

# INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES

## URBAN ASSESSMENTS

### **Action required: for determination: Development Application**

File No:	S03/02363/1
Application Number:	DA 360-08-2003
Date of lodgement:	01/08/2003
On land comprising:	Lot 3 in DP 264585, Flying Fox Road, South Narooma
Application made by:	John McKee PO Box 256, Bega, 2550
Application made to:	Minister for Infrastructure, Planning & Natural Resources
Local government area:	Eurobodalla Shire Council
State electorate:	Bega. The views of the Member are not known.
Notification:	Sent to Eurobodalla Council for comment on 15/08/03.
Public Exhibition	Minor application – not notified.
For the carrying out of:	Development detailed in Section 3 of the Planning Report
Estimated cost of works:	N/A – subdivision.
FTE Jobs created:	N/A – no works proposed.
Type of development:	State Significant Development
Was a public inquiry held?	An inquiry under s.119 of the Act was not held.
Integrated approval bodies:	NSW Rural Fire Service
Main Issues:	Refer to attached page. No major issues exist.
Compliance with the Act	The application has been considered with regard to the matters raised in section 79C of the Act. The application was notified in accordance with the Regulations and all submissions received in the period have been considered. On balance, it is considered that the proposed development is acceptable and that development consent be granted.
Applicant views on draft conditions:	Applicant expressed general support for proposed draft conditions.

### **Recommendation**

It is recommended that the Minister for Infrastructure, Planning and Natural Resources pursuant to section 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended) and clause 10 of SEPP 71:

- (A) grant **consent** to the application subject to conditions (Tagged “A”), and
- (B) authorise the Department to carry out post-determination notification.

Approved:

Robert Black  
**Director,  
Urban Assessments**

Craig Knowles  
**Minister for Infrastructure and Planning  
Minister for Natural Resources**

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Approved:

Robert Black  
**Director,  
Urban Assessments**

Diane Beamer  
**Minister assisting the Minister for Infrastructure  
and Planning (Planning Administration)**

# INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES

## URBAN ASSESSMENTS

### *Development Application: Supplementary Information*

#### **Proposed Development**

The proposed development seeks consent for a two lot torrens title subdivision.

#### **Summary of Significant Issues**

There are no significant issues associated with this proposal.



## **Planning Assessment Report Development Application**

**DA 360-08-2003**

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### **1 SUMMARY**

This report is an assessment of the proposed development the subject of Development Application number 360-08-2003. The application seeks consent for a two lot torrens title subdivision.

The Minister for Infrastructure Planning and Natural Resources is consent authority under clause 10 of State Environmental Planning Policy No. 71 (SEPP 71) – Coastal Protection. The application falls under Schedule 2 of SEPP 71 as the proposal is located within the coastal zone, and effluent for the development is to be disposed of by means of a non-reticulated system. The system is not located within a sensitive coastal location and as such a master plan is not required for the proposal.

The proposal is classed as integrated development under the *Environmental Planning and Assessment Act 1979* as approval is required from the NSW Rural Fire Service under section 100B of the *Rural Fires Act 1997*.

It is recommended that the development application be granted **consent**.

### **2 BACKGROUND**

#### **2.1 Site Context**

The site is located at Flying Fox Road, Narooma in the Eurobodalla Shire Council local Government area. For a site location refer to Tag 'B'.

The development application was lodged with the Department on 1 September 2003 in accordance with the *Environmental Planning and Assessment Act, 1979* (the Act). The subject site is Lot 3 in DP 264585 and comprises a total area of 3.2504 ha. The subject land is zoned 1(c) (Rural Small Holdings) under Eurobodalla Rural Local Environmental Plan 1997. The site currently contains a single dwelling house.

### **3 THE PROPOSED DEVELOPMENT**

The application seeks consent for the torrens title subdivision of the existing lot 3 to create two new equally sized allotments with areas of 1.63ha.

Proposed lot 1 comprises an existing single storey brick dwelling and dam. Lot 2 is currently vacant land with a dam. Both allotments have a gradual slope towards the south.

The applicant has identified a proposed location for a future dwelling on proposed lot 2. The details of any future dwelling shall be the subject of a future development application. For the subdivision layout refer to Tag 'C'.

## **4 STATUTORY FRAMEWORK**

State Environmental Planning Policy No 71 – Coastal Protection (SEPP71) applies to the site, and under clause 10 of this policy, the Minister is the consent authority. The site is not within a sensitive coastal zone, and a Master Plan will not be required for the site.

The land is zoned 1(c) (Rural Small Holdings) under Eurobodalla Shire Council Rural Local Environmental Plan 1987. The proposed 2-lot subdivision is permissible with consent. Eurobodalla Shire Council Residential Design and Development Guidelines – Subdivision Development Control Plan also applies to the site.

The Coastal Protection Act 1979, the Coastal Policy 1997 and Lower South Coast Regional Environmental Plan No. 2 are also relevant to the subject site.

## **5 CONSULTATION**

### **5.1 Public consultation**

The development application was not advertised due to the minor nature of the development, and in line with Eurobodalla Shire Council's Notification Policy (Development Control Plan).

### **5.2 Referrals**

#### **5.1.2 Integrated Approval Bodies**

The application was integrated under the *Environmental Planning and Assessment Act* 1979 and the NSW Rural Fire Service has issued general terms of approval for the development (these are included in the proposed conditions of consent).

#### **5.2.2 Council**

The application was referred to Eurobodalla Shire Council on 15 August 2003. Council responded on 1 September 2003. No objection to the proposed development was raised subject to a number of conditions of development consent should the application be approved by the Minister.

