

Council Reference: DA10/0222.30 LN85548
Your Reference:



25 October 2024

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Attention: Ryan Lennox – ryan.lennox@dpie.nsw.gov.au

Dear Sir/Madam

Council Submission to Department of Planning Modification Application to Casuarina Town Centre Concept Plan Approval MP06_0258 MOD 15 (Council reference DA10/0222.30) at Lot 51 DP 1264557; No. 10 Grand Parade CASUARINA

Assessment of Modifications Proposed as Part of this Application

In addition to the previous Council submission on this application (dated 21 June 2024), NSW Planning, Housing and Infrastructure are requested to take into account the below as part of assessment of the above application. These comments have been provided based on the information contained within 'Response to Submissions (RtS) Response No. 2.'

Street Activation

Council previously raised a lack of street activation as an area of concern with the proposed modification. In response it is noted that additional pedestrian accesses have been provided to the Grand Parade street elevation.

Furthermore the proponent has advised that *'ground floor tenancies proposed to be used for specialist medical purposes are anticipated to be of a typology that have a more retail and commercial style functionality. For example, the ground floor specialist medical tenancies may be occupied by services such as pathology and audiology which are comparable to more retail and commercial-based health services such as Specsavers or Bay Audio (both of which are examples found in nearby Tweed City).'*

In reviewing this, the provision of additional pedestrian access to the development is considered to represent an improvement to the previous design. However, review of the updated submitted plans indicate that there may be some works required on Council's road reserve to facilitate this. The below figure 1 appears to demonstrate some works (highlighted) outside of the subject development site. It is not clear from the submitted legend what this works represent and as such it is not possible to provide a full assessment, however please note that Council would not support the provision of steps/ramps etc. within the road reserve and these should all be located on site.

It is requested that, in the event of approval, NSW Planning, Housing and Infrastructure ensure that compliant equitable pedestrian access is achievable and provided to each tenancy as required.

