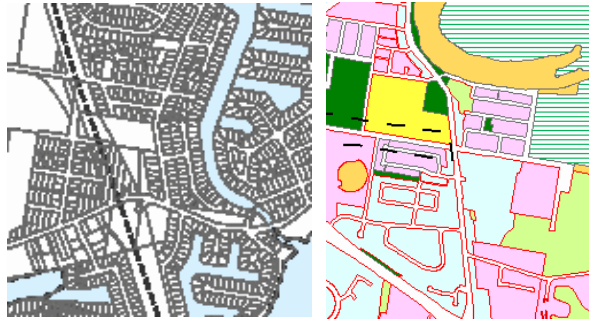


Use of Existing Dwelling
33 Forest Way, Stokers Siding
Lot 8 DP 1079822



March, 2018

Statement of Environmental Effects



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INTRODUCTION

This Statement of Environmental Effects has been prepared to accompany a development application which has been lodged by Beaugard Day seeking approval for the use of an existing dwelling.

SITE DESCRIPTION & LOCALITY

The subject land is described as Lot 8 in DP 1079822, No. 33 Forest Way, Stokers Siding. The land has an area of 40.11Ha with frontage to Forrest Way. Existing improvements include an unauthorised dwelling and two farm sheds.

The land is also bound by similar and smaller sized rural residential allotments to the north, south, east and west and the Mooball State Forest to the east.



Subject site & locality

THE PROPOSAL

The proposal is for the use of an existing dwelling.

The large majority of the building work for the dwelling has been complete without approval and is currently occupied.

The dwelling is three storey comprising 3 bedrooms, bathroom, laundry, store and deck to the lower floor. Living/dining, kitchen and deck to the upper floor and a loft with ensuite to the top floor.

The external walls of the dwelling comprise timber cladding with a sheet metal roof. The construction method is post and bearer on this sloping site. The dwelling is centrally located on the site positioned 190m from the closet boundary being the side boundary. It is a significant distance from the front and rear boundaries.

A bushfire report and an on-site sewage management assessment report have been prepared and accompany the development application.

The existing sheds identified on the submitted plans are farm sheds and constructed as exempt development. As such no further approvals are necessary for those structures. Plan details of the sheds have been prepared and shown on the submitted plans as requested by Council Compliance Officers.





Photos of existing dwelling

PLANNING PROVISIONS

Considerations under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

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

Tweed Local Environmental Plan 2014 (TLEP 2014)

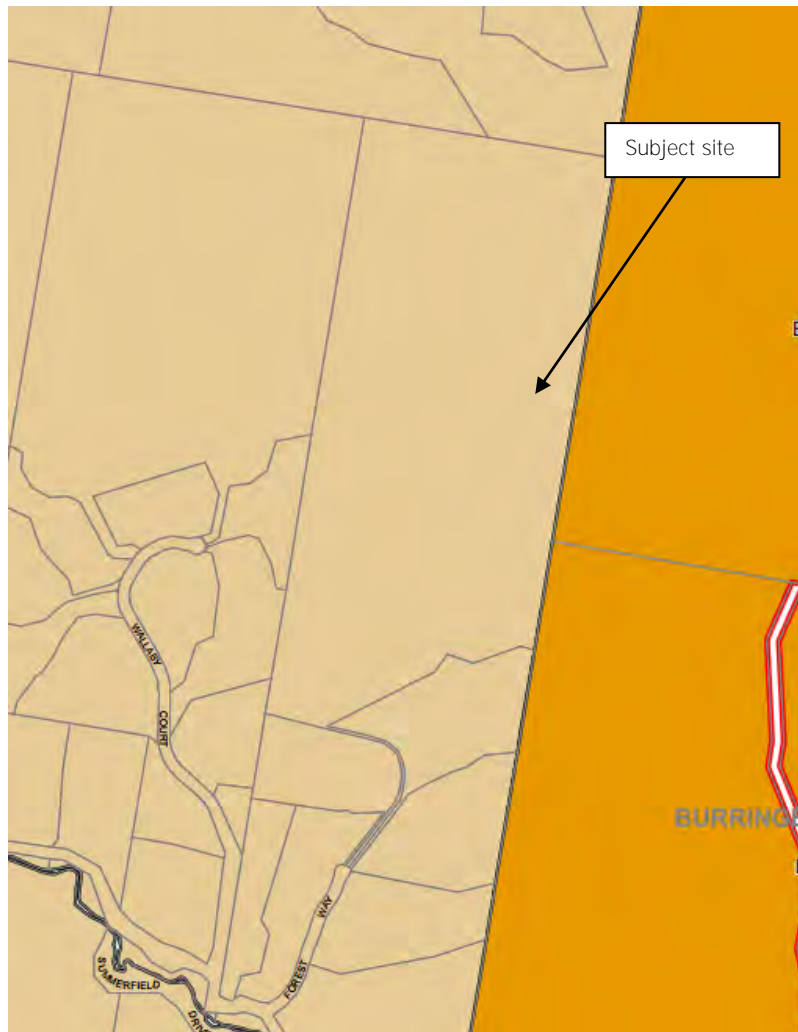
The subject property is zoned RU2 Rural Landscape pursuant to the provisions of the Tweed Local Environmental Plan 2014 within which the proposal is permissible subject to **Council's consent**.

