

**DEPARTMENT OF PLANNING
NEW SOUTH WALES**

**REQUEST TO MODIFY A MAJOR PROJECT
UNDER SECTION 75W, ENVIRONMENTAL
PLANNING AND ASSESSMENT ACT 1979**

REPORT

**CONCEPT PLAN FOR CASUARINA BEACH TOWN CENTRE
AND PROJECT APPLICATION FOR STAGE 1 WORKS
COAST ROAD, CASUARINA BEACH TOWNSHIP, KINGSCLIFF SOUTH**

KINGS BEACH NO 2 PTY LTD

**VGf – 3083
February 2010**

**REQUEST TO MODIFY A MAJOR PROJECT UNDER SECTION 75W,
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979
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ATTACHMENTS

ATTACHMENT 1	COPY OF MINUTES OF THE ORDINARY MEETING OF TWEED SHIRE COUNCIL (17 NOVEMBER 2009)
ATTACHMENT 2	COPY OF LETTER OF TWEED SHIRE COUNCIL (24 NOVEMBER 2009)
ATTACHMENT 3	COMPLETED FORM (SECTION 75W)

APPENDICES

APPENDIX 1	CARDNO (QLD) PTY LTD – ENGINEERING AMENDED DRAWINGS
APPENDIX 2	EDAW – LANDSCAPE ARCHITECTURE AMENDED LANDSCAPE CONCEPT REPORT

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REPORT

REQUEST TO MODIFY A MAJOR PROJECT UNDER SECTION 75W, ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 CONCEPT PLAN FOR CASUARINA BEACH TOWN CENTRE AND PROJECT APPLICATION FOR STAGE 1 WORKS COAST ROAD, CASUARINA BEACH TOWNSHIP, KINGSCLIFF SOUTH

PREAMBLE

This Request to modify a Major Project under Section 75W, Environmental Planning and Assessment Act 1979, is with reference to an approved Concept Plan for Casuarina Beach Town Centre and Project Application for Stage 1 Works, Coast Road, Casuarina Beach Township, Kingscliff South.

The matters principally addressed in this Request refer to the use of lands adjoining the subject land. Interests in such referred lands are vested in the Tweed Shire Council.

Prior to the lodgement of the subject Application, it was disclosed during community consultation, that it was the intention to seek the consent of the Tweed Shire Council to the use of such lands for specified purposes, principally for engineering and for pedestrian/cycle paths and associated landscaping.

The public notification similarly reflected these intents. The Reporting and Plans attached to the Application detailed such intents.

IN CONTINUOUS PRACTICE SINCE 1976

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As the necessary consents of Council were not forthcoming by the time of assessment of the Application, the proposed development proceeded to an approval without recourse to the intended use of the adjoining lands, as originally proposed.

Since then, consents have now been granted by Council. The use of such lands and the dedication of lands previously the subject of easements are now proposed for inclusion, as originally intended.

Accordingly, these consents now give rise to this Request under the provisions of Section 75W of the Act, noting that the overall built form is unchanged from that publicly advertised, assessed and approved and that the proposed amendments in this Request will ensure improved outcomes, ultimately for the enhanced benefit of the community which the Town Centre seeks to serve.

1.00 INTRODUCTION

We advise that we act as Town Planning Consultants and Agents for and on behalf of Kings Beach No. 2 Pty Ltd in any and all matters relating to the Concept Plan for Casuarina Beach Town Centre and Project Application for Stage 1 Works, Coast Road, Casuarina Beach Township, Kingscliff South.

The Minister's approval for the Concept Plan and the Project (Stage 1), Casuarina Town Centre, was granted by the Minister for Planning on 20 September 2009.

Upon receipt of the approval by covering letter dated 26 October 2009, by letter dated 27 October 2009, a formal request for Land Owner's Consent was made to the Tweed Shire Council to allow works to be carried out within Council-owned lands adjoining the subject land.

Formally, consent was sought to the following:

- *To carry out upgrading and landscaping works including storm water infiltration on Lot 13 in accordance with the original proposal submitted to Council for owner's consent as part of the process of the Minister for Planning granting the current approvals.*
- *to carry out storm water, sewerage and landscaping works including the filling in of the east/west drainage swale that runs along the northern boundary of the proposed Town Centre site. This will include the piping of storm water sufficient to handle a 1 in 100 year flood event. This work to be in accordance with the original proposal submitted to Council for owner's consent as part of the process of the Minister for Planning granting the current approvals.*
- *To the relinquishing of the current easement that the Council has over the drainage swale for storm water, sewerage and right of carriageway, in exchange for dedication of the areas as noted in the approval as issued by the Minister for Planning (being an area of land 20m wide from Lot 13 in the east through to the yet to be constructed Casuarina Way to the west), and the provision of a new easement running south and south west for storm water, sewerage and right of carriageway from the proposed dedication to connect through to Lot 10.*
- *To the carrying out of works on Lot 10, being the sports field owned by Council just to the south of the proposed retail complex. This work will involve integration of the realigned storm water drainage from the Town Centre with the existing system that utilizes the northern end of Lot 10, and will facilitate the inclusion of additional car parking within the proposed retail site. These car parks were deleted during the approvals process to allow drainage works to be wholly contained within the development site.*

This work to be in accordance with the original proposal submitted to Council for owner's consent as part of the process of the Minister for Planning granting the current approvals.

- *To the carrying out of works and landscaping to facilitate the construction of a cul-de-sac at the western end of Dianella Drive at the existing intersection with the coast road. This work to be carried out within the existing Dianella Drive reserve.*

Accordingly, Council was advised of the intention to seek an amendment to the approval for the changes as noted above, for works within Lot 10, Lot 13 and for commensurate revision of drainage, sewer and public thoroughfare design elements within the proposed dedication and easements.

