

Addendum Report

REPORTS FROM THE DIRECTOR PLANNING AND REGULATION

a19 [PR-CM] Development Application DA10/0382 for a Boundary Alteration at Lot 1 and 2 DP 129075; Lot 11, 12, 15, 16 DP 44722, Tyalgum Road, Eungella

ORIGIN:

Development Assessment

FILE NO: DA10/0382 Pt1

SUMMARY OF REPORT:

The proposed development seeks Council consent for a boundary re-definition to regularise an arrangement between property owners (over 6 allotments) as a result of past road re-alignment works in DP 44722.

The proposal involves the adjustment between two allotments being Lot 1 and Lot 2 in DP 129075, and the consolidation of Lots 11, 12, 15 and 16 in DP 44722 to Lot 1 resulting in the following configuration:

- Proposed Lot 1 – From approximately 1.91 ha to an area of 2.60 ha and a frontage to Tyalgum Road
- Proposed Lot 2 – From approximately 1.88 ha to 1.55 ha and a frontage to Tyalgum Road
- Lots 11 (approximately 0.109 ha); Lot 12 (approximately 0.167 ha); Lot 15 (approximately 0.0387 ha) and Lot 16 (approximately 0.0679 ha) being consolidated with Lot 1.

As the proposed subdivision will result in proposed Lots 1 and 2 being under the minimum allotment size they will require a State Environmental Planning Policy No. 1 (SEPP 1) objection.

In respect of the planning standard identified within Clause 20 (2)(a) of the Tweed Local Environmental Plan (LEP), specifically seeking variance to the 40 hectare minimum lot size development standard for the 1(a) zone. It is noted that all lots are currently undersized.

The SEPP 1 objection relates to proposed Lots 1 and 2 being below 40 hectares. Council does not have the authority to assume the Director-Generals Concurrence, as the boundary adjustment is between six allotments.

The Department of Planning have granted Director General's Concurrence. The purpose of this report is to have the application determined by a full Council as Council Officers do not

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have the delegation to determine a development application with a SEPP 1 objection greater than a 10 per cent variation of the applicable development standard.

After consideration of applicable environmental planning instruments, the Tweed Development Control Plan and various policies, the proposal is recommended for approval.

RECOMMENDATION:

That Development Application DA10/0382 for a boundary alteration at Lot 1 and 2 DP 129075; Lot 11, 12, 15, 16 DP 44722, Tyalgum Road, Eungella be approved subject to the following conditions:

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Titled "Plan of Proposed Boundary Alteration Lots 1 & 2 DP 129075 & Lots 11, 12, 15 & 16 DP 44722 Tyalgum Road, Eungella", Revision A prepared by Landsurv Pty Ltd and dated 21.05.10, except where varied by the conditions of this consent.**

[GEN0005]

- 2. The subdivision is to be carried out in accordance with Tweed Shire Council Development Control Plan Part A5 - Subdivision Manual and Councils Development Design and Construction Specifications.**

[GEN0125]

- 3. Prior to the issue of the subdivision certificate approval to operate the on-site sewage management facility under Section 68 of The Local Government Act 1993 shall be obtained from Council.**

[GENNS01]

- 4. The proponent shall not clear any threatened or endangered species.**

[GENNS02]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

- 5. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.**

[PSC0825]

- 6. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act.**

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

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Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

- 7. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.**

The following information must accompany an application:

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.**
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.**

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0885]

- 8. Prior to the issue of a Subdivision Certificate, the existing accesses servicing proposed Lots 20 and 21 shall be bitumen sealed from the existing bitumen edge of Tyalgum Road to the respective property boundaries, in accordance with Tweed Shire Council's Development Control Plan, Part A5 - Subdivision Manual and Council's "Driveway Access To Property – Part 1 – Design Specification".**

[PSCNS01]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

- 1. At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling(s) on proposed Lot 21, to a distance of 20 metres, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.**

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REPORT:

Applicant: Landsurv Pty Ltd
Owner: Mr BJ Harris, Mr DM Harris, Mrs AE Maynes and Mr PB Maynes
Location: Lot 1 and 2 DP 129075, Lot 11, 12, 15, 16 DP 44722 Tyalgum Road, Eungella
Zoning: 1(a) Rural, 1(b2) Agricultural Protection (small section of Lot 2 – not affected by the boundary adjustment)
Cost: N/A

BACKGROUND:

The proposed development seeks Council consent for a boundary adjustment subdivision and consolidation of six (6) existing allotments:

- Lot 1 DP 129075 – Has an area of 1.91 ha and contains an existing dwelling house, swimming pool and large shed. Lot 1 is accessed via an existing right of carriageway burdening Lot 2 from Tyalgum Road.
- Lot 2 DP 129075 – Has an area of 1.88 ha and contains an existing dwelling house. Lot 2 is accessed from a separate drive way from Tyalgum Road.
- Lots 11, 12, 15 and 16 DP 44722 – Have areas from 1094m², 1671m², 387m² to 679m² respectively. The lots were affected by a road re-alignment.

The proposed subdivision will result in the following configuration:

- Proposed Lot 1 – Having an area of 2.60 ha and a frontage to Tyalgum Road.
- Proposed Lot 2 – Having an area of 1.55 ha and a frontage to Tyalgum Road.
- Lots 11, 12, 15 and 16 being consolidated into Lot 1.

The proposed development intends regularise an arrangement between existing property owners (over the six allotments) as a result of past road re-alignment works.

No works will be required as there is already an existing boundary fence located along the proposed boundary between lots 1 and 2. Lots 11, 12, 15 and 16 have already been incorporated into the residential configuration of lot 1 as a result of the road re-alignment.

The subject land is located in the locality of Eungella with lots 1, 2, 15 and 16 having an existing boundary access to Tyalgum Road. There are existing lawful dwellings on both Lots 1 and 2, with the dwelling on lot 1 currently being under construction as approved under Development Application DA06/0723 on 22/06/2007.

Both Lots 1 and 2 are gently undulating, predominantly grassed with a number of trees.

The application is not considered to be a minor boundary adjustment. Clause 19 of the LEP defines a minor boundary adjustment as:

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'a subdivision of adjoining lots to create new lots none of which is significantly different in area, shape or dimensions from the corresponding former lot.'

On this basis the proposal cannot be considered minor as the proposed allotments exhibit a different shape and dimensions. As such, Clause 19(3) does not exempt compliance with development standards relating to minimum lot size. The application is therefore considered as a subdivision of the Tweed LEP.

It should be noted that a dwelling entitlement will be lost if the subdivision is approved as the TLEP does not have a savings clause for subdivisions approved after 2000.

A SEPP 1 objection also accompanies the application. The objection is in respect of the planning standard identified within Clause 20 (2)(a) of the Tweed LEP, specifically seeking variance to the 40 hectare minimum lot size development standard for 1(a) zone. The SEPP 1 objection relates to lots 1 and 2 being below 40 hectares.

Furthermore, the Council does not have the authority to assume the Director-General's Concurrence for the boundary adjustment as the proposed development involves six allotments.

The application was therefore referred to the NSW Department of Planning requesting the Director-General's Concurrence. Concurrence was granted to vary the 40 hectare minimum lot size development standard. The Department of Planning advised that concurrence was granted in this instance for the following reason:

- *Concurrence was granted in this instance for the reason that as dwellings exist or are under construction on each of the two proposed lots, no additional dwelling 'entitlements' will be created – thereby complying with the Department's boundary adjustment policy.*

As the Department of Planning have granted Director General's Concurrence, the purpose of this report is to have the application determined by a full Council, as Council Officers do not have the delegation to determine a development application with a SEPP 1 objection greater than a 10 per cent variation of the applicable development standard.

After the consideration of the applicable environmental planning instruments, the Tweed Development Control Plan and various policies, the proposal is recommended for approval.

