



expert witness gold coast city council case study

Expert Witness for Gold Coast City Council, Planning & Environment Court

August 2006 – June 2008

McDonald Balanda & Associates, on behalf of the Gold Coast City Council required an expert witness to assist with an appeal in the Planning & Environment Court. Council had resolved to approve a development application for a material change of use on a site close to Currumbin Spit beach and Currumbin Creek lagoon. An appeal against this development approval was raised, with the appellant contending that the ecological and conservation values of the site and adjacent waters would be diminished by developing the site.

Project requirements overview

Council sought to better understand issues relevant to the appeal, in order to defend the appeal if the environmental and conservation risks were found to be manageable.

Council required a qualified and independent report into the existing and potential ecological and conservation values of the area before, during and after any construction. Research would need to be undertaken on behalf of Council into foreseeable risks to site, as well as the nearby beach and lagoon ecosystems. Further to this scientific research, an intelligent and clearly defensible interpretation of the findings would need to be considered in the context of relevant planning statutes and regulations.

With several decades experience as an expert witness in Queensland and New South Wales jurisdictions and a longstanding reputation for integrity and effectiveness, **frc environmental's** Dr John Thorogood was commissioned to lead this research and prepare a detailed report, and to act as the defendant's expert witness in court.



Waterfront development opportunities may provide significant benefits, but also significant challenges

Project Performance

- Timely response to Council's requirement for strategic advice
- Effective site-based investigation, underpinned by decades of experience of both the region and the key ecosystems
- Strategically valuable interpretation of the planning scheme and related legislation
- High credibility (and thus effectiveness) in negotiation with the opposing expert to achieve common understanding, leading to withdrawal of the relevant grounds of appeal

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Our tailored approach and methodology

frc environmental's project team undertook research into the existing environment on site, and of the lagoon and beach areas close by. Using their considerable experience in the area and rigorous sampling and research processes, the team quickly completed this research phase and moved on to supporting Dr Thorogood's preparation for the appeal.

During these appeal preparations, Dr Thorogood discovered an error of fact in the original Town Planning Proposal Report; it was incorrectly stated that the site was bounded by both the lagoon and the beach, however the site is in fact separated from both coastal features by grassed parkland and pedestrian walkways. As the project team was able to demonstrate, this cadastral separation significantly reduced both the potential material impact of development on both of the lagoon and beach ecosystems, and the relevance of a number of the planning scheme's constraints codes.

As an expert witness, John was able to constructively negotiate a common understanding of the issues with the expert witness appointed by the appellant. The comprehensive nature of **frc environmental's** research and report, coupled with a deep understanding of relevant legislation and the planning scheme, enabled John to effectively support Council. His credibility and insight proved invaluable, contributing to the withdrawal of the appeal.

“... a deep understanding of relevant legislation and the planning scheme, enabled John to effectively support Council.”

industry experience

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- Water Infrastructure
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