

DELEGATED AUTHORITY DEVELOPMENT APPLICATION REPORT

DA No. DA08/0490

DATE 15/10/2008 9:09:00 AM

PROPERTY DESCRIPTION:

Lot 2 DP 746783, McCollums Road DURANBAH

APPLICANT:

Mr G Marshall
C/-Planit Consulting Pty Ltd
PO Box 1623
KINGSCLIFF NSW 2487

PROPOSAL:

Consent is sought for a 2 lot subdivision including a future dwelling site.

Proposed Lot 1 will have an area of 11.3ha and proposed Lot 2 will have an area of 11.08ha. Each allotment will possess road frontage, with proposed Lot 1 gaining access from Melaleuca Road and proposed Lot 2 retaining the current point of access from McCollums Road.

An existing dwelling house is located on proposed Lot 2 which is to be retained. This dwelling and the proposed new dwelling site on proposed Lot 1 will utilise existing on site effluent disposal and water harvesting. Such an arrangement has been deemed acceptable by Council's Environmental Health Officer.

The proposal is integrated development under Sec 91 of the Environmental Planning and Assessment Act. Conditions have been returned from the NSW Rural Fire Service in this regard.

The subject land is not identified as regionally significant or state significant farmland.

It is noted that the application proposes a right of way (ROW) to provide access over proposed Lot 2 to existing stables affiliated with the existing dwelling on Lot 1 DP 746783. It is noted that the ROW is not necessary for the current proposal, and appears to be remnant from a previous application for subdivision/boundary adjustment to incorporate the stables into existing Lot 1 DP 746783. Council's Development Assessment Engineer has reviewed the application in this regard and imposed the following condition:

"Creation of the nominated Right Of Way is not a necessity for the functionality of the subdivision and it appears to be an unnecessary encumbrance over proposed Lot 2. Nevertheless Council raises no objection to its creation, if required by the owner".

DEFINITION AS PER EPI:

Subdivision

BUILDING
CLASSIFICATION:

Not Applicable

SITE DETAILS:

The total site area is 22.38ha and the site is located within the 1(b1) zone under the TLEP 2000. The land is predominantly cleared for grazing. An existing dwelling house is located on proposed Lot 2.

HISTORY:

K99/0396 for a proposed 2 Lot subdivision was refused in 1999.

DA06/0894 approved a farm shed in 2006.

DA07/0313 for a proposed 2 Lot subdivision and boundary adjustment was withdrawn in early 2008. It is noted that this application required concurrence from the Department of Planning as it sought to create two allotments less than the prescribed 10ha minimum for the 1(b1) zone. Advice was also sought from the Department of Primary Industry who required the submission of considerable further information (including an agricultural report) to demonstrate that the proposal was consistent with the 1(b1) zone objectives and the agricultural land use of the subject site and locality. The Agricultural Report was never supplied by the applicant and as such, the application was withdrawn.

RECOMMENDATION:

That the application be approved subject to the following conditions:-

Assessing Officer
Renee Saunders
Date: 1 February 2011

RECOMMENDATION APPROVED
Determined by me in accordance with
authority delegated by the General
Manager dated 14 May 2007

Signed:
Colleen Forbes

Dated:

ASSESSMENT UNDER SECTION 79(C)(1) OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

(a)(i) The Provisions of any Environmental Planning Instrument

Tweed Local Environmental Plan 2000

Zoning:-	1(b1) Agricultural Protection
Development Defined as:-	Subdivision
Permissibility:-	Allowable with consent (Item 2)

Specific Clauses:-

Clause 11 - Zone objectives

The primary objective of the 1(b1) zone is to protect identified prime agricultural land from fragmentation and the economic pressure of competing land uses.

The secondary objective is to allow other development that is compatible with agricultural activities.

The proposal respects the minimum lot sizes for the 1(b1) zone, with proposed Lot 1 being 11.3ha and proposed Lot 2 being 11.08ha. The proposal is subsequently considered to be consistent with the objectives of the zone.