The objectives of the RU2 zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of tourist and visitor accommodation-based land uses, including agri-tourism, eco-tourism and any other like tourism that is linked to an environmental, agricultural or rural industry use of the land.*

The proposed development is considered to be consistent with the primary zone objectives as the proposal will maintain the rural landscape character of the land without jeopardising primary industry production.

The design and style of the development ensures that high quality urban design management has been taken into consideration whilst designing the dwelling.



Zoning

Clause 4.3 – Heights of buildings

The site has a 10m high restriction and the building is three storey with a maximum height of approximately 12.4m which does not comply. A variation is sought to this standard. See clause 4.6.

Clause 4.6 – Exceptions to development standards

A variation is sought to Clause 4.3 Heights of Buildings of the TLEP 2014.

Clause 4.3 (2) - Heights of Buildings of the Tweed Local Environmental Plan 2014 is in the following terms:

- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

The objectives of this clause or development standard are as follows:

- (a) to establish the maximum height for which a building can be designed,

- (b) **to ensure that building height relates to the land's capability to provide and maintain an appropriate urban character and level of amenity,**
- (c) to ensure that taller development is located in more structured urbanised areas that are serviced by urban support facilities,
- (d) to encourage greater population density in less car-dependant urban areas,
- (e) to enable a transition in building heights between urban areas comprised of different characteristics,
- (f) to limit the impact of the height of a building on the existing natural and built environment,
- (g) to prevent gross overshadowing impacts on the natural and built environment.

The Height of Buildings Map has a 10m building height restriction for the subject site and locality. The building has a maximum height of 12.4m. This exceeds the maximum 10m height limit prescribed by Clause 4.3 of the Tweed Local Environmental Plan 2014 by 2.4. Therefore in accordance with Clause 4.6 of the TLEP 2014 a request is sought for the contravention to this development standard.

It is submitted that the development standard is unreasonable and unnecessary in the circumstances of this case for the following reasons:

- The variation is a result of the sloping nature of the site.
- The subject site has an area of 40.11 hectares.
- The dwelling is setback a minimum of 190m from the closest boundary being the side boundary.
- The topographical features and extensive and established vegetation of the site assists to enhance and screen the development.
- The building has been designed to suit the sloping nature of the building site with external materials that are sympathetic with the natural environment. This ensures that the building blends into the attributes of the site is not likely to be overbearing and unlikely to have an adverse impact on the natural or built form and character of the locality.

For these reasons the variation is not likely to significantly contribute to excessive building height, scale or mass. The roof pitch is also consistent and maintains the main roof to the building.



Dwelling has been built to suit the sloping site and external materials and colours that blend with the natural environment

It is considered that the variation also achieves consistency with the objectives of the development standard, where relevant.

