

(g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

The Motion was **Carried**

***FOR VOTE - Unanimous***

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- 19 [PR-CM] Development Application DA10/0222.26 for an Amendment to Development Consent DA10/0222 for Casuarina Town Centre Including 56 Lot Subdivision, Road Works, Infrastructure Works and Landscaping (Department of Planning Application MP06\_0258) MOD 10 a

423

Cr W Polglase  
Cr J Owen

**RESOLVED** that:

1. In regard to Development Application DA10/0222.26 for an amendment to Development Consent DA10/0222 for Casuarina Town Centre including 93 lot subdivision, road works, infrastructure works and landscaping (Department of Planning Application MP06\_0258) MOD 10 at Lot 15 DP 1198266 & Lot 13 DP 1014470 Casuarina Way, Casuarina, Council formally grant land owners consent for use of Lot 13 in DP 1014470 as per the Draft Plan of Management to enable the applicant to lodge the amended MP06\_0258 MOD 10 (Council reference DA10/0222.26) with the NSW Department of Planning; and
2. Pursuant to the provisions of Section 36 of the Local Government Act 1993 the Draft Plan of Management for Lot 13 in DP 1014470 Casuarina Way, Casuarina be placed on exhibition for 28 days allowing a submission period of 42 days. During the exhibition and submission period, a public meeting is to be held in respect of the plan.

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SUBMITTED BY: Development Assessment and Compliance



**Making decisions with you**  
*We're in this together*

#### LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK:

- 2 Making decisions with you
- 2.1 Built Environment
- 2.1.2 Development Assessment - To assess development applications lodged with Council to achieve quality land use outcomes and to assist people to understand the development process.

ROLE: **Provider**

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#### SUMMARY OF REPORT:

This is the second report which has been brought to Council on MOD 10 to MP06\_0258 in regard to the Casuarina Town Centre (Council Reference DA10/0222.26). The first report was from 21 April 2016 in which concerns were raised with various elements of the proposed modifications (see attachment). Since this time the applicant has responded positively to Council's concerns and has invested a significant amount of time and resources into amending the proposal to address the matters raised.

The purpose of this report is to identify the changes that have been made since the original report and seek formal land owners consent from Council for the works within the "yellow" community land to the east of the town centre site shown below which is mapped as "community land".



Plan Labels (Large Parcels)  
 NPP Labels  
 House Number  
 Road Centreline Label  
 Road Reserve  
 Community Land  
 Operational Land  
 Council Administered Crown Land  
 Lands Vested in Minister (NPWS)  
 State Crown Land  
 National Parks and Nature Reserves



In association with the Casuarina Town Centre Concept Plan this land was always intended to be used for some form of park and public infrastructure however the details of this space have now been further confirmed in MOD 10 and outlined in the lodgement of a "Plan of Management" for this area which has resulted from a major amendment to the stormwater drainage system for the site.

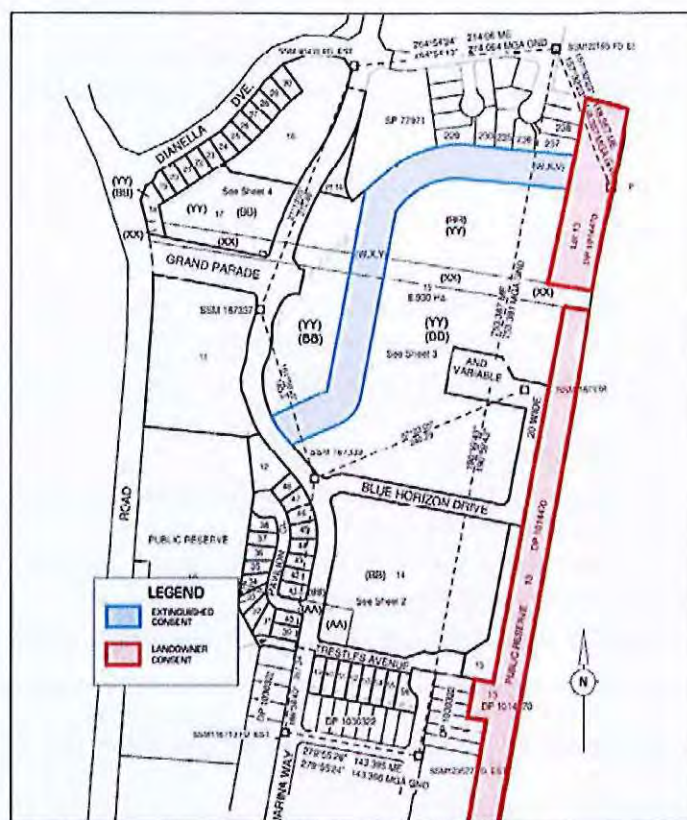
The central concern expressed in previous assessment of material supplied by the applicant, was the adequacy of the east-west trunk stormwater drainage system. Previously this was provided by open channel and piped infrastructure within an easement benefitting Council, to convey major stormwater flows from the eastern coastal swale to the discharge point westward under Casuarina Way and Tweed Coast Road to Cudgen Creek. Previous MOD approvals have proposed to replace the swale with 3 x 1650mm culverts, and revised infiltration areas. However the subject MOD has sought to place other infrastructure and developable allotments in the northern portion of the site, and to reduce the constraints imposed by this stormwater infrastructure.

