nodding Orchid
- Public Facilities and Beach Access

5.1 FILLING OF THE EXISTING DRAINAGE EASEMENT

The proposal to fill the existing east-west drainage easement was one of the most contentious issues raised by the general public. The easement is 36m in width and 2-3m in depth, and extends from the Casuarina Beach foreshore in the east to an area of public open space in the west. Over the course of time a vegetated swale has formed within the easement, providing the benefit of a natural vegetated buffer between the existing properties along the northern site boundary and the proposed town centre development to the south. The easement has been registered for the purposes of drainage of stormwater; drainage of sewerage; and as a right of carriageway to the benefit of Tweed Shire Council (Council). The land that makes up the easement remains in ownership of the proponent.

The filling of the easement requires the consideration and assessment of a number of issues that have been raised in the public and agency submissions. These include issues associated with;

- impacts on stormwater drainage (discussed in Section 5.1.1);
- the reduction of public open space (discussed in Section 5.1.2);
- removal of the vegetated swale (discussed in Section 5.1.3); and
- impacts on public amenity (discussed in Section 5.1.4).

5.1.1 Impacts on Stormwater Drainage

As part of the stage 1 works, the proposal initially involved filling the entire easement to provide an area of public open space, whilst an alternative piped drainage system was proposed to replace the drainage functioning of the easement.

At present, low level stormwater flows across the site are collected by a series of infiltration basins located along the eastern boundary of the site and channelled into the constructed drainage easement during periods of significant rainfall. Therefore, the constructed drainage easement essentially functions as a stormwater relief

system, and is utilised only when the capacity of the existing infiltration basins and the sites overall drainage network is at peak capacity.

At the time of exhibition, the proposal involved filling the entire drainage easement to a surface level consistent with the remaining site topography. An alternative piped drainage system was proposed to carry stormwater runoff from an infiltration basin at the eastern end of the easement toward Cudgen Creek in the west. The piped drainage system was considered to be a sound method of dealing with the stormwater and drainage requirements of the proposed development, and provided sufficient capacity to deal with a 1 in 100 year flood event.

In order to construct the proposed piped drainage system, reengineering of the eastern entrance of the drainage easement and works to connect piping to the western drainage basin were involved. Both the eastern and western infiltration basins are within land owned by Council (within Lots 10 and 13). The proponent sought to obtain land owners consent from Council in order to undertake the required drainage works within these lots. Council subsequently refused to provide land owners consent, and the works were unable to proceed as originally proposed. Without allowing works to be undertaken on Lots 10 and 13, the required stormwater drainage functioning across the site could not be achieved.

The proponent subsequently advised the Department of a revised option for on-site stormwater drainage without the need to carry out works within land owned by Council. The revised stormwater drainage proposal involves:

- Filling the east-west drainage easement only to a width of 20m to be used as open space corridor containing a 3m wide pedestrian cycleway on the southern side of the easement, with a 17m wide drainage channel on the northern side, see **Figure 15** below.
- The internal shape of the drainage easement will be steepened to improve hydraulic efficiency, with vertical retaining walls proposed along each side.
- The entire base of the easement will be used for infiltration purposes. A total area of 1,200m² will be contained within the open drainage channel to treat stormwater run off.
- An underground piped drainage system consisting of three 1,200mm pipes will facilitate the flow of stormwater from the open drainage easement through to a constructed 1,300m² infiltration basin on the western boundary of the site. From here, stormwater is then directed further westwards towards Cudgen Creek via an existing open drainage channel. **Figure 16** illustrates the location of the proposed piped section.

The drainage functioning of the existing easement currently benefited by Council will be maintained, and it is understood the proponent will seek to extinguish the remaining easement area to the south of the channel in the near future.

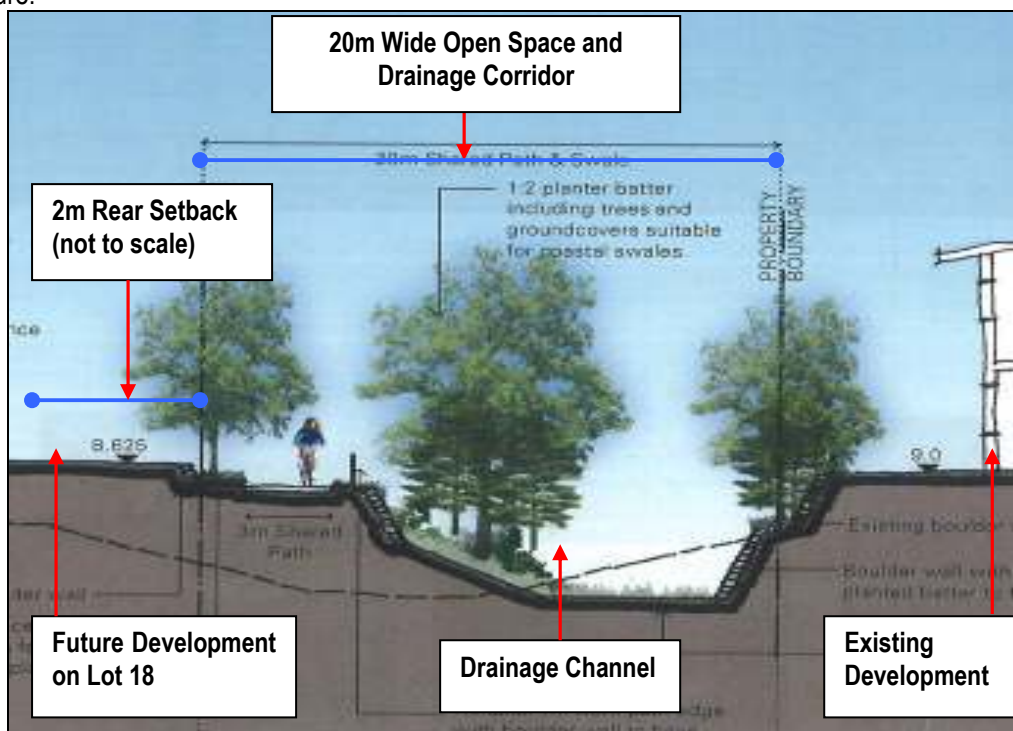


Figure 15: Photomontage of Screening within the Open Space Corridor (source: Preferred Project Report)

The site comprises five stormwater catchment areas consisting of 12.8ha, 2.4ha, 2.4ha, 1.4ha, and 0.61ha in area and contain three significant infiltration basins located along the north-eastern boundary (1,200m²); north-western corner of the site (300m²); and, on the western boundary immediately south of the supermarket car park (1,300m²). The direction of stormwater drainage flows and catchment areas are illustrated in **Figure 16** below.