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CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

Clause 4 - Aims of the Plan

The proposed development is considered to be consistent with the aims of the Tweed LEP. The proposed development is considered to be consistent with the vision of the shire 'to manage growth so that the unique natural and developed character of the Tweed Shire is retained'.

Clause 5 - Ecologically Sustainable Development

The proposed development is considered to be generally compliant with the principles of ecological sustainable development. The proposed development is on cleared land, predominantly grassed and residential in character. No works are proposed. Therefore the proposed development is considered to have minimal impact on the environment and is in keeping with the precautionary principle; inter generational equity and the conservation of biological diversity and ecological integrity.

Clause 8 – Consent Considerations

This clause specifies that the consent authority may grant consent to development (other than development specified in Item 3 of the table to clause 11) only if:

- (a) *it is satisfied that the development is consistent with the primary objective of the zone within which it is located, and*
- (b) *it has considered that those other aims and objectives of this plan (the TLEP) that are relevant to the development, and*
- (c) *it is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.*

In this instance, the subject site is zoned 1(a) Rural, with a small section of the eastern corner of Lot 2 being 1(b2) Agricultural Protection. However, this section of the Lot is not affected by the proposed boundary re-alignment and on this basis Zone 1(a) is the predominant zone. The primary objectives for zone 1(a) are outlined below.

The proposed boundary adjustment subdivision is considered consistent with the primary objective of the zone as it will not change the status quo.

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Other relevant clauses of the TLEP have been considered elsewhere in this report and it is considered that the proposed boundary adjustment subdivision generally complies with the aims and objectives of each.

The proposal is not considered to contribute to any unacceptable cumulative impact in the community due to the established rural nature of the subject area.

Clause 11 – Zone Objectives

The subject land is zoned 1(a) Rural, with a small section of Lot 2 being zoned 1(b2) Agricultural Protection. Given the predominant zone is 1(a) and zone 1(b2) is not affected by the boundary adjustment, zone 1(a) is considered the primary zone category for the subject site.

The primary objective is:

- *to enable the ecologically sustainable development of land that is suitable primarily for agricultural or natural resource utilisation purposes and associated development;*
- *to protect rural character and identity.*

The secondary objective is:

- *to enable other types of development that rely on the rural or natural values of the land such as agri- and eco-tourism.*
- *to provide for development that is not suitable in or near urban areas.*
- *to prevent the unnecessary fragmentation or development of land which may be needed for long term urban expansion.*
- *to provide non-urban breaks between settlements to give a physical and community identity to each settlement.*

The proposed development is considered consistent with the zone objectives in that the rural character and amenity of the locality would be preserved and there is considered to be no adverse impacts upon the agricultural viability of adjacent allotments due to the minor land areas to be exchanged.

It is also considered that the proposed configuration will not lead to establishing rural land use conflicts which will not result in the rural character and amenity being compromised. Furthermore, the proposal will reduce the potential for land fragmentation.

Clause 15 - Essential Services

Council's GIS indicates that reticulated water supply is available to the area. The servicing of dwellings would have been addressed at the time of dwelling application. Council sewage disposal is not available in the area however both

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dwelling is serviced by a Waste Treatment Device Application. The proposed boundary adjustment shall not affect the existing systems.

Electricity and telecommunication services are currently provided to the area and shall also not be affected by the proposed boundary adjustment.

Clause 20 - Subdivision

The objective of Clause 20 of the LEP is:

- *to prevent the potential for fragmentation of ownership that would:
 - i) *adversely affect the continuance or aggregation of sustainable agricultural units, or*
 - ii) *generate pressure to allow isolated residential development, and provide public amenities and services, in uncoordinated and unsustainable manner**
- *to prevent the ecological or scenic values of the land*
- *to protect the area of Tweed's water supply quality*

The proposal will not affect the continuance or aggregation of sustainable agricultural units or generate pressure to allow residential or other development given Lot 1 will remain below the minimum lot size and is residential in character. No new dwelling entitlements are created by the proposed subdivision.