In a previous stormwater management plan, it was proposed to reduce the east-west drain to a single 1500mm pipe. While this was supported by modelling by the proponent's consultants, there were still concerns about such a large reduction in pipe capacity. Accordingly, and at Council's suggestion, the proponent engaged a third party consultant to peer review the stormwater management proposal. This resulted in a revised design that provides a 2700mm x 1800mm box culvert through the site, and a reconfiguration of the stormwater infiltration basin within the eastern reserve. From an engineering perspective, this revised design satisfies previous concerns regarding capacity of the system to treat and convey stormwater flows from internal and external catchments. It is noted that the revised earthworks and levelling of the coastal strip provides less intrusive earthworks design, with reduced retaining walls, batter slopes and inlet structures. While many of these works will be carried out on community land (and requires approval via a revised management plan), this proposal is considered acceptable for submission to the Department of Planning.

The applicant has liaised with the neighbouring land holders to the north and obtained their support to the amended design which retains a 20m wide landscape buffer zone between the town centre and the existing residents.

The applicant has also negotiated a positive outcome for the local park while still accommodating the functional needs of the sewer pump station and infiltration basin infrastructure in this coastal area.





If Council endorses land owners consent for this process the applicant can formally lodge the amended MOD 10 with the NSW Department of Planning which will then be assessed on its merits in its entirety. The amended MOD 10 will be re-referred to Council for formal comments and conditions as considered necessary by the NSW Department of Planning as the Consent Authority.

## RECOMMENDATION:

That:

1. In regard to Development Application DA10/0222.26 for an amendment to Development Consent DA10/0222 for Casuarina Town Centre including 56 lot subdivision, road works, infrastructure works and landscaping (Department of Planning Application MP06\_0258) MOD 10 at Lot 15 DP 1198266 & Lot 13 DP 1014470 Casuarina Way, Casuarina, Council formally grant land owners consent for use of Lot 13 in DP 1014470 as per the Draft Plan of Management to enable the applicant to lodge the amended MP06\_0258 MOD 10 (Council reference DA10/0222.26) with the NSW Department of Planning; and
2. Pursuant to the provisions of Section 36 of the Local Government Act 1993 the Draft Plan of Management for Lot 13 in DP 1014470 Casuarina Way, Casuarina be placed on exhibition for 28 days allowing a submission period of 42 days. During the exhibition and submission period, a public meeting is to be held in respect of the plan.



**REPORT:**

**Owner:** The Trust Company (Australia) Limited & Tweed Shire Council  
**Location:** Lot 15 DP 1198266 & Lot 13 DP 1014470 Casuarina Way, Casuarina

**Background:**

The original modifications included:

- Modification of the approved lot layout and increase in the number of lots permitted on-site from 97 to 177;
- Modification of the built form controls to increase the height of buildings permitted along Grand Parade;
- Deletion of the approved hotel use;
- Revisions to the drainage concept to facilitate the filling of the existing drainage swale and the conversion of the swale to a 'green buffer';
- Changes to the timing for the provision of additional beach access;
- Changes to the approved staging plan; and
- Administrative changes to the conditions of approval in response to the above changes.

The key amendments and features of the amended Modification are outlined in the below table:

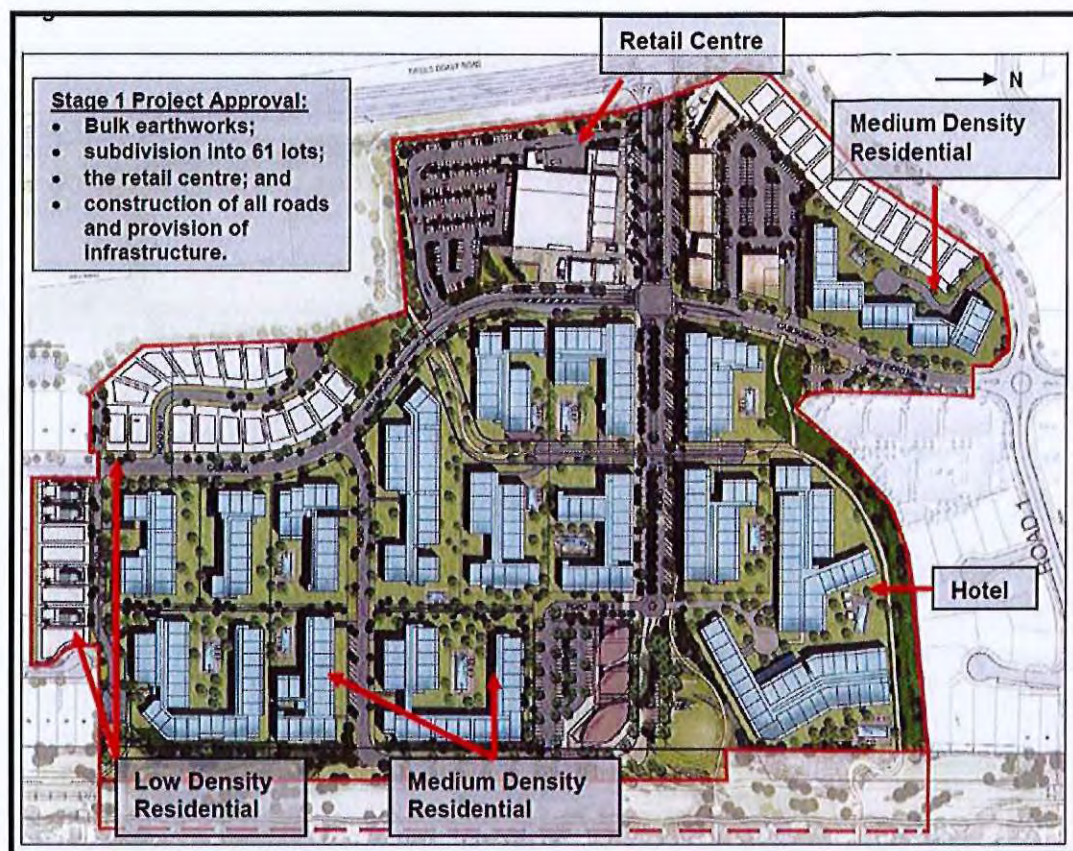
Modification	Modification Proposal	Current Proposal
Modified staging of key infrastructure, lot release and provision of an additional beach access	i. The originally lodged amendment seeks to incorporate two (2) sub-stages. Stage 1D will encompass the development of the balance of the road network (as amended), water, sewer, drainage, electricity and telecommunication infrastructure for the full Casuarina Town Centre. As part of the drainage works, the existing northern swale will be piped and filled to establish a planted buffer with a shared pedestrian/cycleway path and local road. Stage 1D includes the creation of the public road network and the associated dedication as a public asset, whilst Stage 1E will include the release of the remaining 92 lots (including 2 public reserves). The timing for the release of the lots within Stage 1E will occur based on market demand.	i. The originally lodged staging is retained, however amendments to the configuration of the northern swale and number of residential lots have been made. To this end, the local road has been re-sited outside the 20m northern buffer as illustrated in BG&E Drawing C-0003 whilst the total number of lots is increasing from 92 to 93 lots. ii. The originally sought amendment to the staging of the beach access approval is retained as originally lodged.

	<p>ii. The proposal seeks to defer the approval for the beach access from prior to the release of Stage 1C to the Construction Certificate for the Icon Building in Stage 2.</p>	
Treatment of the Northern Drainage Swale	<p>i. Stormwater management proposed for the site seeks to substitute a major stormwater pipe network in lieu for the existing deep swale that traverses the site. In addition, the development shall provide the same quantum of infiltration areas as previously nominated in past approval documentation submitted by Cardno (2008).</p> <p>ii. The subdivision layout was modified to incorporate a local road within the 20m northern buffer.</p>	<p>i. The proposed filling of the swale is retained. The stormwater management plan has been amended pursuant to the Stormwater Management Plan (dated May 2017) and designs prepared by BG&amp;E as attached to this letter.</p> <p>ii. The subdivision layout has been modified to re-position the local road and residential lots outside the 20m northern buffer as illustrated in BG&amp;E Drawing C-0003 (Rev D)</p>
Modified lot layout & built form density	<p>i. The newly designed road layout lodged with Mod 10 responds to the amended lot layout.</p> <p>ii. Modify the building height to accord with the prescribed maximum building height under the Tweed LEP 2014.</p> <p>iii. Removal of the tourist hotel.</p>	<p>i. Increase the number of lots by a single lot to 93 Lots (inclusive of 2 public reserves).</p> <p>ii. No modification to the building height is proposed to that originally sought in Mod 10 and therefore continues to accord with the Tweed LEP 2014.</p> <p>iii. The tourist hotel is still sought to be deleted consistent to the originally lodged Modification.</p>
Site Filling	<p>Utilisation of excess fill within the balance of Stage 2;</p>	<p>No amendment to the planned filling as originally lodged is proposed.</p> <p>Reference is however made to the proposed earthworks and the interface with the coastal reserve. In this respect, the placement of retaining walls within the reserve has been removed from the proposal. The amended design now provides for the proposed retaining walls to be relocated onto private land for Lots 85-91. The land forming for the eastern infiltration basin is therefore deemed to be superior to the previous design and will create a useable/manageable landform within the coastal reserve.</p>