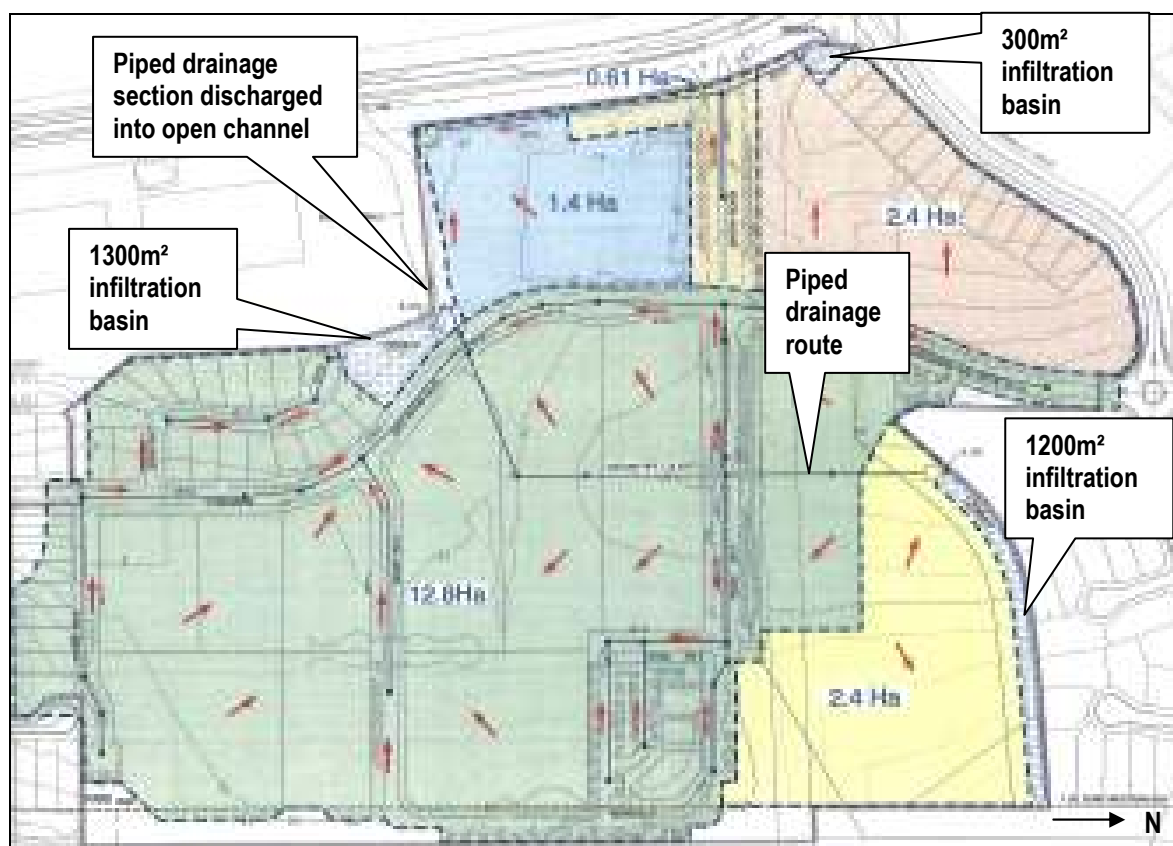


Figure 16: Stormwater Catchment Areas (source: Preferred Project Report)

Council in their submission on the EA considered the proposal to fill the drainage easement and provide an alternative piped drainage system as an unacceptable method of dealing with stormwater flows. The reasoning behind Council's submission included;

- 1) Piped drainage systems have capacity constraints and are prone to blockages that do not occur in open drainage systems of the kind currently provided by the easement; and
- 2) The easement provides filtration and treatment of stormwater flows by using the infiltration properties of the underlying sand, subsequently reducing downstream impacts of the development. Council concluded that a piped drainage system could not provide the same level of stormwater treatment.

The public also raised concern in relation to this issue. It is considered an unlikely occurrence for the piped drainage system to become blocked from common suburban run-off materials (such as plastic bags, plastic bottles, paper etc.). The most likely source of blockages which may hinder the movement of drainage and stormwater through the pipe system will be vegetation matter that is swept into the open drainage easement and built up within the culverts. The proposal involves dedication of the open drainage easement to be managed by Council. It will therefore be the responsibility of Council to ensure vegetative matter both within and surrounding the easement is maintained in order to prevent large items of vegetation matter (such as tree branches, leaves and sticks for example) from entering and building up within the open drainage channel.

The infiltration performance of the existing open drainage easement will not be detrimentally impacted upon by reducing the easement width. The proponent advises that the 20m wide east-west open drainage easement will provide capacity for 1,200m² of infiltration area. The entire base of the easement is to contain underlying sand and grass for infiltration purposes, and will treat drainage and stormwater flows before being directed to the

western infiltration basin. The Department of Water and Energy advised that infiltration basins are being used successfully in other Casuarina Beach developments, with no adverse impacts on groundwater being detected.

The Department considers the sites drainage system as an acceptable method of dealing with stormwater drainage flows. This conclusion is based on the fact that:

- The open drainage system and piped drainage solution are designed to withstand a 1 in 100 year flood event on the site.
- The proposed drainage system does not detrimentally impact on groundwater or create any adverse environmental impacts; and
- A 20m wide area of public open space is created without jeopardising the drainage capacity of the site (this is further discussed in **Section 5.1.2**).

It should be noted that the proposed stormwater arrangement is only intended to be a temporary solution and is not considered to be the optimal outcome for managing stormwater across the site in the long term. The proponent has been encouraged to further liaise with Council regarding the carrying out of works within lots 10 and 13 prior to the development of the remaining stages of the proposal.

5.1.2 Reduction of Public Open Space

The exhibited EA plans included a proposal to fill the existing 36m wide easement and reduce the width of dedicated open space to 15m. Council did not support a 15m width and a significant number of public submissions also objected to this aspect of the proposal based on the fact that it reduces the total area of public open space.

Council advised that an alternative width of 20m and extension of the east-west open space corridor to reach Casuarina Way should be provided in order to maintain public amenity and provide for an appropriate buffer distance between the proposed town centre and the adjoining properties. In addition, Council also requested the north-south cycleway easement be increased from 10m to 15m in width. Following extensive negotiations, the proponent subsequently complied with Council's request to provide a 20m wide east-west open space easement extending to Casuarina Way, and a 15m wide north-south easement to provide access to the adjoining sporting fields. The easement widths have been conditioned. It is also noted that as the proponent was not granted land owners consent to undertake drainage works on Council owned land, a revised stormwater drainage system for the site will see the easement maintained as an open drainage channel with a separation of 20m between existing properties and future town centre developments on proposed lot 18.

The area of land between the rear boundaries of proposed lots 6 and 18, and the northern site boundary will function as an open space and drainage corridor, providing an accessible linkage between the Casuarina Beach foreshore and the adjoining sporting fields to the south-west. The 20m width will be dedicated to Council as an area of public open space and drainage purposes, with the proponent to provide landscaping to the area and construction of a 3m wide concrete cycleway. **Figure 17** below depicts the location of the proposed 20m wide open space and drainage corridor in context of the site.



Figure 17: Proposed 20m Wide Corridor (source: Preferred Project Report)

Inset: Access Corridor

The existing 36m wide easement was never a designated area for public benefit; it is however acknowledged that over the passage of time it has become a frequently used open space corridor/ linkage for both cyclists and pedestrians between the foreshore area and the adjoining sporting fields to the south-west. The linkage provides a physical connection in the form of an existing concrete cycleway running alongside the easement route.

The town centre proposal incorporates a total area of 20,420m² of dedicated public open space and cycleway easements as part of the concept plan. Of this, 3,171m² will consist of a civic park located at the northern end of the Boulevard road; a 6,033m² open space and cycleway corridor; and a 454m² neighbourhood park located at the south-eastern corner of the site (refer **Table 2** for a summary of open space dedications). The Department considers the amount of public open space proposed to be a substantial public benefit and offsets the loss of open space that is currently provided by the easement. It should be noted that the easement in its current form is not a designated area of open space for public benefit; nor was it ever envisaged to be dedicated as public open space in its current configuration when the town centre site was developed. The easement was created solely to serve the purposes of collecting sewerage and stormwater flows, and for use as a right of carriageway to the benefit of Council. **Figure 18** below outlines the proposed easements and open space dedications.



Figure 18: Open Space Easements and Dedications (numbering corresponds with Table 2 below) (source: Preferred Project Report)

Number	Open Space/Easement Description	Total Area	Dedicated to Council?
1	East-West Cycleway Easement	6,033m ²	Yes
2	North-South Cycleway Easement	3,970m ²	No
3	Civic Park	3,717m ²	Yes
4	7(f) zone Dedication 1	1,240m ²	Yes
5	7(f) zone Dedication 2	2,846m ²	Yes
6	Southern Neighbourhood Park	454m ²	Yes
7	South-western Infiltration Basin	1,680m ²	Yes
8	North-western Infiltration Basin	480m ²	Yes
Total Area of Open Space/Easements		20,420m²	
Total Area to be Dedicated to Council		16,450m²	

Table 2: Total Area of Dedicated Easements and Public Open Space

A significant number of public submitters were concerned that a reduction of the east-west easement width would result in the existing pedestrian cycleway to be eliminated as part of the concept plan. The proponent recognises the pedestrian cycleway as a fundamental link in the Casuarina Beach open space and movement network and does not propose to remove the cycleway as part of the proposal. The cycleway will instead be upgraded to a 3 m wide concrete pathway for use by both cyclists and pedestrians. It will continue to function as a physical linkage between the foreshore and the adjoining sporting fields by diverting through the middle of the town centre, crossing both the Boulevard road and Casuarina Way (see **Figure 17**). Road crossings are proposed at both the Boulevard road and Casuarina Way to allow for the safe and efficient movement of cyclists and pedestrians through the site.