Among other things, the granting of the modification would allow works to be carried out in Lot 13, namely, the walkway/cycleway that runs along the entire eastern frontage of the site, and to upgrade this public space to the same level of the Casuarina Beach frontage with landscaping and other works, including the construction of public facilities such as barbecues, beach showers, public seating and other public furnishings, consistent with community expectations.

In response, the Tweed Shire Council, at its Ordinary Council Meeting held on 17 November 2009, resolved as follows:

1. *Council gives owner's consent to for the lodgement of a 75W amendment to the Minister's Consent for Project Application 06_0258:-*
 - (a) *To carry out upgrading and landscaping works including stormwater infiltration on lot 13 DP 1014470.*
 - (b) *To carry out stormwater, sewerage and landscaping works including the filling in of the east/west drainage swale that runs along the northern boundary of the proposed Town Centre site. This will include piping of the stormwater sized in accordance with existing Minister's condition B24(a). These works shall be designed to maintain privacy and separation for existing residences, generally in accordance with Figure 1.*
 - (c) *To carry out works on Lot 10 DP1014470 (sports fields). This work will involve integration of the realigned stormwater drainage from the Town Centre with the existing system that utilises the northern end of Lot 10, and will facilitate the inclusion of additional car parking within the proposed retail site.*
2. *After the Minister has amended the consent in accordance with 1. above, Council:*
 - (a) *Grants consent to enter upon Lots 10 and 13 DP 1014470 for the purpose of constructing the works referred to in 1.*
 - (b) *In exchange for creation of the 20m reserve on the northern edge of the Town Centre and creation of a 15m wide pedestrian/cycleway easement connecting to this reserve to Lot 10 DP 1014470,*

relinquish the current Easement/Right of Carriageway benefitting Council over lot 223 DP104849.

(c) Prior to relinquishment of the Easement/Right of Carriageway benefitting Council over lot 223 DP104849 raises no objection to constructing the works referred to in 1(b).

3. *Council agrees that the creation of the reserve and easement in 2(b) and construction of the works in 1 are full compensation for the granting of owner's consent in 2(a) and relinquishing of easement in 2(b).*

(See also **Attachment 1 – Copy of Minutes of the Ordinary Meeting of Tweed Shire Council held 17 November 2009**; and letter of Council dated 1 December 2009, referring to Figure 1 in the Minutes; and also **Attachment 2 – Copy of letter of Tweed Shire Council**, letter dated 24 November 2009.

Having regard to the matters addressed above, we are instructed to request the Minister to modify a Major Project, in accordance with Section 75W of the Environmental Planning and Assessment Act 1979. (see **Attachment 3 – Completed Section 75W Form**).

2.00 PROPOSED MODIFICATIONS

2.01 Amended Drawings, Plans and Reportings

The modifications referred to above are shown in amended drawings, plans and reporting contained in Appendices to this Report, as follows:

Appendix 1 Cardno (Qld) Pty Ltd – Engineering Amended Drawings

The amended drawings are listed as follows:

Drawing No.	Date	Title
DA20J	06.11.09	Locality Plan, Site Plan and Schedule of Drawings
DA22J	06.01.10	Existing Contours Plan
DA23K	06.01.10	Road Layout Plan
DA24M	06.01.10	Finished Surface Contours
DA25K	21.12.09	Cut/Fill Depths Layout Plan
DA26I	21.12.09	Site Cross Sections
DA27J	06.01.10	Erosion and Sediment Control Layout Plan
DA36K	06.01.10	Catchment Areas and Drainage Paths
DA37J	06.01.10	Sewer Reticulation Layout Plan
DA38I	06.01.10	Water Reticulation Layout Plan
DA39K	21.12.09	Subdivision Layout Plan
DA40N	21.12.09	Dedication and Easement Plan
DA41K	21.12.09	Staging Plan
DA42B	21.12.09	Proposed Frontal Cycleway/ Infiltration Basins Layout Plan
DA43B	21.12.09	Proposed Frontal Cycleway/ Infiltration Basins Cross Sections
DA44D	21.12.09	Proposed Cycleway/Drainage Re- alignment Layout Plan
DA46B	06.11.09	Proposed Additional Works in Lot 10

Appendix 2 EDAW/AECOM – Landscape Plan
Amended Reporting (Issue R February 2010)
(in particular, see Page 018)

2.02 Minor Environmental Assessment

The proposed modifications addressed in this Report are further to the Request to Tweed Shire Council made by letter dated 27 October 2009 (referred to above), and are a considered response to the Resolution of Council on 17 November 2009 (see **Attachment 1**) and the letter of Council dated 24 November 2009 (see **Attachment 2**).

It is submitted that this Request involves a minor environmental assessment only, and accordingly, the statutory fee for the making of this Request is nominated to be \$750.00 in accordance with Environmental Planning and Assessment Regulation 2000 – Regulation 245K.

3.00 CONCLUSION AND RECOMMENDATION

Having regard to the above Reporting, which relies upon the known facts considerations and circumstances in relation to this Request, it is concluded that this Request is properly made and demonstrates a consistency with the Major Project approvals of the Minister in this regard.

The proposed amendments are referable to matters pertaining to the Consent of the Tweed Shire Council for utilisation of lands in the ownership of the Council which lands adjoin the subject site, and which utilisation will provide mutual benefits for Council and the community which the approved development is committed to serve.

Accordingly, the Department's favourable consideration of this request is commended.



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February 2010