Project Approval	Obtain Project Approval to create 92 lots over the balance of the Casuarina Town Centre for future single dwellings, mixed use development and residential flat buildings	An additional residential lot has been included in the lot layout. Accordingly, the proposal has been modified so as to obtain Project Approval to create 93 lots over the balance of the Casuarina Town Centre for future single dwellings, mixed use development and residential flat buildings
Road & Pedestrian Access Design	<ul style="list-style-type: none"> <li>i. No roundabouts proposed at 4-way intersections.</li> <li>ii. The proposed modification sought to reduce the proposed cycleway within the northern buffer from 3.5m to 2.5m width</li> </ul>	<ul style="list-style-type: none"> <li>i. Roundabouts introduced to 4-way intersections.</li> <li>ii. The proposed modification has been amended to provide the pedestrian/cycleway at a 3.5m width.</li> </ul>
Sewer Design	<ul style="list-style-type: none"> <li>i. Conventional sewer design was proposed with a variation to the maximum sewer depth being sought in order to connect to existing infrastructure.</li> </ul>	<ul style="list-style-type: none"> <li>i. The current design provides for a combination of conventional gravity sewer and the inclusion of a sewer pump station. This approach addresses the depth of sewer infrastructure as faced with the originally lodged Modification.</li> </ul>



## SITE DIAGRAMS:



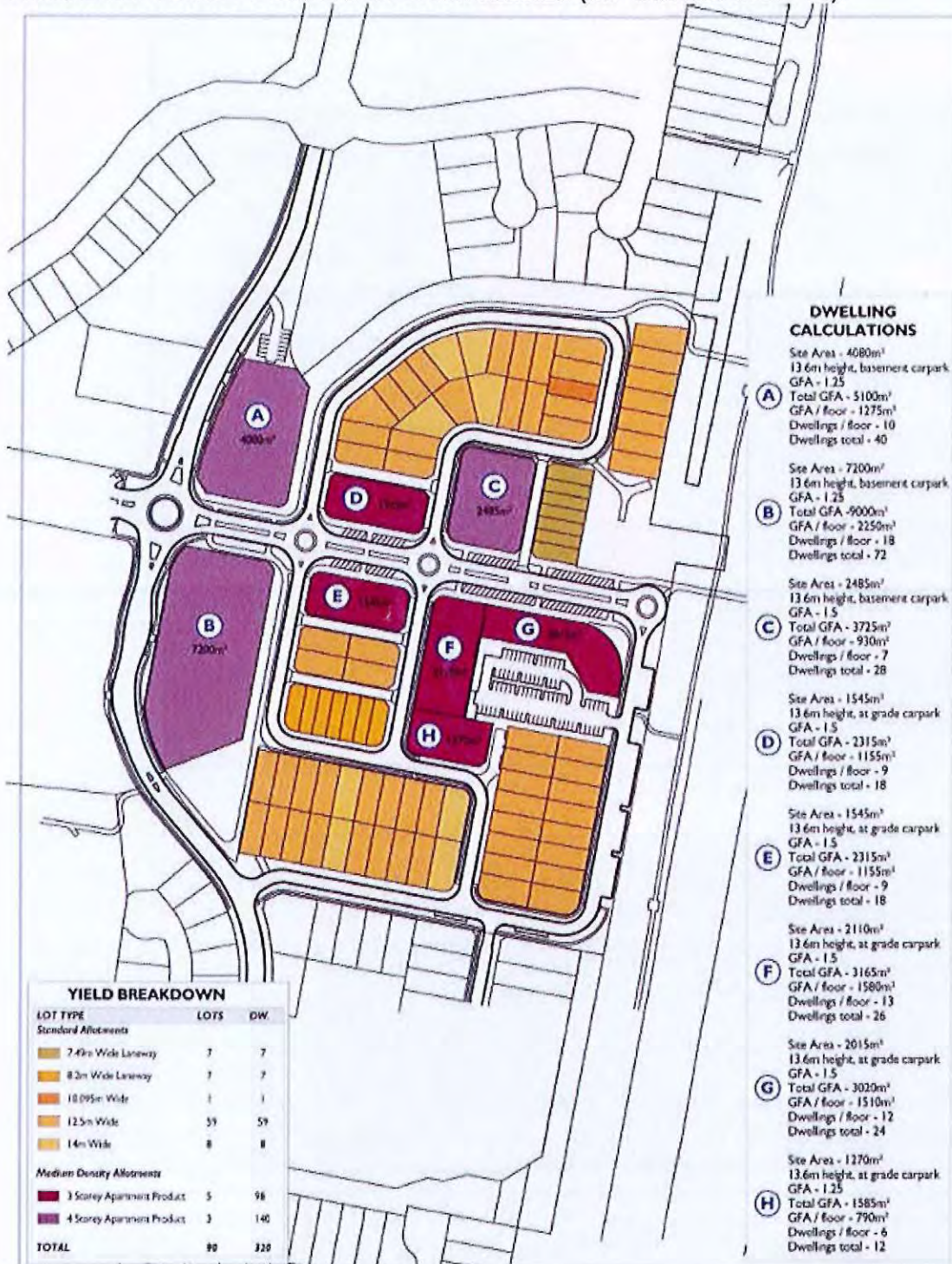
Approved Casuarina Town Centre Concept Plan (Original)