The Department considers the proposal to fill the east-west drainage easement and provide a 20m wide open space corridor with a realigned pedestrian cycleway as a favourable development outcome and one which provides a significant public benefit. This is based on that fact that;

1. the easement will be converted into a landscaped open space corridor for public benefit which will be dedicated to and maintained by Council;
2. the existing pedestrian cycleway will be upgraded and a physical linkage between the foreshore and adjoining sporting fields will be maintained; and
3. the proposed piped drainage system will provide an adequate solution to deal with the drainage and stormwater flows following earthwork activities for stage 1.

5.1.3 Removal of the Swale Vegetation

A vegetated corridor has progressively formed within the easement following its construction for drainage purposes in 2001. In many of the public submissions received by the Department, the vegetated corridor is referred to as a 'swale'. The swale forms a sparsely vegetated corridor between the Casuarina Beach foreshore in the east and the Cudgen Nature Reserve in the west. The swale also provides the adjoining properties within Beech Lane, Harpullia Court and the Santai resort with the benefit of a natural bush setting acting as a physical buffer between them and the proposed town centre site.

The swale consists predominately of grasses, weeds and sparse areas of various coastal shrubland species. It is noted that this vegetated area was never part of the existing landscape of Casuarina; and has formed through natural processes since the easement was created in 2001. **Figures 19 and 20** below show the swale at present – the photographs taken by the Department during a site visit in March 2009.

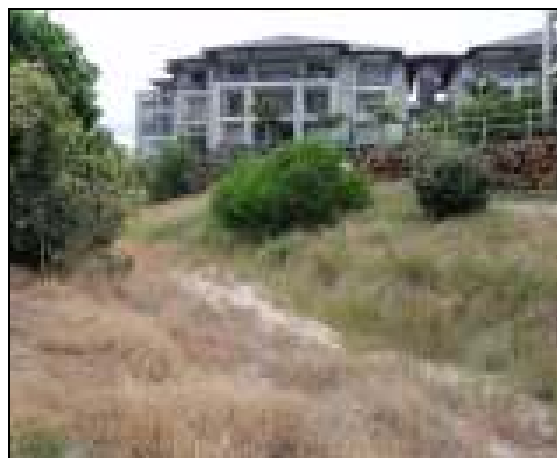


Figure 19: Vegetation within the swale with the Santai Resort in the background



Figure 20: Eastern entrance of the swale and adjoining properties to the north

Whilst it is acknowledged that some native fauna species including wallabies and various birdlife have been sighted within the swale by adjoining residents; the removal of the swale is not expected to have a detrimental impact on the overall population on any native flora or fauna species that inhabit the Casuarina locality. The proponent's Ecological Assessment Report undertaken by Cardno (QLD) Pty Ltd did not identify any of the vegetation within the swale as being of significant environmental value; pursuant to both the NSW *Threatened Species Conservation Act 1995* and the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*. Furthermore, the report did not identify the swale as being an important vegetation or movement corridor for any fauna species known to inhabit the locality. The report did acknowledge that threatened fauna species are known to occur in proximity to the site, however in regards to these particular species the site does not contain areas of suitable habitat for threatened wetland or riparian dependant species; nor does it not contain habitat areas suitable for Koalas.

As part of the exhibition process, the Department referred the application to the Department of Environment and Climate Change (DECC) for consideration. DECC raised no objections to the removal of the vegetation contained within swale in their submission on the EA.

The Department is satisfied the removal of the existing vegetation within the swale will not detrimentally impact on the existing environmental functions or values of the site or the surrounding locality. This consideration is based on the conclusions contained within the proponent's Ecological Assessment Report which states that the site does not provide core habitat for any threatened species; and the fact that DECC considered the proposal and provided no objections regarding the removal of the swale.

As part of the bulk earthworks and landscaping proposed for the site, the area currently containing the swale will be cleared of all vegetation and a 20m wide easement for public open space and 16m wide easement for drainage purposes created and dedicated to Council. Prior to this area being dedicated to Council, the proponent has outlined in the Statement of Commitments that landscaping works will be undertaken within the open space/drainage easement, consisting mostly of native plant species which is anticipated to improve habitat areas for local fauna species.

5.1.4 Impacts on Public Amenity

Numerous public submitters raised concern about the impacts on public amenity as a result of removing the swale and reducing the easement to a 15m width. As discussed in **Section 5.1.2** above, the proponent is committed to increasing the open space corridor to a 20m width to ensure an appropriate amount of open space is provided between the existing properties to the north and any future development on adjoining lots within the town centre.

The most common points raised in the public submissions regarding public amenity issues included;

- the increased level of noise generated from adjoining town centre developments;
- a reduction in privacy;
- the deterioration of views to Casuarina Beach, particularly from the Santai resort; and
- the reduction of property values.

Council has advised that it seeks an additional 6m rear setback from the boundary of the open space reserve on proposed lots 6 (which will contain a mixed use development) and 18 (which is a designated hotel use lot). The Department considers that a 6m setback to the rear boundary is excessive. As the proponent has agreed to provide a 20m open space corridor, it is considered that a reduced setback to the rear boundary of proposed Lot 18 is an appropriate outcome. As such, a modification to the concept plan requires a 2m rear setback for proposed lots 6 and 18. This will ensure a minimum separation distance of 22m between the existing properties along the northern boundary of the site and any buildings that are to be constructed on proposed lots 6 and 18 during future stages of development. This is considered an adequate separation distance to mitigate the privacy an amenity concerns of adjoining residents.

As discussed in **Section 5.1.3** above, the proponent has outlined in the Statement of Commitments that extensive landscaping works will be undertaken within the 20m wide open space corridor. Landscaping shall consist of screen planting, mature native plant species and shade trees, which is expected to improve the level of vegetation density that is currently contained within the swale (see **Figure 15, Section 5.1.1** above). It is acknowledged that any future urban development will impact on the level of noise generation. The proposed landscaping works between the town centre and adjoining properties will help mitigate the impacts of increased noise generation. The landscaping works will also assist in maintaining a level of privacy for those properties which have rear balconies overlooking the easement/swale.

Several of the adjoining property owners including a number of unit owners in the Santai resort raised concern that the town centre proposal, including the reduced easement width, will detrimentally impact on views to Casuarina Beach and subsequently decrease the value of real estate. View lines to Casuarina Beach and the value of existing properties are not expected to be significantly impacted upon as any future developments associated with the town centre will be positioned to the south of the existing properties, whereas views to Casuarina Beach are towards the east. Furthermore, there are no structures proposed as part of Stage 1 which will hinder views from the existing properties. The Department considers that views to Casuarina Beach and the values of existing properties are unlikely to be detrimentally impacted upon.



Figure 21: View north across the easement towards the property adjoining the northern boundary



Figure 22: View of the edge of the easement from the esplanade looking north

5.2 RETAIL DEVELOPMENT

5.2.1 Location of the Retail Centre

A supermarket anchored retail centre is proposed to be located on the western side of the site, adjacent to Tweed Coast Road and The Boulevard. Council object to the location of the supermarket on the basis of it being inconsistent with the Kings Beach Development Plan approved as part of the Land and Environment Court approval and also that this type of development adjacent to Tweed Coast Road will detract from the existing character of the road. Public submissions also raised the issue of the supermarket being difficult to screen from the Tweed Coast Road and that it should be relocated to the eastern side of Casuarina Way.

The issue of the current proposal's consistency with the Kings Beach Development Plan is addressed in **Section 5.4**. The Department considers that, while the Development Plan indicated 'Seaside and Beachside Villages' on the eastern side of the site, it would not be appropriate to locate a centre such as the one proposed closer to the foreshore. It is considered that the location proposed will separate beach going and residential traffic from traffic using the supermarket and other retail facilities in the shopping centre. Further, the location of the centre largely removes service and delivery vehicles from the general town centre traffic. The Department also agrees with the proponent's argument that the shopping centre located as proposed provides an anchor for one end of the town centre's retailing facilities with the icon building providing an anchor at the opposite end to be linked by the proposed retail and commercial facilities along the Boulevard Road. The Department considers that this presents a favourable urban design outcome for the site.