The proposal only involves an alteration to boundary lines and will not alter ecological or scenic values of the land or affect water supply. By allowing the consolidation of Lots 11 to 16 the proposal will simplify the existing cadastral situation and reduce the potential for fragmentation of land in the rural zone.

Furthermore, this clause requires a minimum allotment size of 40 hectares in the 1(a) zone. Proposed lots 1 and 2 do not comply with this development standard, however they are already under the minimum development standard for the zone. An objection under State Environmental Planning Policy No. 1 has been prepared by the applicant in this regard and addressed later in this report.

Clause 35 - Acid Sulfate Soils

The subject site is mapped as Class 5 Acid Sulfate Soils. The proposal does not affect groundwater or involve fill or works to the land, therefore no further consideration is required in relation to Acid Sulfate Soils.

Clause 22 – Development near Designated Roads

The proposed minor boundary is considered not to negate the aims and objectives of the clause by creating an adverse impact on Tyalgum Road.

The development does not seek to alter the existing access arrangements or create development that would adversely impact or be impacted by the

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designated road. Lots 1 and 2 contain existing residential developments, which will not be affected by this proposal.

Clause 23 – Control of Access

The proposed boundary adjustment does not propose or require additional access to the designated road - Tyalgum Road. Both proposed lots are serviced via existing driveways however both are currently unsealed. The Development Assessment Engineer has recommended that both driveways are sealed prior to the issue of a Subdivision certificate which shall be conditioned.

Clause 24 – Set backs to Designated Roads

The proposed boundary adjustment does not propose or provide for a building described within column one, as such the clause is not strictly relevant to the proposal.

Clause 39A – Bush Fire

The application was referred to the NSW RFS, pursuant to section 91 of the *EP & A Act 1979*. NSW RFS provided a bushfire safety authority pursuant to s100B of the *Rural Fires Act 1979*, issued subject to recommended conditions.

Clause 57 – Protection of Existing Dwelling Entitlement

The objective of this clause is to protect dwelling entitlements if the allotment is created by a subdivision pursuant to clause 20(3) for Subdivision in Zones 1(a). As the proposed subdivision will result in proposed Lots 1 and 2 being below the minimum allotment size, any dwelling entitlement will be lost.

State Environmental Planning Policies

SEPP (North Coast Regional Environmental Plan) 1988

Clause 12: Impact on agricultural activities

Clause 12 provides that consideration must be given to the likely impact of the proposed development on the use of the adjoining or adjacent agricultural land and whether the development will cause loss of prime agricultural land and whether the development will cause a loss of prime crop or pasture land.

It is considered that the proposed boundary adjustment and lot consolidation will not result in a loss of prime agricultural land.

The surrounding land is used for pasture and associated agricultural purposes, the boundary adjustment subdivision will not result in any land use conflict as the proposal will not change the status quo.

SEPP No. 1 - Development Standards

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As discussed, the applicant seeks to vary the development standard identified within Clause 20 (2)(a) of the Tweed LEP, specifically seeking variance to the 40 hectare minimum lot size development standard for the 1(a) zone.

The SEPP 1 objection relates to proposed lots 1 and 2 being below 40 hectares. A SEPP No. 1 submission may be supported where the applicant demonstrates that compliance with a development standard is unreasonable or unnecessary in the circumstances of the case and specifies the grounds of that objection. The applicant must also demonstrate the consistency with the aims of the SEPP.

The following assessment of the SEPP No. 1 is based on the principles set by Chief Justice Preston (*Wehbe v Pittwater Council [2007] NSW LEC 827*). Chief Justice Preston has noted 5 ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy.

1. The applicant must satisfy the consent authority that "the objection is well founded", and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

The applicant contends that *the proposal is consistent with the [primary and secondary objectives of the LEP] since it retains the status quo, being only a marginal variation from the existing cadastral situation. Furthermore, the areas of the subject holdings are such that agricultural productivity is not a consideration.*

It is considered that the standard is unreasonable and unnecessary in this instance as the current lot sizes of the lots will remain below the development standard (40 hectares) and the purpose of this subdivision is in response to regularising the existing situation between lots 1 and 2, and to consolidate smaller fragmented lots. There are also no additional lots or dwellings proposed.