Aerial Imagery of Site



## AMENDED DENSITY DIAGRAM DA10/0222.26 (MP 06/0258 MOD 10):



**CASUARINA BEACH TOWN CENTRE**  
Current Design - Yield Breakdown



Scale 1:2000 @ A3 | Date June 2017 | Project No 119345

PRELIMINARY FOR DISCUSSION PURPOSES ONLY



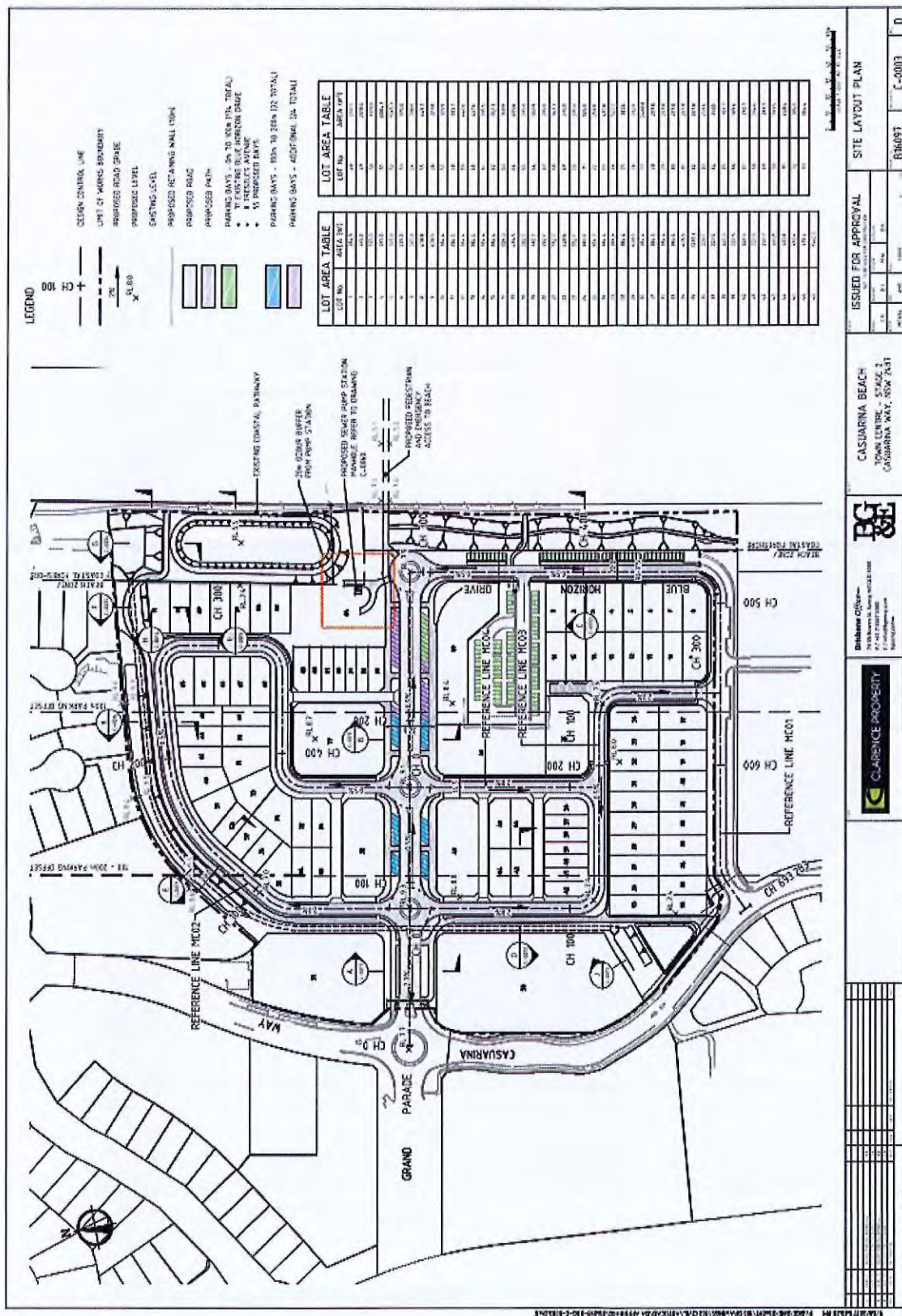
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**AMENDED SITE LAYOUT PLAN DA10/0222.26 (MP 06/0258 MOD 10):**