While the supermarket building will be visible from Tweed Coast Road, the proponent proposes the construction of a low mound and landscaping of the mound between the building and car park and the Tweed Coast Road. The landscaping between the Tweed Coast Road reserve and the car park will vary between 5 and 10m wide. This will aid in integrating the development into the landscape. A recommended condition of approval requires the approval of a landscape plan by Council prior to the issue of a construction certificate.

The height of the retail centre is 12.9m and is within the three storey height limit as required by the Tweed LEP. The height of the centre generally reduces from east to west, reducing potential visual impacts of the building from Tweed Coast Road. However, the proponent proposes the retail centre building to have a prominent 'A' frame section on the western side of the building which can be seen from both the northern and southern elevations of the building (see **Figure 23** below). This is considered to be an architectural feature that would unnecessarily exacerbate the visual impact of the building for the users of Tweed Coast Road. As a result, a recommended condition of approval requires that the 'A' frame feature to be reduced in size and updated architectural plans be submitted to the Department for approval.



Figure 23: View of the proposed retail centre from the Boulevard road looking south east (source: Preferred Project Report)

Any potential impact of the proposal on Tweed Coast Road will be further minimised as the proponent proposes only two signs on the exterior of the retail centre. One illuminated sign is on the eastern elevation and will not be visible from Tweed Coast Road. A second illuminated sign is proposed on the southern elevation of the centre (4.7m x 1.1m). This sign would be visible for northbound users of Tweed Coast Road. The Department considers that this is an appropriate level of signage for the retail centre. It is also noted that the proponent originally proposed additional pylon signage on the western side of the supermarket but that this was removed as a result of concerns raised during the exhibition of the proposal. A recommended condition of approval requires that all illuminated signage be extinguished outside of opening hours for the supermarket. The proposed opening hours of the supermarket are from 8:00am to 9:00pm Monday to Friday, and 8:00am to 6:00pm on Saturday and Sunday.

5.2.2 Quantity of Retail Floor Space

The concept plan proposes 5660m² of retail floor space throughout the proposal. The proposed supermarket would be 2500m² and the other retail (specialty shops and restaurants) in the supermarket anchored centre would be 1160m². This 3660m² of retail would be constructed as part of the Stage 1 project application. The additional 2000m² of retail is proposed as part of the concept plan along Main Street and within the icon building on the eastern side of the site.

Council raised concern that the supermarket proposed may be too large and that it may be inconsistent with Council's Draft Retail Strategy. Council's Draft Retail Strategy is based on the provision of a number of local centres along the coast. Council has resolved that these centres are to cater for 'the majority of chore type shopping needs' and 'reflect the need to reduce fuel consumption and to support sustainability within each centre through discouraging vehicle use and encouraging walking and cycling'.

The Draft Retail Strategy does note that there is an undersupply of 17000m² of retail floor space in the coastal area of the local government area and recognises that there is the potential for a supermarket anchored centre at Salt/Casuarina and notes that such a centre would need to be scaled to the needs of the local community.

Council's Tweed Coast Strategy (Section B9 of DCP) identifies that Casuarina should provide the role of a local centre which is defined as providing for 'the day to day commercial and service needs of the local area only'. The DCP states that local centres provide between 1,500-6,000m² of retail floor space and service a population catchment of up to 10,000 people.

The conclusions contained within the proponent's Retail Sustainability and Economic Impact Assessment state that there is a supply gap of 3400m² of supermarket floor space on the Tweed coast as at 2008. The proposed supermarket at Casuarina would fulfil the majority of this deficit in the short term with a trade area extending as far south as Pottsville (see **Figure 24**). With the expanding population on the Tweed Coast there would then be a requirement for an additional full line supermarket around 2016. An analysis of population distribution suggests that this supermarket would be provided in Pottsville.

The proponent's analysis of the trade area for the proposed supermarket after 2016 indicates that its primary trade area will service the coastal strip encompassing Salt, Seaside City, Casuarina and Cabarita. The secondary trade area will extend west into Kings Forest and further south (but not as far as Pottsville; refer to **Figure 24** below).

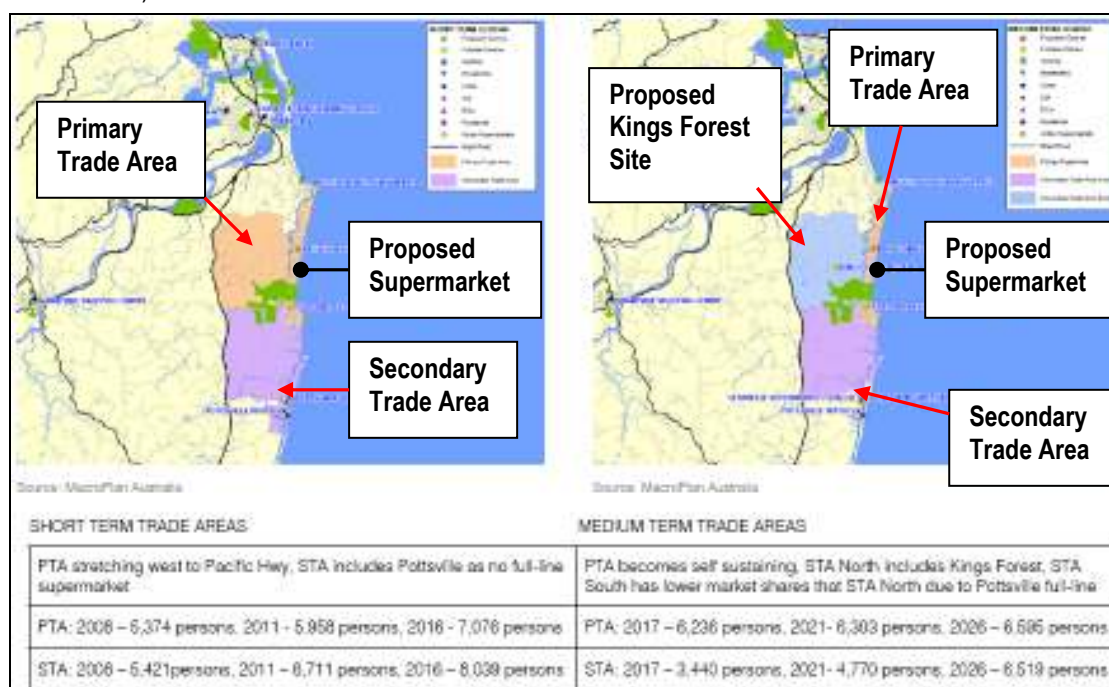


Figure 24: Short term (2008-2016) and Medium term (2017-2026) trade areas for the Casuarina supermarket (source: proponent's Retail Sustainability and Economic Impact Assessment).

The Department considers that the level of retail (and in particular, the size of the supermarket) proposed does not exceed that required to service the local area. It is recognised that, initially the supermarket will provide for villages that would not be considered local (such as Pottsville), which contravenes Council's planning strategies for the Tweed Coast. However, this will only be a temporary situation and would be the case for any full line supermarket provided anywhere on the Tweed Coast at this time. Further, the Department considers that the supermarket at Casuarina, closer to areas of population growth than the current full line supermarket at Kingscliff would result in less travel for residents to undertake their weekly or fortnightly shopping and that this would result in positive environmental impacts.

It is considered that the proponent has demonstrated that the provision of the supermarket and associated retail in Casuarina will not preclude the provision of local centres in accordance with Council's Draft Retail Strategy. In future, as population expands local centres will be required at Kings Forest (as identified in the DCP) and Pottsville.

5.3 ROAD NETWORK AND CAR PARKING

5.3.1 Closure of Dianella Drive

The proposal seeks to close the existing intersection of Dianella Drive and Tweed Coast Road. The western end of Dianella Drive will be altered to form a cul-de-sac road extending off Casuarina Way (see **Figure 25** below). Dianella Drive will continue to service the adjacent residential catchment, including proposed stage 1 low density residential lots 19 to 30. To replace the role of Dianella Drive, a new connection to Tweed Coast Road will be created approximately 80 metres to the south (the Boulevard road). Council recommended a 10m distance be maintained between the Dianella Drive cul-de-sac and Tweed Coast Road carriageway in order to provide a services corridor between any future road structures. This requirement has been conditioned.