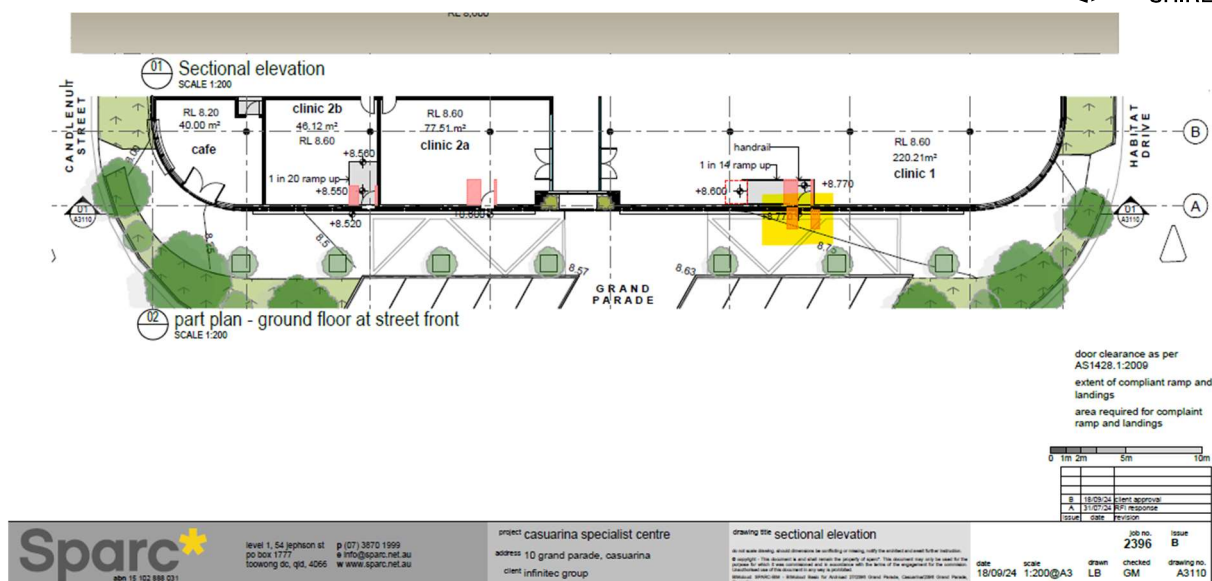


Figure 1: Partial Ground Floor Plan

Furthermore, the RtS advice that ground level commercial uses are ‘*anticipated to be of a typology that have a more retail and commercial style functionality*’ is not considered to be capable of requiring within the planning system given that these uses are to be defined as a ‘medical centre’ and by definition will not be required to have a retail/commercial functionality as described.

While such uses may end up in any such prospective tenancies it is also possible that medical centre uses which provide for limited street activation would be located within any such tenancies.

In this regard, the previous Council submission included the following;

‘As a minimum some of the ground floor tenancies should be identified for more active uses with shop fronts which open onto the street. This should preferably be a combination of retail / food and beverage uses.’

And;

‘concern would also be raised with respect to whether medical suites to the ground floor would deliver the intended activated retail/commercial uses across this prominent street frontage.’

Council’s Strategic Planning & Urban Design Unit have provided the following updated comment with respect to street activation related to the updated design submitted;

‘The previous SPUD concerns as communicated within the TSC correspondence dated 21 June 2024 are still pertinent. In summary this relates to:

- *Lack of activation of an important mid-town centre street block.’*

Based on the above, concerns still remain with respect to the level of street activation associated with this modification. While improvements have been made with respect to the provision of additional pedestrian access, the proposed use to the ground level is not considered to achieve street activation.

The purpose of condition C7 is to ensure an active street frontage to Grand Parade through incorporation of '*ground floor retail and commercial uses along the entire frontage to Grand Parade.*'

While a café has been provided to a portion of the elevation, the majority of this sites frontage is to be developed with medical centre uses which are not considered to activate the street frontage per the requirements of the condition.

Concern remains with this aspect of the development proposal.

Residential Density

The applicant response with respect to residential density is noted, however Council still retain concerns with this aspect of the proposal.

Irrespective of the overall housing provided within the Casuarina Town Centre area on adjacent/nearby sites, this modification does result in a loss of 18 residential units which were identified for this particular lot.

As such, consistent with previous Council advice on this matter, the provision of no residential development on this site continues to raise concern. A town centre site should have a higher residential density in close proximity to services such as the Casuarina retail area and Grand Parade town centre area in order to maintain the viability of commercial and retail services. Council's Strategic Planning and Urban Design has advised the following in this regard;

'The previous SPUD concerns as communicated within the TSC correspondence dated 21 June 2024 are still pertinent. In summary this relates to:

- *Undermining residential opportunities within the town centre that in turn impacts housing supply, economic activity (otherwise from those potential future residents), town centre vibrancy and passive surveillance.'*

As per the original submission, Tweed Shire Council would request that Department of Planning, Housing and Infrastructure assess this as a reduction to the density of the overall Casuarina Town Centre development and consider its suitability from a holistic perspective regarding potential impacts on the Casuarina Town Centre Development.

Traffic, Parking & Access

Council's Traffic Engineer has reviewed the Response to Submissions material and provided the following updated comment with respect to the modification;

'The Report estimates that the proposal will generate 464 daily trips (232 inbound and 232 outbound). And distributes those trips via Candlenut St (40%) and via Habitat Dr ((60%) to access Grand Parade as the access driveway is

halfway along Sunray Lane and concludes that the above distribution implies that the Lane's capacity constraints are not exceeded.

The Report advises that the average stay per patient is 58 minutes, and the approximate number of Staff was 16 and 8 Doctors.

Parking is calculated for a Medical Centre which requires 1.6 spaces per consulting room for Staff and 1.6 per consulting room for Visitors. Based on the proposed 30 consulting rooms there is a requirement for 96 spaces for the Medical Centre operations.