# AMENDED LANDSCAPE MASTERPLAN LAYOUT DA10/0222.26 (MP 06/0258 MOD 10):

## LANDSCAPE MASTERPLAN

- 1 Revegetation to edges of swale to integrate device into existing dune landscape
- 2 Primary street trees in informal groupings to local residential streets provide a relaxed intimate streetscape
- 3 Secondary feature trees located at the end of view lines strength wayfinding, create interest in the streetscape and increase amenity
- 4 Feature pavement to laneways breakup expanse of hardscape and create interest within the streetscape
- 5 Buffer to rear of existing properties includes planted mounds, informal shrub and groundcover planting to achieve privacy for residents
- 6 Feature tree avenue to entrance road strengthens wayfinding, achieves shade to carparking and pedestrian pathways, provides amenity and creates a signature approach to the beach
- 7 Planting to multi-storey residential surrounds to soften the built form and integrate the property fence into the streetscape
- 8 Beachfront park reinforces beach access and frames views of the ocean
- 9 Trees proposed to carpark provide shade, reduce glare and enhance amenity
- 10 Secondary street trees in a formal arrangement along Blue Horizon Drive strengthen road hierarchy within the development while assisting in wayfinding strategy
- 11 Planting to infiltration basin and surrounds to integrated the device into the landscape
- 12 Shared pedestrian/cycle path connecting residents to the Tweed Shire Council shared pedestrian/cycle path



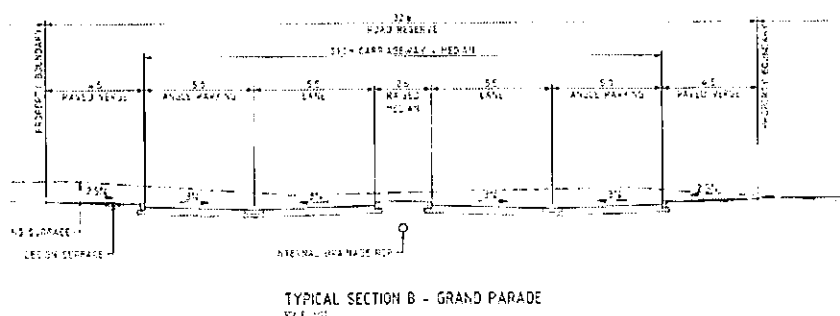
## REPORT:

### Engineering Overview

All of the previously identified engineering issues have now been resolved or can be resolved by way of conditions of consent.

Specifically the following points should be noted:

- An updated earthworks/land forming engineering plan has now been provided by BG&G which ultimately reduces the number of retaining walls across the site to a total of three (3). All the proposed retaining walls are proposed to be a maximum of 1 m in height; hence the previous retaining wall of 4m has been removed. All proposed retaining walls are now within private property and comply with Tweed Shire Councils Development Design Specification - 06 Site Regrading (TSC-D6) specifies that the maximum permissible combined of retaining walls or batters in residential subdivisions. The proposed earthworks and retaining walls are now accepted.
- The updated drawings issued by BG&E indicate that Grand Parade road reserve is now 32.6m wide and has a paved verge of 4.5m wide as per the image below.