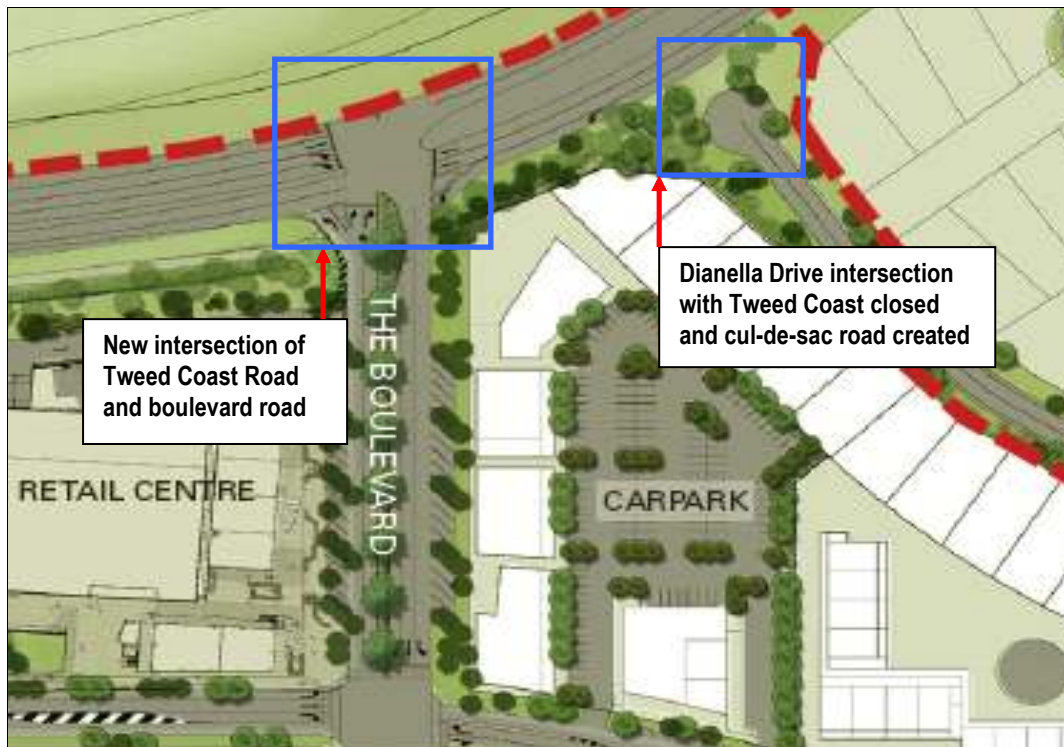


Figure 25: Closure of Dianella Drive and new intersection of Tweed Coast Road and Boulevard Roads
(source: Preferred Project Report)

5.3.2 Length of the Esplanade Road

The proposal includes the provision of a 195m long esplanade road, which equates to approximately one-third of the site's foreshore frontage. Council raised concern that the esplanade road does not extend for the full length of the site, as was envisaged by the Kings Beach Development Plan (as approved by the Land and Environment Court). Council requested that the esplanade road be extended along the entire foreshore frontage to provide the public with more car parking options and subsequently enhance access to Casuarina Beach.

The Department notes that following Council's resolution to seek an extension to the proposed esplanade road, a number of residents advised the Department that they did not agree in an extension to the road as this would result in a reduction of the total amount of public open space along the foreshore. This includes intrusion into the 454m² designated neighbourhood park at the south-eastern corner of the site.

The Department considers that the current length of the esplanade provides a satisfactory level of access for vehicles to the foreshore. It is noted that as part of the PPR that the number of car parking spaces along the esplanade road has increased by providing 90 degree angled parking along the entire eastern side of the road, increasing the ability of foreshore users to park close to the beach. The remaining area along the foreshore has already been, or will be as a result of the proposal, dedicated to Council as public open space. The provision of this public open space (which will also facilitate access to the beach, as Council desires) is preferable to the extension of the road and will provide a safer pedestrian and cyclist environment in this foreshore area. As a result, the Department recommends the length of the esplanade road as proposed.

5.3.3 Circulation around Supermarket

The retail centre proposes that delivery vehicles to travel through the customer car parking area to obtain access to the loading dock on the western side of the retail centre. The exit point for delivery vehicles will be directly to the proposed Boulevard road. Customer vehicles will be prohibited from using this exit from the retail centre and will be required to exit onto Casuarina Way (refer to **Figure 26** below).

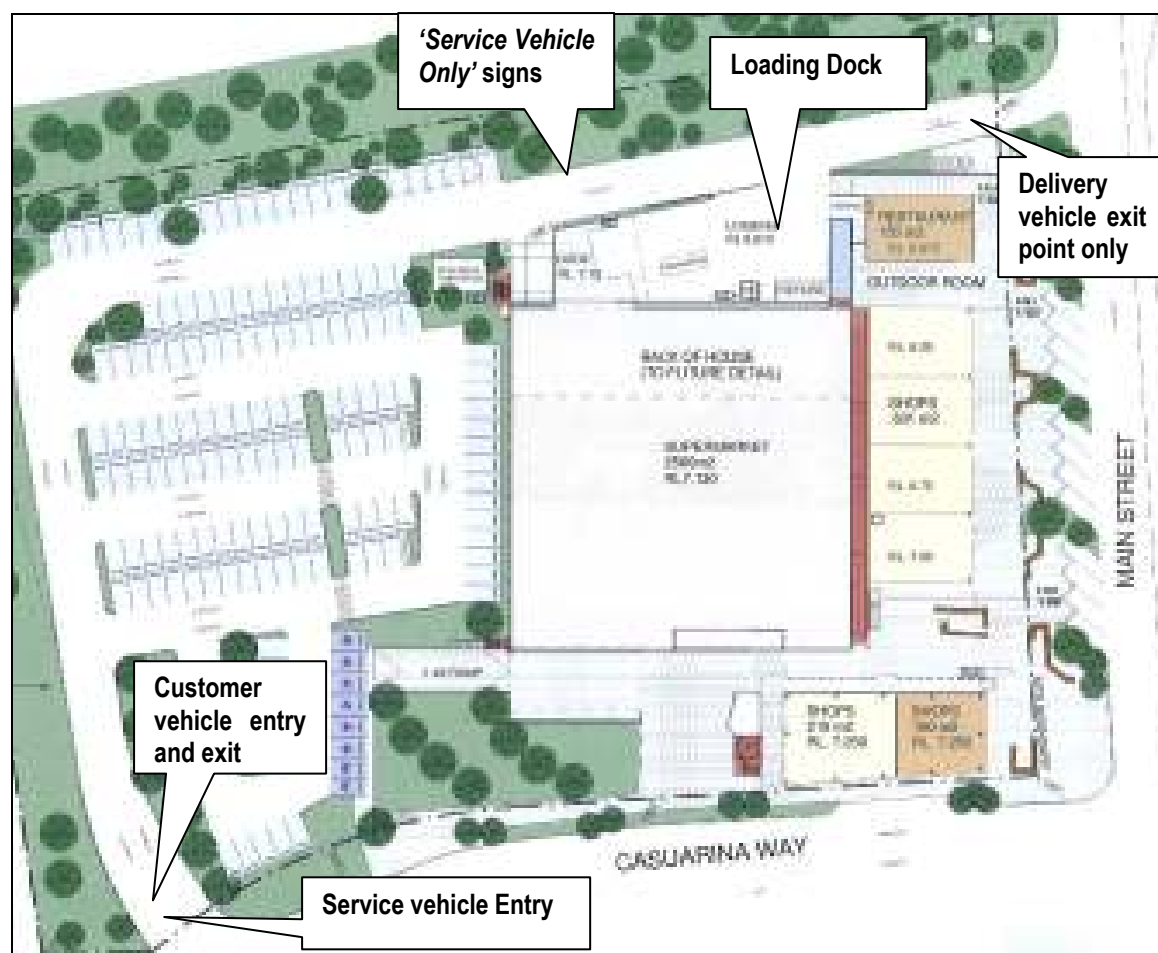


Figure 26: Traffic Circulation in the Retail Centre Car Park (Source: Preferred Project Report)

The Department considers that the optimal outcome for the retail centre would be the complete separation of delivery vehicles from customer traffic. However, following the exhibition period, the proponent amended the car parking layout in order to reduce potential conflicts between delivery and customer vehicles. The delivery vehicle route now only conflicts with a limited number of customer car parking spaces furthest away from the retail centre at the southern end of the car park (and therefore least likely to be used).