2. The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979*;

The objects specified within Section 5(a)(i) and (ii) relate to the promotion and co-ordination of the orderly and economic use and development of land, and the protection, provision and co-ordination of communication and utility services.

The proposal provides for a boundary adjustment subdivision between two lots, and the consolidation of four smaller lots. The proposed new lot configurations will not affect the current orderly and economic use of the land as the land is not currently being used for agricultural pursuits and is residential in nature. It is considered that the consolidation of lots 11, 12, 15 and 16 will reduce the potential for fragmentation and will not result in any potential land use conflicts.

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3. It is also important to consider:

- a. whether non-compliance with the development standard raises any matter of significance for State or regional planning; and
- b. the public benefit of maintaining the planning controls adopted by the environmental planning instrument.

The proposed non-compliance with Clause 20(2)(a) of the Tweed LEP is not considered to raise any matter of significance for State or Regional planning.

There would also be little public benefit in maintaining the development standard in this case as proposed Lots 1 and 2, 11, 12, 15 and 16 already do not comply with the development standard. The purpose of the subdivision is to improve an existing situation by reducing the potential for lot fragmentation and regularising the existing access arrangements between the two rural dwellings, being the result of a past road re-alignment works.

Chief Justice Preston notes that there is a public benefit in maintaining planning controls. However, the proposed non-compliance with the Tweed LEP 2000 is considered to be justified in this instance and is not likely to result in an adverse planning precedent as it is localised. As such, the granting of this application is unlikely to impact upon public benefit.

In addition, the Director-General's Concurrence has been granted to relax the 40 hectare minimum lot size development standard. Concurrence was granted for the following reasons:

- *As dwellings exist or are under construction on each of the two proposed lots, no additional dwelling 'entitlements' will be created – thereby complying with the Department's boundary adjustment policy..*

It is therefore considered that the development will not result in any additional allotments being created; will not result in an additional housing entitlement and, in this instance, the Council is satisfied that there will be no impact to agricultural enterprise as the land in question is residential in nature.

On this basis it is considered that the SEPP 1 objection is reasonable and that the proposed development is satisfactory.

SEPP (Rural Lands) 2008

The subject land is within the 1(a) Rural Zone and the provisions of this SEPP apply to the proposed development.

Clause 7 Rural Planning Principles

The Rural Planning Principles are as follows:

- (a) *the promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas,*

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- (b) recognition of the importance of rural lands and agriculture and the changing nature of agriculture and of trends, demands and issues in agriculture in the area, region or State,*
- (c) recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
- (d) in planning for rural lands, to balance the social, economic and environmental interests of the community,*
- (e) the identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land,*
- (f) the provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
- (g) the consideration of impacts on services and infrastructure and appropriate location when providing for rural housing,*
- (h) ensuring consistency with any applicable regional strategy of the Department of Planning or any applicable local strategy endorsed by the Director-General.*

The proposed development is compliant with the rural subdivision principles in the SEPP as the subdivision will not affect the continuance and potential productive sustainable activities to be undertaken, as the lots are not used for agricultural purposes and are residential in nature. The proposal will result in more rational lot configuration involving consolidation of existing fragments, promoting more efficient uses.

Clause 8 - Rural Subdivision Principles

The Rural Subdivision Principles are as follows:

- (a) the minimisation of rural land fragmentation,*
- (b) the minimisation of rural land use conflicts, particularly between residential land uses and other rural land uses,*
- (c) the consideration of the nature of existing agricultural holdings and the existing and planned future supply of rural residential land when considering lot sizes for rural lands,*
- (d) the consideration of the natural and physical constraints and opportunities of land,*
- (e) ensuring that planning for dwelling opportunities takes account of those constraints.*

The proposal will not alter the existing use of the land and will reduce land fragmentation. There will be no conflicts of rural land uses given the existing lots are residential in character and no new dwellings are proposed.