Clause 15 - Essential Services

The existing dwelling and the proposed new dwelling site on proposed Lot 1 will utilise existing on site effluent disposal and water harvesting. Such an arrangement has been deemed acceptable by Council's Environmental Health Officer.

Clause 16 - Height of Building

The subject site has a height limit of 3 storeys which does not require consideration in light of the subject proposal.

Clause 17 - Social Impact Assessment

The proposal is not considered to generate any significant social impacts.

Clause 35 - Acid Sulfate Soils

The north eastern corner of the subject site is affected by Class 3 ASS. No works are proposed within this application with the potential to impact on such soil. No further consideration in this regard is required.

Other Specific Clauses

Clause 4 – Aims of the Plan

Clause 4 illustrates that the aims of the TLEP 2000 are to give effect to the desired outcomes, strategic principles, policies and actions of the Tweed Shire 2000+ Strategic Plan. The subject development application is considered suitably in keeping with the Strategic Plan and is deemed appropriate for the subject site.

Clause 5 – Ecologically Sustainable Development

The subject development application is considered consistent with the four principles of ESD, being *the precautionary principle, intergenerational equity, conservation of biological diversity and ecological integrity and improved valuation, pricing and incentive mechanisms*. It is not considered likely that the proposal will result in significant environmental impacts as it respects the minimum lot size for the subject zone and does not require any works.

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 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(b1) Agricultural Protection, the objectives of which have been discussed above. The proposed subdivision is considered to comply with both the primary and secondary objectives.

Other relevant clauses of the TLEP are considered below, and it is considered that the proposed subdivision generally complies with the aims and objectives of each.

It is not considered that the development will contribute to any unacceptable cumulative impact on the Duranbah locality or the community as a whole as the proposal meets the prescribed minimum lot size for the subject zone and does not propose any works such as cut/fill which could adversely affect the environment.

Clause 19 – Subdivision

This clause outlines that a person must not subdivide land without consent, that strata subdivision is permissible in prescribed zones and that a person may, with consent, carry out a minor boundary adjustment, notwithstanding that the new lots may not comply with relevant development standards applicable to the subject site. The subject proposal does not result in lot sizes less than those allowable in the 1(b1) zone, and as such, the proposed subdivision is considered consistent with clause 19.

Clause 20 – Subdivision in Zones 1(a), 1(b), 7(a), 7(d) and 7(l)

This clause aims to prevent the potential for fragmentation of ownership of rural land that would adversely affect the continuance or aggregation of sustainable agricultural units or generate pressure to allow isolated residential development and provide public amenities and services in an uncoordinated and unsustainable manner. It also aims to protect the ecological and scenic values of the land and protect the quality of water supply.

Clause 20 specifies that consent may only be granted to subdivision in the 1(b1) zone if each allotment created is at least 10 ha.

In this instance, the created parcels are each 11 ha and the proposal is subsequently not considered to adversely affect the continuance of agricultural use of either site or generate unfavourable pressure for development. The proposal is not considered to detract from the ecological or scenic values of the land and is not located in proximity to the Tweed catchment.

Based on the above, the proposal is considered to accord with Clause 20.

Clause 34 – Flooding

Council's GIS system indicates that the north eastern and south

western corners of the subject site could be flood prone. The application does not propose any works/future dwelling sites in either such location – and the submitted plan indicates 20-40m fall between the existing/proposed house site and the potentially flood prone areas. No further assessment is required in this regard.

Clause 39 – Remediation of Contaminated Land

Council's Environmental Health Officer has reviewed the application with regard to contaminated land. A Preliminary Site Contamination Report has been prepared by HMC Environmental Consulting which identifies that the site has previously been used for crop growing. Soil sampling has been completed and contaminants of concern were not identified above relevant levels. Council's Environmental Health Officer has recommended no further consideration in this regard.