- The updated drawings show an additional 24 car spaces in the beach parking area as required.
- The revised location for the sewerage pump station meets the setback requirements for residential environment and can be accessed for maintenance.
- The central concern expressed in previous assessment of material supplied by the applicant, is the adequacy of the east-west trunk stormwater drainage system. Currently this is provided by open channel and piped infrastructure within an easement benefitting Council, to convey major stormwater flows from the eastern coastal swale to the discharge point westward under Casuarina Way and Tweed Coast Road to Cudgen Creek. Previous MOD approvals have proposed to replace the swale with 3 x1650 culverts, and revised infiltration areas. However the subject MOD has sought to place other infrastructure and developable allotments in the northern portion of the site, and to reduce the constraints imposed by this stormwater infrastructure.



In a previous stormwater management plan, it was proposed to reduce the east-west drain to a single 1500mm pipe. While this was supported by modelling by the proponent's consultants, there was still concern about such a large reduction in pipe capacity. Accordingly, and at Council's suggestion, the proponent engaged a third party consultant to peer review the stormwater management proposal. This resulted in a revised design that provides a 2700mm x 1800mm box culvert through the site, and a reconfiguration of the stormwater infiltration basin within the eastern reserve. From an engineering perspective, this revised design satisfies previous concerns regarding capacity of the system to treat and convey stormwater flows from internal and external catchments. It is noted that the revised earthworks and levelling of the coastal strip provides less intrusive earthworks design, with reduced retaining walls, batter slopes and inlet structures. While many of these works will be carried out on community land (and requires approval via a revised management plan), this proposal is considered acceptable for submission to the Department of Planning.

### Landscaping Overview

The revised landscaping concept master plan and neighbourhood park is now generally supported.

#### NEIGHBOURHOOD PARK

The park provides a breakout space for residents and visitors. Located at a key juncture between the retail hub, entry road termination and main beach access this space is a key node in pedestrian movement and wayfinding.

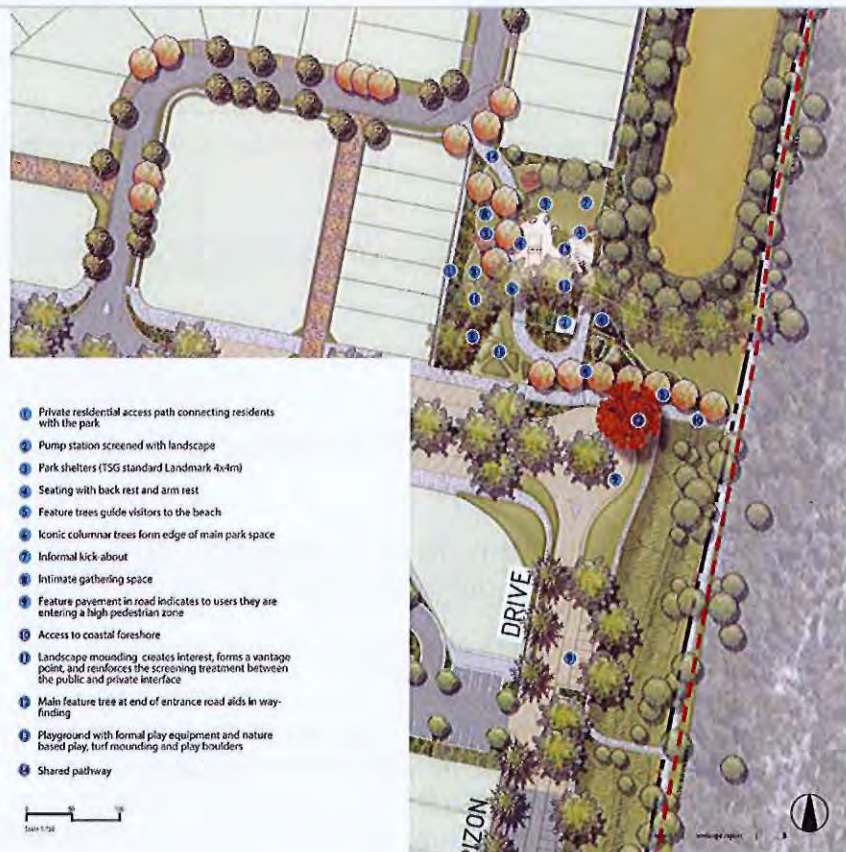
The park forms a link between the town centre and the linear open space (71 zone) containing a shared walkway that forms a major north-south pedestrian/cycle network for the Tweed Coast.

The park incorporates a playground with formal play equipment and natural play elements such as mounding and balancing boulders. The playground is nestled into the landscape with landform and planting surrounds. Trees provide shade and amenity to the space. Mounding and planting have been proposed between the road and the play space to create a screen.

A shared 3.5m wide path has been incorporated for pedestrians and cyclist to traverse from the town centre to the foreshore shared pedestrian and cycle path while allowing for informal interactions between the communities. A kickabout space has also been defined with planting and mounding to diversify the parks usage.