In addition, it is likely that the timetable for making deliveries will not coincide with the busiest time for customers using the retail centre and fewer deliveries are proposed on weekends. Service deliveries to the supermarket were being decided during finalisation of the report. Appropriate service delivery times which minimise conflicts between service delivery vehicles and customer vehicles are to be included as part of the conditions.

It is also noted that the loading dock is completely separated from the customer car parking area, and no potential conflict arises from delivery vehicles manoeuvring into or out of the loading dock. 'Service Vehicle Only' signs will be erected at the entry to the loading dock, restricting access to service/delivery vehicles only.

Overall, the Department considers that the circulation of delivery vehicles within the retail centre car park is an acceptable response and reduces any potential conflicts between deliveries and customer traffic.

5.3.4 Public Transport

The proponent states that the roads proposed throughout the project are appropriate for use by buses. A number of submissions both from the public and the RTA raised concern that the concept plan does not outline the proposed location of future bus stops. The proponent advises that the road width of Casuarina Way allows for the provision of bus stops. A recommended condition of approval requires that the proponent submit plans indicating the provision of bus stops on Casuarina Way for the approval of Council prior to the issue of a construction certificate.

5.4 CONSISTENCY WITH PREVIOUS DEVELOPMENT PLANS

5.4.1 Consistency with the Kings Beach Development Plan

As discussed in **Section 1.2**, the site is subject to a Land and Environment Court approved Development Plan. The 1998 consent approved development 'generally in accordance' with the 'Kings Beach Development Plan' (the Development Plan). The Development Plan outlined the general layout, urban footprint and road network configurations for Casuarina Beach. An area designated as 'Seaside & Beachside Villages' on the Development Plan was identified as an appropriate location for a town centre-type development, incorporating a supermarket and other mixed commercial and residential uses.

Council raised concern that the current proposal is inconsistent with the approved Development Plan. There is also concern that the current proposal is inconsistent with other master plans prepared for the site and submitted in support of previous development applications in the locality. Council's concerns relate particularly to:

- The location of the retail centre and supermarket (discussed in **Section 5.2.1**);
- The length of the esplanade road (discussed in **Section 5.3.2**);
- The provision of open space and pedestrian and cycleway linkages (discussed in **Section 5.1.2**); and
- The land uses and facilities proposed within the site.

Council and public submissions advise that previous plans envisaged development such as a community sports centre, surf lifesaving club, cinema, and petrol station on the site. In relation to the surf lifesaving club specifically, the proponent advises that since the preparation of these plans a surf lifesaving club has been established at Salt, not far north of the site. As a result, a full club is not required at Casuarina. The concept plan proposes the inclusion of basic facilities for Surf Lifesaving Australia within the icon building. Further details will be subject to future applications for the construction of the icon building. In relation to the other facilities, the Department considers that the provision of these is a matter for the proponent. These facilities have not been approved as part of previous consents and there is no legal requirement for these to be provided.

Overall, the Department is of the opinion that the previous plans referred to in the submissions provided indicative layouts of the type of development proposed on the site. The current proposal continues to relate to a mixed use tourist, residential and commercial development. It is natural that over the passage of time and progressions in urban design philosophy, as well as increased development surrounding the site; that the development proposed on the site may differ from what was envisaged previously. The Department does not consider that the project currently under consideration is a dramatic deviation from what has been presented in previous development plans.

5.5 EARTHWORKS

5.5.1 Contamination

The site was subject to mineral sand mining in the 1960s and 1970s. As a result of the removal of large amounts of mineral sands from the site, the material remaining can display levels of radioactivity above background levels. The proponent's EA notes that increased levels of radioactivity have been recorded in the north-east of the site (an area centred around the eastern end of the drainage swale towards the northeast of the site). The EA further notes that this is the only area of the site to have been the subject of more detailed radioactivity studies. The accompanying specialist report states that radioactive sand material has been found at depth (to at least the water table) and recommends an extensive subsurface investigation program to allow the characterisation of all material on the site.

The PPR states that the proponent will undertake a detailed site specific radiation survey over the entire site using a 20m grid and drilling to determine the presence of radioactive material at depth and further states that no earthworks will be undertaken until this survey is complete. The proponent has also included in their Statement of Commitments a commitment to assess the extent of any surface or subsurface contamination prior to the commencement of construction. The Department considers that this commitment is not sufficient and has recommended conditions of approval that require:

- The completion of surface and full depth radiation investigations (to a minimum of ground water level) across the entire site prior to issue of a construction certificate for Stage 1;

- Submission of a Remedial Action Plan for the site to Council for approval prior to the issue of a construction certificate for Stage 1; and
- The remediation of any areas of increased radioactivity and the submission of a Site Audit Statement issued by an accredited auditor prior to the issue of a subdivision certificate for Stage 1.

5.6 FLORA AND FAUNA

5.6.1 The Pink Nodding Orchid

Despite the Ecological Assessment Report prepared for the EA concluding that the site does not contain suitable habitat for threatened flora species; the Department of Lands (Lands) raised the issue of the Pink Nodding Orchid (*Geodorum densiflorum*) potentially occurring on the site. According to Lands, several of these species have been recorded on land immediately to the north of the site at neighbouring developments including Seaside City and Salt. The species is a listed threatened species in New South Wales under Schedule 1 of the *Threatened Species Conservation Act (1995)*. The preferred habitat for the species includes dry eucalypt forests and coastal swamps at lower altitudes, often on sand. These habitats are currently threatened by clearing and fragmentation for urban development. Lands recommended that targeted surveys be undertaken across the site and mitigation measures for impacts be implemented should any of the species be located.

The Department sought advice from DECC on the issue. DECC confirmed that the species has the potential to occur within the site, and that there are two known areas in close proximity where the species have been recorded. This includes a cluster of approximately 2km to the north, and another identified cluster approximately 600m to the south.

As the species flower only during the months of December and January, it is during this period only that the species can be positively identified. As the proponent seeks to commence earthworks activities immediately following determination of the proposal, DECC therefore recommended an orchid specialist first assess the site conditions in order to determine the likelihood of the species to occur. This recommendation has been conditioned to ensure the site is assessed prior to the issue of a Construction Certificate for stage 1 and the findings of the assessment submitted to the Department and DECC for consideration. Should the assessment find that the site conditions are favourable for the species to occur; targeted surveys will be conditioned to be carried out during the months of December and/or January to determine whether any species are located on the site. Works will be prohibited from proceeding on the site until the targeted surveys have been completed and any necessary mitigation measures approved by the Department and DECC.

5.7 PUBLIC FACILITIES AND BEACH ACCESS

The specific location of public facilities including seating areas, public toilets, playground areas, bicycle racks etc. was an issue raised in a number of public submissions. There were concerns that the plans did not show the location of these facilities, and that there were not enough barbeque facilities for public use. The proponent's Landscape Concept Report prepared by EDAW identifies the location of all public facilities within the Civic Park and along the esplanade and foreshore areas. The plans indicate that the stage 1 proposal will provide sixteen bench seats; six rubbish bins; four beach showers; three bicycle racks; two drinking fountains; and, a shade shelter with barbeque and picnic table. The Department has conditioned an additional barbeque to be located within the Civic Park. All other facilities proposed are considered an appropriate number to service the anticipated demands for public facilities by the general public.

Lands raised concern over the proposed new beach access track through Crown Reserve 1001008 immediately to the east of proposed icon building. Before a new beach access corridor is created, the proponent is to obtain approval from the Department of Lands regarding construction of a proposed access point to the east of the icon building. Evidence of the approval for the construction of the beach access shall be provided to the Department prior to the issue of a Construction Certificate for Stage 1.

5.8 SECTION 94 CONTRIBUTIONS PLAN

The proponent is required to contribute \$2,198,655.80 towards Section 94 contributions. **Table 3** below outlines the contributions payable to Tweed Shire Council.