The building height is sympathetic to the capabilities of the site and maintains the rural character and amenity. The design and material ensure that the building has minimal impact on the existing natural and built environments. Gross overshadowing is not likely.

The characteristics of the site and the building should ensure that it is likely to be consistent with the established and desired built form and character of this rural locality and preserve the residential amenity.

The extent of the variation is not likely to maintain a satisfactory level of residential amenity. The height variation does not result in excessive overlooking, shadowing or privacy impacts.

As such these are sufficient environmental planning grounds that justify contravening the development standard.

Consideration also needs to be given to the objectives of the zone.

The objectives of the RU2 Low Density Residential zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of tourist and visitor accommodation-based land uses, including agri-tourism, eco-tourism and any other like tourism that is linked to an environmental, agricultural or rural industry use of the land.*

It is considered that the variation to the development standard still achieves consistency with the objectives of the zone. The development will not likely compromise the primary production of the site or the locality. It maintains the rural landscape character of the land. The construction method and use of natural external materials and colours ensures this and enhances the building.

It is therefore submitted that strict compliance with this development standard is not appropriated in the circumstances of this case. It has been reasonably demonstrated that the proposed variation to the development standard is unreasonable and unnecessary and achieves consistency with the objectives of the standard and the objectives of the zone. As such it is likely that the proposed variation to the development standard will be in the public interest.

Council is therefore requested to uphold the objection and grant consent to the application.

Clause 7.2 – Earthworks

The dwelling is post and bearer construction which is a suitable construction method on the slope and minimised excavation.

The natural harmony of the site should be maintained considering the large size of this rural allotment. Any earthworks are not likely to create adverse implications and satisfies the considerations of this clause.

Clause 7.6 – Stormwater management

It is considered that the proposed development incorporates suitable stormwater methods and control to ensure minimal impact on adjoining properties given the rural locality and satisfies the considerations of this clause.

Clause 7.10 – Availability of Essential Services

The dwelling is self sustainable relying on solar power and water from rain water tanks. Telecommunications are available to the site. An on-site sewage management system exists. The proposal is not likely to significantly increase demand on existing services.

State Environmental Planning Policies.

SEPP – 55 Remediation of Contaminated Land

It is unlikely that the land would have been contaminated from past use. The six considerations of the SEPP are addressed below.

Information relating to contaminated land

Please specify all land uses to which the site has been put, including the current use.

Residential land, bananas and grazing.

Is the proponent aware of uses to which properties adjoining the site have been put? If so, please specify.

Rural residential land and grazing.

Do any of the uses correlate with the potentially contaminating activities set out in table 1 in Schedule 1 of this policy.

Yes. The bananas are being grown to the southern portion of the site. The land where the dwelling is positioned is to the upper slopes and not known to have been used for agricultural purposes and is extensively vegetated.

If the answer to 3 is yes – has there been any testing or assessment of the site and, if so what were the results?

No.

Is the proponent aware of any contamination on the site?