Residents to the west of the park will be provided with private access to the park. Mounding and planting will combine to form a buffer and screen between public and private interfaces. A path to the north connects the cul-de-sac road to the park and foreshore.

The sweeping landscape form of planting beds and mounds reflects the natural swaths of the beach landscape. The planting palette will draw its inspiration from the existing species found within the foreshore linear park.



However the following points should be noted and amended or conditioned in any formal application to the NSW Department of Planning:

- Direct access into council parks from private allotments is not encouraged so pathways as shown are to be removed but some planting separation is acceptable as long as the garden beds are a minimum 1500mm off the property boundary to prevent canopy overhang issues in the future. It is also recommended to include breaks in the garden beds otherwise residents will simply walk through the garden beds;
- Any landscaping mounds must not be of a height that impacts on passive surveillance or CPTED principles;
- Now that vehicular access to the sewer pump station is off the roundabout (this needs to be shown more clearly on the landscape plan) the shared pathway through the rest of the park should be reduced from 3500 wide to a more pedestrian friendly scale of 1800mm wide; and
- Beach access to remain as is.

### Plan of Management

Section 36 of the Local Government Act, 1993 (the Act) requires Councils to prepare Plans of Management for Community Land under Council management. A Plan of Management is required to provide the framework for the management and use of public land.

The applicant has submitted A Draft Plan of Management for Council's consideration (attached) which will help inform Council's decision as to whether to grant owners consent for the works proposed in this part of the Casuarina Town Centre.

The Act sets out a process to follow prior to adopting a Plan of Management for Community Land. In summary, the required actions are:

*"The draft plan is to be exhibited for at least 28 days, with a submission period of at least 42 days during which submissions must be made to Council.*

*Hold a public meeting in respect of the plan if the proposed plan categorises community land under Section 36 (4) or (5) of the Local Government Act 1993.*

*Consider all submissions made to the public hearing and any written submissions made to Council on the draft plan during the period of public exhibition. Council may then choose to amend the draft plan or to adopt the plan without amendment.*

*Should the draft plan require amendment, the public consultation process (exhibition and submission period) must be re-held. Another public hearing is not required.*

*Subject to no further amendments being required the Plan of Management is then formally adopted by Council."*



Section 36(4) and 5 state:

- (4) For the purposes of this section, land is to be categorised as one or more of the following:
  - (a) a natural area,
  - (b) a sportsground,
  - (c) a park,
  - (d) an area of cultural significance,
  - (e) general community use.
- (5) Land that is categorised as a natural area is to be further categorised as one or more of the following:
  - (a) bushland,
  - (b) wetland,
  - (c) escarpment,
  - (d) watercourse,
  - (e) foreshore,
  - (f) a category prescribed by the regulations.

Therefore it is recommended that the Draft Plan of Management be publically exhibited and a public meeting held.

**OPTIONS:**

That:

1. In regard to Development Application DA10/0222.26 for an amendment to Development Consent DA10/0222 for Casuarina Town Centre including 56 lot subdivision, road works, infrastructure works and landscaping (Department of Planning Application MP06\_0258) MOD 10 at Lot 15 DP 1198266 & Lot 13 DP 1014470 Casuarina Way, Casuarina, Council formally grant land owners consent for use of Lot 13 in DP 1014470 as per the Draft Plan of Management to enable the applicant to lodge the amended MP06\_0258 MOD 10 (Council reference DA10/0222.26) with the NSW Department of Planning; and
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**OR**

3. Council refuse to grant owners consent for any works in Community Land which would require the Casuarina Town Centre to be modified in its entirety.

Council Officer's recommend Option 1 and 2.

## **CONCLUSION:**

The applicant has worked with Council over the past 18 months in an attempt to overcome the previously identified areas of concern. The resulting earthworks and stormwater solutions are a vast improvement on the previous design and are now in a format where appropriate conditions of consent could be formulated. However this report is not the complete merit assessment of all of these issues but rather a request for Council to grant owners consent for the works required in Council Community Land by way of a Plan of Management which requires public exhibition. The application as submitted is considered detailed enough to support this request which in turn will enable the applicant to lodge an amended MOD 10 with the NSW Department of Planning.

## **COUNCIL IMPLICATIONS:**

**a. Policy:**

Corporate Policy Not Applicable

**b. Budget/Long Term Financial Plan:**

Not Applicable.

**c. Legal:**

Not Applicable.

**d. Communication/Engagement:**

Not Applicable.

## **UNDER SEPARATE COVER/FURTHER INFORMATION:**

Attachment 1. DA10/0226.26 Council Report - 21 April 2016 (ECM 4759627)

Attachment 2. DA10/0226.26 Draft Plan of Management (ECM 4759628)

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