The Café (40m²) requires 1 per staff and 3.5/100m² for parking which requires 3 spaces if there is only one staff member on site.

101 spaces are proposed. However, 7 of the spaces are identified as 'Small Car' only which should be excluded.

Comment:

The RTA (TfNSW) Guide advises that for a medical centre the PM peak mean was 8.8 trips/100m² GFA with a range of 3.1-19.4 per 100m².

The Guide's AM peak mean was 10.4 trips/100m² GFA and with a range of 4.4 – 19.0 trips/100m²

The Report uses the lowest range for both the AM and PM peak which is considered inappropriate.

The Applicant has not adequately justified the minimum expected traffic generation and therefore its impact on the adjacent road, in particularly Sunray Lane.

The extrapolation that the RTA Guide was based on Sydney Region operations and therefore not transferrable to Regional areas is not accepted.

The RTA Guide advises that the average stay was approx. 27 minutes. The Report does not adequately provide evidence on how its estimated 58 minutes was derived.

The number of consulting rooms needs to be reduced to equate with the number of provided car parking spaces.

Summary

The submitted TIA does not adequately address the expected traffic generation from the proposal and its impact on the adjacent street network.

Any approvals if provided should significantly reduce the number of available consulting rooms to ensure that the traffic generation and parking does adversely impact on adjacent properties.'

Based on this, concern remains with respect to the ability of Sunray Lane to adequately cater for traffic anticipated to be created as a result of this development.

The submitted material does not demonstrate that the proposal is acceptable in this regard.

Furthermore, from a car parking perspective, it is noted that additional 'small car' spaces are now provided which should be excluded from any car parking calculations as per the above Traffic Engineer comments. Council staff would raise concerns at the likelihood of a single staff member operating a 40m² food and drink premises and as such additional car parking may be necessary to cater for staff to this use.

It is not established that the car parking provided would adequately cater for the proposed development. As such, concerns remain with this aspect of the modification.

Building Height

The majority of Council's original submission with respect to building height remains relevant.

The subject site is subject to the 13.6m Building Height Control under the Tweed LEP 2014. However, it is noted that the proposal would have a stated maximum height of approx. 15.3m.

As previously advised, in order for Council staff to typically support a variation to building height to the Tweed LEP controls (i.e. an increase to the 13.6m building height for the site), a Clause 4.6 variation would be required for consideration of potential impacts arising from this. Given the extent of variation exhibited here (i.e. exceeding 10%), this would need to be endorsed by elected Council.

In absence of following this process, Council staff are not in a position to definitively support the building height demonstrated on the submitted material. However, there would be no 'in principle' objection to a four storey development on site which adheres to the 13.6m height control contained in Tweed LEP 2014.

While justification has been provided relating to the need for increased ceiling heights to accommodate typical medical equipment which may be required, it is not clear that provision of a enclosed roof terrace area is required or warranted for amenity purposes in a non-residential development.

This aspect of the application has been reviewed by Council's Strategic Planning & Urban Design Unit who have provided the following updated comment with respect to the proposed building height increase;

'No in principle object to the small contained roof top component, acknowledging a more thorough assessment required through a C14.6 Variation Report. Less identified need for a roof top component in the context of a commercial building rather than the preferred 'mixed use' which included a component of residential land use.'

It is noted that the subject site is located in a town centre location where increased development density and building heights would typically be anticipated.

Based on the above, from a staff perspective no concern is raised in principle to four storey development, however NSW Planning, Housing and Infrastructure should be satisfied that any exceedance of the 13.6m control is well founded through a process similar to a Clause 4.6 variation request, with any such variation being well founded and justified on merit.

It should be demonstrated that any such height increases associated with this development would not have any adverse impacts on surrounding properties by way of overshadowing or loss of privacy/overlooking.