The proposal will have no impact to the nature of existing agricultural holdings or the planned future supply of residential land as the proposal will not alter the existing natural formations of the lots given there is already a boundary fence following the proposed boundary between lots 1 and 2. No physical alterations are proposed to lots 11, 12, 15 or 16 as the lots are already integrated into the residential boundary of Lot 1.

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Clause 10 - Matters to be considered in determining development applications for rural subdivisions or rural dwellings

The matters to be considered in determining a development application are stated and addressed as follows:

- (1) *This clause applies to land in a rural zone, a rural residential zone or an environment protection zone.*
- (2) *A consent authority must take into account the matters specified in subclause (3) when considering whether to grant consent to development on land to which this clause applies for any of the following purposes:*
 - (a) *subdivision of land proposed to be used for the purposes of a dwelling,*
 - (b) *erection of a dwelling.*
- (3) *The following matters are to be taken into account:*
 - (a) *the existing uses and approved uses of land in the vicinity of the development,*
 - (b) *whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*
 - (c) *whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*
 - (d) *if the land is not situated within a rural residential zone, whether or not the development is likely to be incompatible with a use on land within an adjoining rural residential zone,*
 - (e) *any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c) or (d).*

As stated previously in this report, the proposed boundary adjustment subdivision will not change the status quo. The proposed new lot configurations will not affect the current orderly and economic use of the land as lots 1 and 2 are residential in nature and lots 11, 12, 16 and 16 do not have agricultural potential due to their small scale and close proximity to residential dwellings.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

There are no Draft Environmental Planning Instruments considered relevant to the proposal.

(a) (iii) Development Control Plan (DCP)

Tweed Development Control Plan

A5-Subdivision Manual

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Council's Development Engineer has reviewed the application with respect to the provisions of Section A. The application is considered satisfactory subject to number of conditions of consent.

(a) (iv) Any Matters Prescribed by the Regulations

Bushfire

The application required an Integrated Referral to the NSW Rural Fire Service due to the bushfire prone nature of the land. In a response dated 23 July 2010, a Bushfire Safety Authority was granted subject to certain conditions of consent.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

Context and Setting

There is already a boundary fence located on the proposed boundary between lots 1 and 2. Lots 11, 12, 15 and 16 have already been integrated into the residential boundary of Lot 1 as a result of the road re-alignment. As the lots are to remain rural residential in character there will be no impact to the context or setting of the subject lots or to the surrounding area.

Access, Transport and Traffic

The existing driveways that serve the dwellings on lot 1 and 2 are currently unsealed. As discussed, provided a condition to ensure that the driveways are sealed, there is considered to be no impact to access arrangements onto the designated road.

Flora and Fauna

There are no proposed works or alterations to the existing vegetation on the site and there will be no impact to flora or fauna.

(c) Suitability of the site for the development

Surrounding Land Uses/Development

As discussed the development is not considered to impact on surrounding land uses or development, given the proposal seeks to regularise the existing arrangement and consolidate fragmented titles. The suitability of the site for the development has been demonstrated by way of general consistency with the applicable environmental planning instruments and the Tweed Development Control Plan. On this basis it is considered that the proposal is consistent with the rural residential character of the locality.

(d) Any submissions made in accordance with the Act or Regulations

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The application did not require notification under Council's Notification Policy.

(e) Public interest

The application is not considered contrary to the public interest as the application satisfies the objectives of the Tweed Local Environmental Plan 2000.

OPTIONS:

1. Approve the application in accordance with the recommended conditions.
2. Refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the applicant be dissatisfied with the decision of the determination the applicant may determine to lodge an appeal with the Land & Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed development is consistent with the applicable environmental planning instruments, the Tweed Development Control Plan and relevant policies. The proposal seeks to regularise the existing configuration of lots as a result of a road re-alignment. The proposal will not result in any adverse cumulative impacts. It is therefore considered that the site is suitable for development and warrants approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.