Clause 39A – Bushfire Protection

The subject site is partially bushfire prone and subsequently triggered integrated referral to the Rural Fire Service (RFS). The RFS have returned general conditions pertaining to the maintenance of a 20m (or to the boundary) inner protection area around the dwelling on proposed Lot 2. The advice notes that any future application for the development of a dwelling on proposed Lot 1 is to be subject to separate development application and address the requirements of Planning for Bushfire Protection 2006. Conditions have been applied in this regard.

STATE ENVIRONMENTAL PLANNING POLICIES (IF APPLICABLE TICK BOX AND PROVIDE COMMENTS AT END)

- SEPP No. 1 - Development Standards
- SEPP No. 4 - Development Without Consent & Miscellaneous Complying Development
- SEPP No. 6 - Number of Storeys in a Building
- SEPP No. 14 - Coastal Wetlands
- SEPP No 15 - Rural Landsharing Communities
- SEPP No. 21 - Caravan Parks
- SEPP No. 22 - Shops and Commercial Premises
- SEPP No. 26 - Littoral Rainforests
- SEPP No. 30 - Intensive Agriculture
- SEPP No. 32 - Urban Consolidation (Redevelopment of Urban Land)
- SEPP No. 33 - Hazardous and Offensive Development
- SEPP No. 36 - Manufactured Home Estates
- SEPP No. 44 - Koala Habitat Protection
- SEPP No. 50 - Canal Estate Developments
- SEPP No. 55 - Remediation of Land
- SEPP No. 62 – Sustainable Aquaculture
- SEPP No. 64 – Advertising and Signage
- SEPP No. 65 - Design Quality of Residential Flat Development
- SEPP No 71 – Coastal Protection
- SEPP (Major Projects) 2005
- SEPP (Housing for Seniors or People with a Disability) 2004
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007
- SEPP (Building Sustainability Index: BASIX) 2004
- SEPP (Infrastructure) 2007
- SEPP (Temporary Structures & Places of Public Entertainment) 2007
- SEPP (Rural Lands) 2008

Comment

SEPP (Rural Lands) 2008

This SEPP aims to facilitate the orderly and economic use and development of rural lands for rural and related purposes and reduce land use conflicts through utilising Rural Planning Principles and Rural Subdivision Principles. It also aims to identify State significant agricultural land for the purpose of ensuring the ongoing viability of agriculture on that land.

Clause 10(3) specifies the following matters to be considered in determining development applications for rural subdivisions or rural dwellings:

- (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).

In this instance, the proposed subdivision is considered to be consistent with the surrounding agricultural land use, which includes crop growing and pasture land. The proposal is not considered to impact upon any such uses. The proposal is consistent with Clause 10(3)(a).

The preferred land uses in the 1(b1) Agricultural Protection zone are considered to be agriculture and forestry (both allowed without consent in the zone). The subject proposal is not considered to have a significant impact on either such land use given the subdivision does not involve any works and does not result in the creation of lots less than the prescribed minimum lot size under the TLEP 2000. The proposal is consistent with Clause 10(3)(b).

Given the proposal is for subdivision only, it is not considered to be incompatible with the land uses mentioned in (a) or (b) above. The proposal does not reduce the agricultural viability of the subject site or surrounding properties. The proposal is consistent with Clause 10(3)(c).

The subject site is not located adjacent to a rural/residential zone and Clause 10(3)(d) is considered satisfied.

No measures to avoid or minimise land use conflict have been proposed by the applicant as the proposal is not considered to generate any significant issues in this regard. Clause 10(3)(e) is considered satisfied.

The proposed subdivision has no further ramifications for SEPP (Rural Lands) 2008.