Name of Contribution Plan	Number of ET	\$ per ET	Sub-Total
Tweed Road Contribution Plan (CP No. 4, Version 5.1, January 2009)	1653.6 trips	\$930	\$1,537,848
TRCP Sector 7_4 LCA4 – Casuarina			\$254,654
Street Trees	51	\$297	\$15,147
Shirewide Library Facilities	51	\$688	\$35,088
Bus Shelters	51	\$26	\$1,326
Eviron Cemetery	51	\$131	\$6,681
Community Facilities (Casuarina Beach / Kings Forest)	51	\$1,443	\$73,593
Emergency Facilities (Surf Lifesaving)	51	\$200	\$10,200
Extensions to Council Administration Offices and Technical Support Facilities	51	\$1996.80	\$101,836.80
Regional Open Space (Casual)	51	\$855	\$43,605
Regional Open Space (Structured)	51	\$2327	\$118,677
TOTAL CONTRIBUTIONS PAYABLE			\$2,198,655.80

Table 3: Section 94 Contributions

Council requested the proponent also contribute towards cycleway construction to a total amount of \$17,952. The Department is of the opinion that this contribution is not required as the proponent has been solely responsible for the installation of the existing Casuarina cycleway network covering areas external to the Concept Plan boundary. Subsequently, cycleway contribution costs have not been included in the total contributions sum.

CONCLUSION

The Department has assessed the proposal and considered the key issues raised in the submissions and has recommended modifications to the concept plan, requirements for future applications and conditions of approval to ensure the satisfactory addressing of these issues and minimal impacts as a result of the proposal. Key modifications and conditions of approval include:

- Requirements to provide a 2m setback to all future lots adjoining the southern boundary of 20m wide east-west open space corridor;
- Requirement to realign the cycleway such that the right turn at the junction of lots 4, 10 and 11 provides for a larger radius curve;
- Requirement to reduce the scale of the A frame element on the western side of the proposed supermarket building;
- Requirement to modify Casuarina Way to allow for two intended bus bays including bus shelters to be provided; and
- Requirement for the proponent to obtain approval from the Department of Lands regarding the provision of an additional beach access point.

The proposed development will provide a number of benefits, including:

- A core retail centre containing a supermarket, retail shops and restaurants for the benefit of existing and future town centre residents;
- A variety of low and medium density housing and tourist accommodation options;
- 20,450m² of dedicated public open space area including the civic park.
- Improved public infrastructure including upgrades and extensions to the existing pedestrian cycleway network;
- A dedicated open space linkage between the Casuarina Beach foreshore and sporting fields; and
- A maintained foreshore area with improved public access to Casuarina Beach.

The concept plan (including Stage 1 project application) has largely demonstrated compliance with the applicable environmental planning instruments.

On these grounds, the Department considers the site to be suitable for the proposed development and that the project is in the public interest. Consequently, the Department recommends that the project be approved, subject to the modifications to the concept plan and conditions of approval.

RECOMMENDATION

It is recommended that the Minister:

- (A) consider the findings and recommendations of this Report; and
- (B) approve the concept plan for the project, under section 75O *Environmental Planning and Assessment Act, 1979*; subject to modifications of the concept plan; sign the Determination of the Concept Plan (**Appendix A**)
- (C) approve the carrying out of the project, under Section 75J *Environmental Planning and Assessment Act, 1979*; subject to conditions and sign the Determination of the Project (**Appendix B**).

Prepared by:

Endorsed by:

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Coastal Assessments

Sally Munk
A/Team Leader
Coastal Assessments

Alan Bright
A/Director
Coastal Assessments

APPENDIX A: INSTRUMENT OF APPROVAL – CONCEPT PLAN APPLICATION

APPENDIX B: STAGE 1 PROJECT APPLICATION

APPENDIX C: DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Director-General's Environmental Assessment Requirements Section 75F of the <i>Environmental Planning and Assessment Act 1979</i>	
Application number	06_0258
Project	<p>A Concept Plan for Casuarina town centre including the following:</p> <ul style="list-style-type: none"> • residential development; • tourist development; • retail and commercial development; and • subdivision of land into 38 lots. <p>A Project Application for:</p> <ul style="list-style-type: none"> • subdivision of land into 38 lots; • road works; • infrastructure works; • landscaping; and • construction of stage 1 of the shopping centre.
Location	Coast Road, Casuarina Beach Part Lot 223 DP 1048494
Proponent	Kings Beach No. 2 Pty Ltd
Date issued	21 March 2007
Expiry date	2 years from date of issue
General requirements	<p>The Environmental Assessment (EA) must include:</p> <p>PART A: Concept Plan Application</p> <ol style="list-style-type: none"> 1. An executive summary; 2. An outline of the scope of the project including: <ul style="list-style-type: none"> • any development options; • justification for the project taking into consideration any environmental impacts of the project, the suitability of the site and whether the project is in the public interest; • outline of the staged implementation of the project; 3. A thorough site analysis and description of the existing environment; 4. Consideration of any relevant statutory and non-statutory provisions and identification of any non-compliances with such provisions, in particular relevant provisions arising from environmental planning instruments, Regional Strategies (including draft Regional Strategies) and Development Control Plans as well as impacts, if any, on matters of national environmental significance under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999; 5. An assessment of the potential impacts of the project and a draft Statement of Commitments, outlining environmental management, mitigation and monitoring measures to be implemented to minimise any potential impacts of the project; 6. The plans and documents outlined in Attachment 2; 7. A signed statement from the author of the Environmental Assessment

	<p>certifying that the information contained in the report is neither false nor misleading;</p> <ol style="list-style-type: none"> 8. An assessment of the key issues specified below and a table outlining how these key issues have been addressed; and 9. a Quantity Surveyor's Certificate of Cost to verify the capital investment value of the project. <p>PART B: the Project Application:</p> <ol style="list-style-type: none"> 1. The matters listed above in Part A, and 2. A detailed description, including plan details, of the project application component, comprising the subdivision works and construction of stage 1 of the shopping centre.
Key issues	<p>PART A: Key issues to be addressed in the Concept Plan Application.</p> <p>The EA must address the following key issues:</p> <ol style="list-style-type: none"> 1 Land Use Pattern and Visual Impacts <ol style="list-style-type: none"> 1.1 Consider the integration and compatibility of the proposed land uses (retail, commercial, residential, tourist, open space) across the site with regard to access arrangements, traffic, environmental buffers, density controls and suitability of the land use with surrounding development. 1.2 Justify any inconsistencies in the proposed concept plan for the site from the Development Plan approved by the Land and Environment Court (LEC). 1.3 Justify the size and location of the proposed supermarket anchored retail centre with regard to Tweed Shire Council's Retail Strategy, <i>DCP 11 – Kings Beach</i>, <i>DCP 51 – Tweed Coast Strategy</i>, the objectives of the 2(e) Residential Tourist zone and the Far North Coast Regional Strategy. 1.4 Demonstrate the consistency of the proposed residential subdivision with the <i>NSW Coastal Design Guidelines</i>. 1.5 Outline the works proposed (including subdivision) within the 7(f) Environmental Protection (Coastal Lands) zone and justify any departure from development controls. 1.6 Address visual impact in the context of adjoining and surrounding development in relation to setting, density, built form, building mass, and height as viewed from the public domain including all publicly accessible coastal locations (eg beaches, headlands etc) and relevant mitigation measures. 1.7 Outline the proposed staging of the development and provide supporting plans prepared at an appropriate scale. 2 Public Access to the Foreshore <ol style="list-style-type: none"> 2.1 Consider measures that would be implemented to ensure ongoing public access to the foreshore. Justify any inconsistencies in public access measures from the Development Plan approved by the LEC, in particular, the lack of an esplanade. 3 Traffic Management and Access <ol style="list-style-type: none"> 3.1 Prepare a concept 'Traffic Impact Study' in accordance with the RTA's <i>Guide to Traffic Generating Developments</i>, which addresses, but is not limited to the following matters:

- The capacity of the road network to safely and efficiently cater for the additional traffic generated and, if necessary, mitigation measures required to ensure efficient functioning of the road network;
- Access to and within the site, in particular the impact of the establishment of a new intersection onto Tweed Coast Road; and
- Servicing and parking arrangements, in particular the provision of adequate public parking along the foreshore.