Conclusion

As per Council's original comments, the proposed development of a mixed use medical centre and café development at this location would be permitted with consent in the E1 Local Centre zone and is considered to generally comply with the objectives of this zone.

However, as detailed in this correspondence concerns are raised with respect to the ability of Sunray Lane to cater for the anticipated traffic generated by the proposal. Sunray Lane would have an indicative maximum traffic volume capacity of 300 vehicle movements per day which is expected to be exceeded by the proposed development. Furthermore, it is not clear that adequate car parking would be provided given the extent of 'small car' spaces proposed.

Concerns remain with respect to the removal of residential accommodation from this site which would impact upon the vibrancy of the village centre and while improvements have been made to the Grand Parade elevation through provision of additional pedestrian access points, the medical centre use along the majority of this elevation is considered to provide for significantly reduced street activation when compared to the approved ground floor retail and commercial uses.

As per previous advice, no in principle objection is raised to the proposed fourth storey element, however this also exceeds Council's 13.6m building height control by approximately 1.7m (> 10%). Typically, a Clause 4.6 variation would be required for consideration of potential impacts arising from such a variation and based on the extent of variation exhibited here (i.e. exceeding 10%), this would need to be endorsed by elected Council.

Internal Council Staff Comments

The Mod 15 Response to Submissions material has been reviewed by Council's Strategic Planning & Urban Design, Water & Wastewater and Environmental Health Units as well as by Council's Infrastructure (Traffic) Engineer. The below comments have been provided with respect to this proposal:

Strategic Planning & Urban Design Unit

The previous SPUD concerns as communicated within the TSC correspondence dated 21 June 2024 are still pertinent. In summary this relates to:

- Lack of activation of an important mid-town centre street block.

- Undermining residential opportunities within the town centre that in turn impacts housing supply, economic activity (otherwise from those potential future residents), town centre vibrancy and passive surveillance.
- No in principle object to the small contained roof top component, acknowledging a more thorough assessment required through a CI4.6 Variation Report. Less identified need for a roof top component in the context of a commercial building rather than the preferred 'mixed use' which included a component of residential land use.

Environmental Health Unit

Acid Sulfate Soils

- Acid sulfate soils appears to be a concern relating to the excavation and construction of the basement. It does not appear to have been addressed in this particular attachment.

Waste Management:

- A Waste Management Plan will accompany any future Development Application, detailing the type and amount of waste expected to be generated, disposal procedures, and frequency ([page 12](#)).
- This plan will outline the type and amount of waste expected to be generated by the development, as well as the procedures for disposal and the frequency of waste collection ([page 12](#)).

Contamination and Remediation:

- The contamination and remediation of land were assessed as part of the original Major Projects application (MP06_0258). The proposal does not seek to change any conditions imposed regarding contamination or remediation ([page 13](#)).
- It is stated that "any necessary assessment of land contamination and/or remediation resulting from the second proposed basement level will be addressed as part of any future Development Application" ([page 13](#)).

Light Pollution:

- Measures to mitigate light pollution will be proposed as part of any future Development Application, including privacy screens, obscured glazing, and internal blinds ([page 10](#)).
- The document mentions that "light pollution can be mitigated in cohesion with measures to mitigate privacy impacts such as via privacy screens, obscured glazing and the incorporation of internal blinds" ([page 10](#)).

Noise Pollution:

- Concerns about noise pollution from the rooftop terrace are addressed, with the document stating that "the rooftop terrace cannot be accessed by general

members of the public and will not be accessible out of hours of the building" ([page 10](#)).

- Noise Emission Timing: The rooftop terrace will not be accessible to the general public and will only be used during the day. Consequently, any noise generated from the terrace is anticipated to be largely inaudible from adjacent properties (page 10).
- Mitigation Measures: The document indicates that the design and location of the rooftop terrace, along with its intended use, will help minimise noise impacts. It is expected that the noise emanating from the terrace will not significantly affect the surrounding residential areas.