North Coast Regional Environmental Plan 1988 (NCREP 1988) (if applicable tick box and provide comments at the end)

- Clause 12: Impact on agricultural activities
- Clause 15: Rivers, streams and wetlands
- Clause 18: Extractive industry
- Clause 18A: Mineral sands mining
- Clause 29A: Natural areas and water catchment
- Clause 32B: Coastal Lands
- Clause 33: Coastal hazard areas
- Clause 36: Heritage items, generally
- Clause 36A: Heritage items of state & regional significance
- Clause 36B: Heritage items of regional significance
- Clause 36C: Conservation areas of state & regional significance
- Clause 36D: Advertising heritage applications
- Clause 43: Residential development
- Clause 47 Principles for Commercial and Industrial Development
- Clause 51: Directors concurrence for tall buildings
- Clause 66: Adequacy of community and welfare services
- Clause 75: Tourism development
- Clause 76: Natural tourism areas
- Clause 81: Development adjacent to the ocean or a waterway
- Clause 82: Sporting fields or specialised recreation facilities

Clause 12 – Impact on Agricultural Activities

This Clause specifies that Council shall not grant consent to an application to carry out development on rural land unless it has first considered the likely impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

In this instance, the proposed subdivision meets the minimum lot size provisions prescribed by the TLEP 2000 that are set to minimise fragmentation of agricultural land. Further, the site is not identified as regionally significant or state significant farmland. Site inspection has indicated that the subject site and nearby lots are utilised generally as cattle grazing, with the property immediately to the south used as a plantation. The Department of Primary Industry's Living and Working in Rural Areas (2007) suggests a buffer of 50m between residential development and stock grazing, and a site specific determination for residential development and plantations.

Site inspection has indicated that the proposed dwelling site (on proposed Lot 1) is in excess of 100m from any adjoining properties and the nearest property utilised for cattle grazing is in excess of 50m from the proposed dwelling site. The site is in excess of 100m from the adjacent property used as a plantation.

Based on the above, it is considered that the proposed subdivision will not have an adverse impact on the use of adjoining or adjacent agricultural land and will not cause a loss of prime crop or pasture land. The subject application is consistent with Clause 12 of the NCREP.

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

Exhibited Draft Local Environmental Plan (list any plan/s & provide comments)

There is no applicable draft LEP.

Exhibited Draft State Environmental Planning Policies or Regional Environmental Plan/s

In what ways does the draft impact on the proposal?

There are no draft applicable SEPP's or REP's.

Development Control Plans (if applicable tick box and provide comment at end of list)

WHOLE OF SHIRE

- A1-Residential and Tourist Development Code (DCP6)
- A2-Site Access and Parking Code (DCP2)
- A3-Development of Flood Liable Land (DCP5)
- A4-Advertising Signs Code (DCP15)
- A5-Subdivision Manual (DCP16)
- A6-Biting Midge and Mosquito Control (DCP25)
- A7-Child Care Centres (DCP26)
- A8-Brothels Policy (DCP31)
- A9-Energy Smart Homes Policy (DCP39)
- A10-Exempt and Complying Development (DCP40)
- A11-Public Notification of Development Proposals (DCP42)
- A13-Socio-Economic Impact Assessment (DCP45)

SPECIFIC SITES

- B1-Terranora (DCP1)
- B2-Tweed Heads (DCP18)
- B3-Banora Point West- Tweed Heads South (DCP3)
- B4-West Kingscliff (DCP9)
- B5-Casuarina Beach (DCP11)
- B6-Murwillumbah West (DCP14)
- B7-Cobaki Lakes (DCP17)
- B8-Keith Compton Drive (DCP19)
- B9-Tweed Coast Strategy (DCP51)
- B10-Koala Beach (DCP21)
- B11-Seaside City
- B12-Fraser Drive, Banora Point (DCP24)
- B15-Seabreeze Estate, Pottsville (DCP38)
- B16-Kingscliff (DCP43)
- B17-Planning Controls - Friday Island, Bogangar (DCP52)
- B19-Bogangar / Cabarita Beach Locality Plan (DCP50)
- B20-Uki Village

Comment

DCP A5 – Subdivision Manual

Physical Constraints

The subject property appears generally free from physical constraints although Council's GIS system indicates that the north eastern and south western corners of the subject site *could be* flood prone. Because the application does not propose any works/future dwelling sites in either such location – and the submitted plan indicates 20-40m fall between the existing/proposed house site and the potentially flood prone areas, this is considered to be acceptable and no further assessment in this regard is required. Council's Development Assessment Engineer has provided comment that public road access above the Q100 year level is available all the way to the coast.