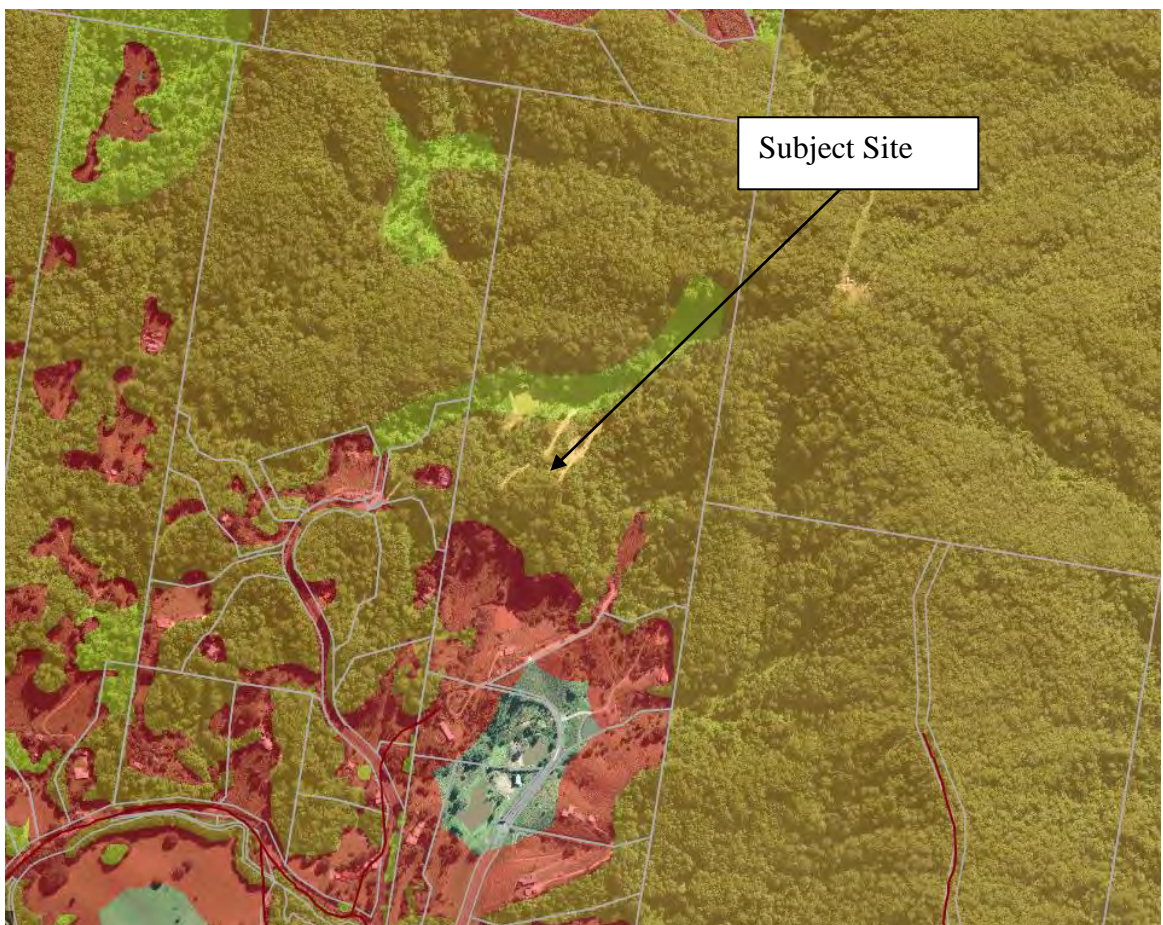
No.

What remediation work, if any (carried out voluntarily or ordered by a government agency), has been taken in respect to contamination which is or may have been present on the site?

None.

Rural Fires Act 1997

The subject site is bushfire affected. A Bushfire Threat Assessment Report has been prepared and accompanies the development application.



Bushfire mapping

(ii) The provisions of any draft environmental planning instruments

Draft Aboriginal Cultural Heritage Management Plan 2017

Small portions of the subject site are mapped within predictive and known places of Aboriginal cultural heritage. These areas are to the northern portion of the site

and a significant distance from the building site so are unlikely to be disturbed by the development.

Officers from the Tweed Byron Aboriginal Land Council (TBALC) have inspected the site and have not identified any item or the like of Aboriginal Significance. The TBALC are preparing a report which will be submitted separately.



Aboriginal Cultural Heritage Mapping

(iii) Any development control plans

The following Sections of Tweed Shire Council's Development Control Plan applies to the site and the proposed development.

Section A1 – Residential & Tourist Development Code

1. Context and Site Analysis

It is considered that the design and position of the dwelling is suitable and responds well to the characteristics of the site and locality. The design has ensured that the internal and external living areas have taken advantage of the views while achieving a northerly aspect.

It is unlikely that the development would create adverse privacy implications on neighbouring allotments or properties.

The dwelling has generally maintained the established and desired scale and size of existing buildings at the locality and has considered the characteristics of the site and rural locality.

It is unlikely that the proposal would significantly compromise views from other properties.

