



EDO-NQ ALERT

Mackay Conservation Group Inc (MCG) v East Point Mackay PL & Mackay City Council

Seven Day Hearing in Progress

From this Tuesday 28 March 2005, the Qld Planning and Environment Court in Brisbane will hear the second week of the MCG's appeal against the approval by the Mackay City Council of a major coastal development proposed for a largely undeveloped site of 67.67 hectares at East Point in Mackay. Court will commence on Tuesday morning at 10am in Court 25, level 2 in the District Court complex on George Street. Please switch off your mobile phones when in the Court room.

Last week the Court heard evidence from witnesses called by the proponent, East Point Mackay Pty Ltd, on issues associated with alleged risk to the site from tropical cyclones, on ground water and storm water issues and on design issues. This week, the Court will hear further evidence from witnesses called by the parties, including evidence from ecologists, planners and an oceanographer and a geomorphologist. Providing the parties do not run out of time and have to adjourn further hearing to a later date, closing oral submissions from the barristers appearing for the parties will be likely to be given at the end of the week.

What is the Appeal About?

The appeal is being conducted on a number of grounds, as set out in the MCG's notice of appeal, including:

- Conflict with the Mackay Planning Scheme Strategic Plan (the Mackay Town Plan). The MCG's case is that the development conflicts with the tourist designation in the Strategic Plan, because what is being proposed is, in a number of important respects, a residential development;
- The proposed development's incompatibility with the natural values of the site. The MCG's case is that the development, because of what the MCG says is its large scale and predominantly residential nature, is not suitable given the natural values of the site, including the vegetation values, the wildlife values and the natural coastal landscape values. The MCG is particularly concerned about the clearing of a significant remnant regional ecosystem that will occur if the development is approved;
- Risk to the site from impacts of tropical cyclones including storm surge.

The appeal raises important questions about the approach that should be taken to Strategic Plans by Queensland Local Councils when assessing development applications and about the application of the State Coastal Management Plan.

EDO-NQ is acting for the MCG and Stephen Keim SC is appearing as the group's barrister. A big thanks also goes to EDO-Qld for the use of their office space during the trial.

For further information contact the EDO-NQ on 07 40314766.