The applicant has submitted a bushfire assessment report, which was forwarded to the NSW Fire Service for comment. The RFS have returned no objections to the proposed subdivision, subject to general conditions of consent regarding an IPA around the existing dwelling on Lot 2 and future application for a dwelling on proposed Lot 1 to address Planning for Bushfire 2006.

The proposed 2 Lot subdivision does not involve the removal of any vegetation, and the proposal is considered to be in keeping with the surrounding environment, including the objectives of the 1(b1) zone. No new roads are proposed

besides de-grassing and sealing an existing access track to proposed Lot 1 off Melaleuca Road, which Council's Development Assessment Engineer has indicated will require a S138 application.

A future dwelling site is proposed on proposed Lot 1 and HMC Environmental Consulting have returned comment that Lot 1 is capable of supporting an OSSM system. Council's Environmental Health Officer has returned no objections to the proposal, subject to conditions of consent in this regard.

Rural Watercourses and Drainage

The proposed subdivision is not in proximity to any rural watercourses and Council's Development Assessment Engineer has indicated that the proposal has nil implications for external catchments or the downstream drainage network.

Rural Subdivision Structure

The objectives of Clause 5.3 aim to facilitate rural subdivision which is consistent with zone objectives, provides for uses that are suitable for agricultural areas and protects rural character and amenity. The proposed 2 lot subdivision (which respects the 10ha minimum lot size for the 1(b1) Agricultural Protection zone) is considered to be consistent with the objectives of the zone.

Rural Subdivision and Lot Layout

Whilst a future house site has been nominated in this application, a building platform for Lot 1 has not been identified. As such, the requirements of this clause will be considered, should Council receive a development application for a house pad and dwelling on the site. The proposed subdivision fully complies with the minimum lot sizes for the 1(b1) Agricultural Protection zone.

Rural Movement Network

The existing road network is adequate for servicing the new subdivision according to Council's Development Assessment Engineer. The application proposes to maintain the existing access from McCollums Road to proposed Lot 2 (which contains an existing dwelling). Access to proposed Lot 1 is proposed from Melaleuca Drive, and Council's Development Assessment Engineer has noted that formalisation of this access will require lodgement of a Section 138 application. This has been applied as a condition of consent.

It is considered that the proposed subdivision complies with DCP A5.

(a)(iv) Any Matter Prescribed by the Regulation (Clause 92, 92A 93 & 94)

Primary matters

- Clause 92(a) Government Coastal Policy

Specific Considerations

Does the policy apply and if so what are the implications?

Comment

The subject site is not affected by the Government Coastal Policy.

- Clause 92(b) Applications for demolition

What are the implications of Australian Standard AS 2601-1991?

Comment

No demolition is proposed in the application.

- Clause 93 Fire Safety Considerations

Is the application for a change of use of an existing building?

No

- Clause 94 Buildings to be upgraded

Is the application for rebuilding, alteration, enlargement or extension of an existing building?

No

(b) The Likely Impacts of that Development, including Impact on both the Natural and Built Environment, and Social and Economic Impacts in the Locality

(Provided below is a list of matters to be used as a guide in assessing the impacts of the development. Tick the significant matters relevant to the application and provide comments below. This list is not inclusive and any other matters relevant to the application should also be listed and assessed. Matters not ticked are considered

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satisfactory in terms of the application)

- Context and Setting
- Access, Transport and Traffic
- Public Domain
- Utilities
- Heritage
- Farmland of State or Regional significance (Section 117(2) Direction 14 dated 30 September 2005 (Refer to Council resolution of 25 July 2006))
- Other Land Resources
- Water
- Soils
- Air and Microclimate
- Flora and Fauna
- Waste
- Energy
- Noise and Vibration
- Natural Hazards
- Technological Hazards
- Social Impact in Locality
- Economic Impact in Locality
- Site Design and Internal Design
- Construction
- Cumulative Impacts
- Crime prevention
- Impact on Oyster Industry (refer to NSW Government Oyster Industry Sustainable Aquaculture Strategy 2006)

List any other matters considered relevant

There are no other matters considered relevant to this application.