Environmental Health Related Matters that Appear to have Been Addressed:

1. Waste Management:

- The Waste Management Plan is mentioned as part of any future Development Application (DA), specifying the type, amount of waste, and disposal procedures (page 12). In the context of this Concept Plan – Major Project the issue seems to have been addressed adequately.

2. Environmental Impacts:

- It is noted that the environmental impacts were considered as part of the original subdivision, which is part of the broader Casuarina Town Centre project (page 12). This matter appears to have been adequately addressed as the impacts were considered in the original development plans, which allowed for the substantial modification of the land and natural environment.

3. Contamination and Remediation:

- Contamination and remediation were reviewed as part of a previous Major Projects application (MP06_0258) (page 13). The proposal does not plan to alter the previous conditions, so this seems to have been adequately addressed.

4. Light Pollution:

- Mitigation measures for light pollution, including privacy screens, obscured glazing, and internal blinds, are mentioned for future consideration (page 10). In the context of this Concept Plan – Major Project the issue seems to have been addressed adequately. This is easily addressed through a condition of consent.

5. Noise Pollution:

- The rooftop terrace is addressed, with assurances that it will only be used during the day and will not generate significant noise that could affect adjacent properties (page 10). In the context of this Concept Plan – Major Project the issue seems to have been addressed adequately,

although this may be further considered and conditioned with a future DA.

Environmental Health Matters Not Addressed or May Requires Further Investigation:

Acid Sulfate Soils and Dewatering:

- This issue relating to excavation and basement construction has been noted as a concern but does not appear to be addressed in the attachment. This will require further consideration and conditions of consent and may also be considered as part of the Construction Certificate and any associated licensing – in which case this matter has been adequately addressed for present purposes.
- Council's LEP 2014 Clause 7.1 states: Development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual and has been provided to the consent authority.

Amenity:

- A Construction Environmental Management Plan (CEMP) is required to address potential impacts on amenity and must comply with the Interim Construction Noise Guideline (NSW DECC, 2009). An acoustic report prepared by a qualified consultant was deemed necessary to assess noise associated with the use and occupation of the site, including noise from lifts, air conditioning, and other equipment. This can be conditioned for prior to CC OR can be asked for by the Department prior to determination.

Fire Ant Management:

- The importation of certain materials from invasive ant biosecurity zones must comply with current NSW Biosecurity orders. In the context of the Major Project Concept Plan modification the appropriate risk based measure would seem to be a condition of consent on a future DA. If that is the case, the current level detail is adequate, as this would address the need for relevant documentation being provided to the Principal Certifying Authority or Council prior to the importation of specified materials at the requisite time of development.

Council's Infrastructure (Traffic) Engineer

The Traffic Impact Assessment (dated 20/9/24) indicates that the adopted trip generation for the proposed development is:

Development	AM Peak Hour trip rate	PM Peak Hour trip rate
Medical Centre	4.4 trips/100m ² GFA	3.1 trips/100m ² GFA

This is based on the TfNSW Guide to Traffic Generating Developments Issue 2.2.

Trips according to the Report are estimated from the proposed development to be 117vph during the AM peak hour and 83vph during the PM peak hour.

The Report estimates that the proposal will generate 464 daily trips (232 inbound and 232 outbound). And distributes those trips via Candlenut St (40%) and via Habitat Dr ((60%) to access Grand Parade as the access driveway is halfway along Sunray Lane and concludes that the above distribution implies that the Lane's capacity constraints are not exceeded.

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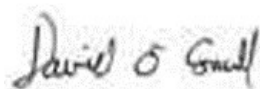
Summary

The submitted TIA does not adequately address the expected traffic generation from the proposal and its impact on the adjacent street network.

Any approvals if provided should significantly reduce the number of available consulting rooms to ensure that the traffic generation and parking does adversely impact on adjacent properties.

For further information regarding this matter please contact David O'Connell on (02) 6670 2483.

Yours faithfully



David O'Connell
Town Planner