2. Streetscape

The site is within a rural locality on an allotment of 40.11ha with the dwelling comfortably setback from the front boundary to Forest Way so is not likely to detract on the streetscape.

3. Views and Vistas

The site is within an established rural locality and enjoys views and the dwelling has been suitably designed and positioned to enjoy those views whilst not compromising views from other properties.

4. Topography, cut and fill

The construction method comprising post and bearer is suitable for this sloping site and minimised the amount of earthworks that was necessary.

The cut is not likely to create adverse implications and still achieves consistency with the planning and design principles and objectives of this control. The site has an area of 40 hectares and the cut is more than adequately setback from the property boundaries. The construction method comprising post and bearer suits the sloping site and has minimised the amount of earthworks necessary. The cut does not contribute to excessive building height or bulk. There is more than adequate open space and landscaping to assist with the control and detention of stormwater runoff, which is not likely to cause a nuisance to neighbouring properties.

5. Landscaping

No specific landscape requirement for a rural allotment of this size.

6. Building Envelope (Setbacks, Height, Site Coverage)

The dwelling fully complies with the minimum setback requirements from the front, rear and side boundaries.

The subject site has a building height limit of 10m and the building height exceeds this for which a variation is sought.

As the site has an area of 40.11ha, the dwelling will not exceed the maximum site coverage requirements.

7. Building Design

It is considered that the dwelling has been suitably positioned to compliment the characteristics of the site and locality and is generally consistent with the established and desired built form and character of this locality. Solar access and views have been considered and the dwelling has been positioned to take advantage of these.

The building should likely achieve suitable cross ventilation.

The development is considered to be generally consistent with the established and desired built form and character of this rural locality. The development is suitably positioned and maintains the rural character of this locality whilst achieving the specific zone objectives.

The design has also considered views whilst preserving privacy for adjoining properties. The proposal is not likely to create any adverse visual or acoustic implications any greater than what would be normally expected from a rural residential development.

The proposal provides suitable parking on-site.

8. Operational Requirements

It is unlikely that excavated material will be removed from the site. In the event that excavated material will need to be removed from the site it will be suitably disposed of.

9. Ancillary development (Outbuildings, swimming pools, tennis courts)

No ancillary development. The existing farm sheds were constructed as exempt development.

Section A2 – Site Access and Parking Code

The table listed in the Development Control Plan requires one parking space per dwelling plus provision for driveway parking of another vehicle. There is suitable space on the site to satisfy this.

(iiia) Any planning agreement

None known

(iv) Any matters prescribed by the Regulations

The Regulations raise no implications. The proposal is not likely to create significant adverse environmental implications and is consistent with the established and desired built form and character of this rural locality.

(v) Any coastal zone management plan

None applicable.

(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.

The proposal is not likely to create any significant adverse negative social or economic impacts. It is considered that the dwelling has been suitably designed and positioned to preserve privacy and maintain the residential amenity. The design, scale and appearance of the proposal will maintain the established and desired built form and character of this locality.

No significant adverse environmental impacts likely.

(c) The suitability of the site for the development

It is considered that the site is suitable for the proposed development. The land is zoned for rural residential purposes. The design and position of the dwelling is satisfactory and has generally complied with Council statutory and the relevant sections of the Tweed DCP 2008.

There are no identified prohibitive risk factors.

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

Council will need to consider any submissions received from the public or other authority.

(e) The public interest

It is considered that the proposal is not likely to be contrary to the public interest.

OTHER APPROVALS

A Plumbing and drainage application for the on-site sewage treatment system accompanies the development application.

CONCLUSION

It is considered that it has been reasonably demonstrated that the proposal is generally consistent with **Council's statutory** provisions and the relevant sections of the Tweed DCP 2008. A variation is sought to Clause 4.3 of the TLEP 2014 in regard to the height of the building, which has been reasonably justified and **Council's support requested.**

The development is considered to be generally consistent with the established and desired built form and character of this rural residential locality.

Council's support for the proposal is therefore respectfully requested.