Assessment of matters identified above

Context and Setting

The proposal complies with the prescribed minimum lot size and applicable clauses of the TLEP and the NCREP with respect to the protection of agricultural land. Based on this and the fact that no works (apart from minor driveway works) are required to facilitate the subdivision, the proposal is considered to be consistent with the context and setting of the subject locality.

Access

A S138 application is required for the formalisation of the driveway access to proposed Lot 1.

Farmland of Regional or State Significance

The subject site is not identified as regionally or state significant farmland.

Cumulative Impacts

The proposal is not considered to result in any adverse cumulative impacts as it respects the minimum lot size (and subsequently cannot create a precedent). Overall impacts of the proposed subdivision are considered minimal.

(c) The Suitability of the Site for the Development

(Provided below is a list of matters to be used as a guide in considering the suitability of the site for the development. Tick the significant matters relevant to the application and provide comments below. This list is not

inclusive and any other matters relevant to the application should also be listed and assessed. Matters not ticked are considered satisfactory in terms of the application)

- Surrounding Land Uses/Development
- Availability of Utilities & Services
- Ambient Noise Levels
- Natural Hazards including Flooding, Tidal Inundation, Subsidence, Slip, Mass Movement and Bushfire
- Soil Characteristics
- Site Orientation
- Topography
- Contamination
- Site Drainage
- Resource Value
- Fauna or Flora
- Effluent Disposal
- Farmland of State or Regional significance (Section 117(2) Direction 14 dated 30 September 2005)

List any other matters considered relevant

All other matters are considered adequately addressed elsewhere in this report.

Assessment of matters identified above

Surrounding Land Uses/Development

The proposal is considered to be consistent with the surrounding agricultural land use.

Natural Hazards

Parts of the subject site could be flood prone under Council's GIS system. The proposed dwelling site is not located in such an area and the proposed subdivision is not considered to have any implications with regard to flooding.

Council's Environmental Health Officer has provided the following comment pertaining to contamination and water and sewage management:

Contaminated Land – The creation of one dwelling site is proposed on Lot 1. A Preliminary Site Contamination report, HMC March 2007 has been submitted for consideration. The site history included small cropping and therefore soil sampling has been completed. Contaminants of concern were not identified above relevant HILs and the report concludes the site is suitable for the proposed use.

Council's Enlighten shows that there are no dip sites within 200m of the subject property. No further considerations required.

Potable Water Supply – To be conditioned to ensure an adequate and safe potable water supply is provided.

OSM – Comments received from Grant Malcolmson dated 19 June 2008.

*It is considered that the recommended on-site sewage treatment and disposal method option for any future dwelling to be constructed on proposed Lot 1 and the existing dwellings on proposed Lots 2 as detailed in the **HMC On-Site Sewage Design Report HMC 2006.171A dated March 2007** are sufficient to attain an acceptable level of environmental impact within the proposed allotments boundaries as assessed in accordance with AS1547/2000. To be conditioned.*

Non Standard Condition PSCNS: *Prior to the issue of Subdivision Certificate the applicant is required to lodge a Section 68 application to operate the existing on-site sewage management system pay the appropriate fee and be issued with an approval to operate.*

(d) Any Submissions made in Accordance with the Act or Regulations

Public Submissions Comment

The proposal did not require advertising or notification under DCP A11 – Public Notification of Development Proposals.

Public Authority Submissions Comment

New South Wales Rural Fire Service

The subject site is partially bushfire prone and subsequently triggered integrated referral to the Rural Fire Service (RFS). The RFS have returned general conditions pertaining to the maintenance of a 20m (or to the boundary) inner protection area around the dwelling on proposed Lot 2. The advice notes that any future application for the development of a dwelling on proposed Lot 1 is to be subject to separate development application and address the requirements of Planning for Bushfire Protection 2006.