3.2 Consider existing public transport to and from the site and additional demands for such transport.

3.3 Consider pedestrian and cycle access both to and within the site.

4 Water Cycle Management & Watercourses

4.1 Address potential impacts on water quality of both surface and groundwater.

4.2 Address and outline measures for Integrated Water Cycle Management (including stormwater) based on Water Sensitive Urban Design principles, including impacts on the surrounding environment.

5 Hazard Management and Mitigation

5.1 Address the requirements of *Planning for Bushfire Protection 2001* (or relevant policy).

5.2 Identify any contamination on site (particularly the presence of radioactive sands) and, if necessary, appropriate mitigation measures in accordance with the provisions of SEPP 55 – Remediation of Land.

5.3 Identify the presence and extent of acid sulfate soils on the site and, if necessary, appropriate mitigation measures.

6 Infrastructure

6.1 Address existing capacity and requirements of the development for sewerage, water, electricity, telecommunications, waste disposal and gas in consultation with relevant agencies.

7 Flora and Fauna

7.1 Outline measures for the conservation of flora and fauna and their habitats within the meaning of the *Threatened Species Conservation Act 1995*, in particular, the Common Blossom Bat habitat identified within and adjacent to the site.

7.2 Consider impacts of clearing of native vegetation.

8 Heritage

8.1 Identify whether the site has significance to Aboriginal cultural heritage and identify appropriate measures to preserve any significance (refer to *draft Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation* and *Interim Community Consultation Requirements for Applicants*).

8.2 Identify any other items of European heritage significance and provide measures for conservation of such items.

9 Planning Agreements and/or Developer Contributions

9.1 Address and provide the likely scope of any planning agreement and/or developer contributions with Council/ Government agencies.

PART B: Key issues to be addressed in the Project Application

Environmental Assessment for Stage 1 works

1 Compliance with the requirements for the Concept Plan

- 1.1 The Environmental Assessment must demonstrate consistency with all DGRs detailed above in Part A, and the following additional matters.

2 Subdivision Layout and Design

- 2.1 Demonstrate the consistency of the proposal with the character of existing development in the locality in terms of street frontage, scale, building envelopes and future built form controls, aesthetics, energy and water efficiency and safety.
- 2.2 Provide details of potential building envelope, built form and design quality controls and the means for implementing them.
- 2.3 Assess the consistency of the subdivision with Tweed Council's DCP 16 Subdivision Manual.

3 Water Cycle Management & Watercourses

- 3.1 Address the management of stormwater including, but not limited to:
- The proposed stormwater discharge points from the site. (Note: Council state that the Council owned playing fields to the west of the site are not a lawful point of discharge);
 - Measures to ensure compliance of road runoff quality with Tweed Council's DCP 16;
 - 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).

4 Infrastructure Provision

- 4.1 Identify staging, if any, of infrastructure works.

5 Traffic Management and Access

- 5.1 Address the impacts of the closure of Dianella Drive.
- 5.2 Ensure that the layout of all car parking areas proposed are in accordance with relevant RTA and Council guidelines and Australian Standards.

6 Earthworks and filling

- 6.1 Provide a detailed survey showing existing and proposed levels and quantities of fill, if required.
- 6.2 Where relevant, provide details of the source of fill including types of material and soils.

7 Noise

Address potential noise impacts, in particular road traffic noise, for future residents and appropriate mitigation measures.

8 Socioeconomic

- 8.1 Address any potential social or economic impacts of the proposal, particularly in regard to the shopping centre, including consideration of Tweed Council's DCP 45 Socio-economic Impact Assessment.

Consultation

You should undertake an appropriate and justified level of consultation with the following agencies during the preparation of the environmental assessment:

	<p>(a) <i>Agencies or other authorities:</i></p> <ul style="list-style-type: none"> • Tweed Shire Council; • Department of Environment and Conservation; • Roads and Traffic Authority; • NSW Rural Fire Service; • Department of Lands; and • Department of Natural Resources. <p>(b) <i>Public:</i></p> <p>Document all community consultation undertaken to date or discuss the proposed strategy for undertaking community consultation. This should include any contingencies for addressing any issues arising from the community consultation and an effective communications strategy.</p> <p>The consultation process and the issues raised should be described in the Environmental Assessment.</p>
Deemed refusal period	120 days

APPENDIX D: SUMMARY OF PUBLIC SUBMISSIONS

Proposed Casuarina Town Centre – Tweed Coast Road, Casuarina Beach

Issue	Specific Details
Impacts of filling the east-west drainage easement and removal of the swale	<p><u>Impacts on Stormwater</u></p> <ul style="list-style-type: none"> • The easement acts as a catchment for stormwater drainage and was designed to withstand a 1 in 100 year flood event. • A piped drainage system is not considered adequate to deal with significant amounts of stormwater. • Stormwater flows will end up in Cudgen Creek to the west. • Detrimental impacts on existing hydrology and stormwater flows across the site. • The volume of excess runoff and stormwater during prolonged or significant rainfall events will increase substantially as a result of additional hard surfaces that are going to be constructed (roads, driveways, buildings etc.). <p><u>Impacts on Environment Functions and Values</u></p> <ul style="list-style-type: none"> • The easement contains a swale which acts as a vegetation corridor between the Cudgen Nature Reserve and Casuarina Beach foreshore for a variety of fauna species. • Established areas of vegetation and environmental values of the site will be lost. <p><u>Impacts on Public Amenity</u></p> <ul style="list-style-type: none"> • The property values of existing lots which border the northern boundary of the easement will be reduced. • The total area of public open space area is significantly reduced. Open space area assists in breaking up the urban footprint. • The concept plan allows for buildings of up to three storeys in height to be built close to the rear boundaries of the Santai resort and other neighbouring properties which will restrict views from these properties to Casuarina Beach. • The swale provides a natural bush setting and also a buffer between the town centre and adjoining properties. • The amenity of the Santai resort will be detrimentally affected due the reduction easement width.
Removal of the Cycleway	<ul style="list-style-type: none"> • The cycleway provides a safe linkage for cyclists and pedestrians to move freely between the adjoining sporting fields and the Casuarina Beach foreshore. • The cycleway is a heavily-used public facility and provides a great public benefit. • Removal of the cycleway will see an increase in cyclist and pedestrian traffic having to use other busy roads and sidewalks, which is a safety concern.
The Retail Centre	<ul style="list-style-type: none"> • The supermarket in its proposed location will be difficult to screen from view and should be relocated to be situated on the eastern side of Casuarina Way closer to the foreshore. • The current population demand does not yet warrant a full line supermarket in Casuarina and a supermarket of this retail size is premature.

	<ul style="list-style-type: none"> • A supermarket of this size in Casuarina will rely on consumers from the Pottsville area, which already has a full line supermarket.
Inconsistencies with the Kings Beach Development Plan	<ul style="list-style-type: none"> • The approved Master Plan (Kings Beach Development Plan) indicated the swale/drainage easement would be retained in its current configuration in perpetuity. • The proposal is inconsistent and unlike the Development Plan approved in the Land and Environment Court. • The Development Plan identified facilities that are not proposed as part of the town centre, including a community sports centre; surf lifesaving club cinema; and petrol station.
Traffic and Access	<ul style="list-style-type: none"> • Traffic lights need to be installed at the intersection of Tweed Coast Road and the main Boulevard road. • The foreshore road network should not consist of cul-de-sac streets as this goes against provisions contained within the NSW Coastal Design Guidelines. • Public car parking spaces in residential streets will affect the flow of traffic and create congestion. • There are an insufficient total number of car parking spaces. • There will need to be more car parking spaces along the esplanade road. • Angle car parking should be used along the esplanade road. • Angle car parking along the frontage of the supermarket requires cars to back out on to the main Boulevard road – this will create a conflict of movement on the section of road between the Tweed Coast Road and Casuarina Way intersections. • The plans do not show the provision of bus stops and pedestrian crossings.
Public Facilities	<ul style="list-style-type: none"> • There are no provisions for public facilities along the foreshore such as public toilets, playground areas, barbeques, public seating, shade structures, bicycle racks etc. • There is a need for more facilities for families and children. • The plans need to indicate where public facilities will be located.

APPENDIX E: ENVIRONMENTAL ASSESSMENT

APPENDIX F: PREFERRED PROJECT REPORT