NOTE: (1) *If the development is likely to directly or indirectly impact upon State Significant Farmland as referred to in the "Northern Rivers Farmland Protection Project, Final Map 2005 (Section 11 7(2) Direction), then the application will need to be referred to the Regional Office of the Department of Primary Industry for comment (Council resolution of 25/7/2006)*

The development is not located on State Significant Farmland. Referral to the Department of Primary Industry is not required in this regard.

(2) *If the development may affect a priority oyster aquaculture area or oyster aquaculture outside such an area the application will require referral to the Director General of the Department of Primary Industry in accordance with NSW Oyster Industry Sustainable Aquaculture Strategy 2006.*

The development is not located in proximity to any oyster aquaculture area. Referral to the Department of Primary Industry in this regard is not required.

(e) The Public Interest

In assessing public interest, consideration should be given to any government interests and community interests having regard to any policy statements, planning studies, guidelines, management plans, advisory documents, public meetings and enquiries held, public submissions, public health and safety etc. Attached as appendix 1 is a list of documents which may be of relevance. This list is by no means inclusive).

Assessment

The proposed boundary adjustment is not considered to compromise the public's interest as the Lots meet the minimum Lot size under the TLEP 2000 and the proposal is not considered to detract from the agricultural use of the subject locality.

Section 94 Contributions Plan (tick if relevant)

- | | | |
|-------------------------------------|-------------|--|
| <input type="checkbox"/> | Plan No. 1 | Banora Point West/Tweed Heads South |
| <input type="checkbox"/> | Plan No. 2 | Banora Point West Drainage Scheme |
| <input checked="" type="checkbox"/> | Plan No. 4 | Tweed Road Contribution Plan |
| <input checked="" type="checkbox"/> | Plan No. 5 | Open Space Contribution |
| <input type="checkbox"/> | Plan No. 6 | Street Tree Planting in Residential Areas |
| <input type="checkbox"/> | Plan No. 7 | West Kingscliff |
| <input type="checkbox"/> | Plan No. 10 | Cobaki Lakes Public Open Space & Community Facilities |
| <input checked="" type="checkbox"/> | Plan No. 11 | Shirewide Library Facilities |
| <input type="checkbox"/> | Plan No. 12 | Bus Shelters |
| <input checked="" type="checkbox"/> | Plan No. 13 | Eviron Cemetery |
| <input type="checkbox"/> | Plan No. 14 | Rural Road Upgrading, Mebbin Springs Subdivision, Kyogle Road, Kunghur |
| <input checked="" type="checkbox"/> | Plan No. 15 | Developer Contributions for Community Facilities |
| <input checked="" type="checkbox"/> | Plan No. 16 | Emergency Facilities (Surf Lifesaving) |
| <input checked="" type="checkbox"/> | Plan No. 18 | Council Administration Offices & Technical Support Facilities |
| <input type="checkbox"/> | Plan No. 19 | Casuarina Beach/Kings Forest |
| <input type="checkbox"/> | Plan No. 20 | Public Open Space at Seabreeze Estate |
| <input type="checkbox"/> | Plan No. 21 | Terranora Village Estate - Open Space and Community Facilities |
| <input type="checkbox"/> | Plan No. 22 | Cycleways |
| <input type="checkbox"/> | Plan No. 23 | Offsite Parking |
| <input type="checkbox"/> | Plan No. 25 | SALT Open Space and Associated Car Parking |
| <input checked="" type="checkbox"/> | Plan No. 26 | Shirewide/Regional Open Space |
| <input type="checkbox"/> | Plan No. 27 | Tweed Heads Master Plan - Local Open Space/Streetscaping |
| <input type="checkbox"/> | Plan No. 28 | Seaside City |

S64's are not applicable as the proposal utilises onsite water and sewage management.

The above S94's are applicable and have been charged at 6.5 trips for TRCP, and 1 ET for all other applicable charges.

Consideration of Section 5A of the Environmental Planning & Assessment Act, 1979

Having considered the eight points listed in Section 5A of the Environmental Planning & Assessment Act, 1979, it is considered the proposal - **Will Not** - (Will/Will Not) not have a significant effect on threatened species, populations or ecological communities, or their habitat.

APPENDIX 1

USEFUL DOCUMENTS RELEVANT TO ASSESSMENT UNDER SECTION 79(C)(1) OF THE Environmental Planning & Assessment Act, 1979

Volume One

- * **Tweed Shire Council Strategic Plan**
- * **Tweed Heads 2000+**
A Strategy for the Tweed Heads Central Area, Tweed Shire Council
- * **Social Plan - Tweed Shire 1996**
Community Directions for the Tweed. Tweed Shire Council 1996
- * **Infrastructure Provision: Tweed Development Program**
Tweed Shire Council
- * **Residential Development Strategy**
Tweed Shire Council
- * **Draft Open Space and Recreation Strategy**
Tweed Shire Council
- * **North Coast Urban Planning Strategy Into the 21st Century**
NSW Government: Department of Planning
- * **Chinderah Local Environmental Study**
The GeoLINK Group
- * **Cudgen Nature Reserve Plan of Management**
NSW National Parks and Wildlife Service
- * **Pottsville Village Strategy: October 1998**
Tweed Shire Council

Volume Two

- * **Managing Land Contamination: Planning Guidelines SEPP55 - Remediation of Land, 1998**
Department of Urban Affairs and Planning & EPA
- * **Environmental Management Guidelines for Solid Waste Landfills (draft 1994)**
Environment Protection Authority
- * **Contaminated Land Policy**
Tweed Shire Council
- * **DIPMAC Sites: Guidelines for Consultants Reporting on Contaminated Sites**
Environment Protection Authority
- * **DIPMAC Guidelines for Assessing Developments within 200 metres of Cattle Tick Dip Sites**
Prepared for Cattle Dip Site Management Committee
- * **Rabbit Farming: Planning and Development Control Guidelines**
NSW Agriculture
- * **Koala Habitat Atlas: Project No. 4, Tweed Coast**
Prepared for Tweed Shire Council
- * **Rural Settlement Guidelines: Guidelines for Rural Settlement on the North Coast of NSW**
Department of Urban Affairs and Planning
- * **Planning for Bush Fire Protection: A guide for land use planners, etc. May 1991**
Department of Bush Fire Services

- * **Tourism Development Near Natural Areas: Guidelines for the North Coast**
Department of Planning
- * **Tweed Shire Council: Policy on Road Naming**
Tweed Shire Council
- * **Tweed Shire Council: Policy on Development in Flight Path**
Tweed Shire Council

Volume Three

- * **Australian Water Quality Guidelines for Fresh and Marine Waters. November 1992**
Australia and NSW Environment Conservation Council
- * **Coastline Management Manual**
NSW Government
- * **Tweed River Water Quality Review**
WBM Oceanics Australia
- * **Tweed River Estuary Bank Management Plan, November 1998**
Tweed River Manager Plan Advisory Committee
- * **Estuary Management Plan: Cudgen, Cudgera and Mooball Creeks, August 1997**
Tweed Shire Council & WBM Oceanics Australia
- * **Cobaki Broadwater Management Plan, 1998**
Tweed Shire Council
- * **Terranora Broadwater Management Plan, 1994**
Tweed Shire Council
- * **Upper Tweed Estuary Management Plan**
Tweed Shire Council
- * **Floodplain Development Manual**
NSW Government

Volume Four

- * **Tweed Vegetation Management Plan: Report & Appendices: July 1999**
Prepared for Tweed Shire Council
- * **Tweed Shire Council: Landscape Evaluation Report, November 1995**
Catherine Brouwer Landscape Architect
- * **Tweed Coast Littoral Rainforest Draft (SEPP26) Management Plan**
Prepared for Tweed Shire Council

Ministerial Directions

Section 76A	Kings Beach Koala Beach Artificial Waterways Extractive Industries
Section 94A	Development Contributions - SEPP5 development