## **6 CONSIDERATION**

### **6.1 The Environmental Planning & Assessment Act, 1979**

The application and the likely impacts of the proposed development have been considered in accordance with s.79C of the Act.

**Section 79C of the EP&A Act requires the Development Application be assessed against the provision of any EPI, DCP or prescribed matter**

## **State Environmental Planning Policy No.71 – Coastal Protection (SEPP 71)**

The proposed subdivision is located within the coastal zone, as defined in Part 1 (3) of SEPP 71, and falls within Schedule 2, part (c) of SEPP 71, as it involves the subdivision of land which will require effluent to be disposed of by means of a non-reticulated system.

It is considered the proposal will be consistent with the aims and objectives of SEPP 71. The proposed subdivision site is not located along a coastal foreshore and therefore will not detrimentally effect existing public access, nor will it detrimentally impact on the visual amenity or scenic quality of the New South Wales coast. It is considered the proposed subdivision will be a suitable development for that area and would result in the creation of a second lot which would be appropriate for a future residential dwelling.

It is not considered the proposed development would have a detrimental impact on the environment. Measures have been taken to ensure that the future effluent disposal system will not cause harm to the quality of local waterways or adjoining properties.

## **Coastal Protection Act 1979**

The proposed subdivision will be consistent with the objectives of the Coastal Protection Act 1979. The proposal will not restrict public pedestrian access to coastal areas, and it is not considered the proposal will have a detrimental impact on the coastal environment.

## **NSW Coastal Policy 1997**

The proposed development will be consistent with the goals and objectives of the NSW Coastal Policy 1997. The proposal will not restrict public access to coastal areas, and it is not considered the proposal will have a detrimental impact on the coastal environment. The proposal will not detrimentally impact on the aesthetic qualities of the coastal zone.

## **Eurobodalla Rural Local Environmental Plan 1987**

The site is located within the area covered by the Eurobodalla Rural Local Environmental Plan 1987. The land is zoned 1(c) (Rural Small Holdings), and under this zone subdivision is permitted with development consent. It is considered that the proposed subdivision will be consistent with the relevant objectives of that zone, which include:

- *To provide residential opportunities while retaining the scenic quality and overall character of the land and the environmental quality of adjoining waterways, wetlands, rainforest or other environmentally sensitive areas;*
- *To ensure that environmental impacts of development and the impact of development on land or activity in surrounding zones are fully considered in advance of any significant development;*
- *To ensure that development is compatible in scale and density with the level of essential public services and facilities to be provided;*

- *To permit a variety of uses where these are compatible with small scale rural activity or require a location outside urban areas or villages.*

Clause 17 of the LEP requires the consent authority to consider the following principles:

- (a) *The consequences of carrying out the development on the pattern of land uses within the zone.*

Comment

The proposed subdivision is considered to be consistent with the surrounding rural residential subdivision pattern of the locality.

- (b) *The topography of the land with regard to the siting of dwelling-houses and the relationship of those dwelling-houses to one another and the topography of the land.*

Comment

The site is located on the southern side of a ridgeline that slopes approximately 5 to 10 degrees to the south. While no building works are proposed as part of this application, a future dwelling can be appropriately located on proposed lot 2 without compromising the amenity currently enjoyed by the dwelling on lot 1.

- (c) *The risk of bushfires.*

Comment

A bushfire mitigation report has been submitted with the application, and the proposal was referred to the NSW Rural Fire Service for approval as an integrated development.

The NSW Rural Fire Service has issued a Bushfire Safety Authority, under s100B of the Rural Fires Act (1997), subject to the recommendations contained in the report (submitted with the development application) by GeoSpatial Integrity dated 26<sup>th</sup> September 2002. This will be reflected in conditions of consent.

- (d) *The risk of flooding.*

Comment

The applicant has submitted that the building envelope on proposed lot 2 is located above the project 1 in 100 year flood line.

- (e) *The likely impact of the proposed development on any wetland, waterway, forest or significant natural or cultural environmental feature or values.*

Comment

No adverse environmental, coastal or cultural impacts are foreseen upon Wagonga Inlet (located 500m to the north) as a consequence of the proposed development.

## **Lower South Coast Regional Environmental Plan No. 1**

The proposed subdivision is consistent with the aims and objectives of the Lower South Coast Regional Environmental Plan No 1. The proposal will not adversely effect the scenic quality and environmental character of the Lower South Coast. No building works are proposed as part of this application.

## **Lower South Coast Regional Environmental Plan No. 2**

The proposed subdivision is consistent with the aims and objectives of the Lower South Coast Regional Environmental Plan No 2. In relation to coastal and waterway environments, it is not considered the development will cause pollution of the waterway. Measures have been taken to ensure that the effluent disposal system shall be appropriately located to ensure it does not impact on the quality of local waterways. In this regard, a report has been submitted with the application by Geoff Metzler & Associates (Consulting Structural & Civil Engineers) which concludes that *“the proposed subdivision is suitable for the disposal of effluent by evapo-transpiration/absorption beds or tenches and irrigation on the proposed lots”*. Before construction of the effluent disposal system, a separate application will have to be made to Eurobodalla Council. At that stage, the soil type and category at the selected location will be determined so that design and sizing can be completed. Other effluent disposal systems may also be considered as well as those stated above, with the owner’s preferred Council-approved option being constructed. Further, the selection of the specific house site and proposed earthworks must be finalised and approved by Council prior to commencing any bulk earthworks. The selection of the house site and the effluent disposal area should be considered simultaneously in order to achieve conditions which will not lead to erosion or degradation of the development location. Appropriate conditions of development consent are recommended accordingly.

The proposed subdivision is not located on a coastal foreshore, and will not adversely impact on the visual quality of the NSW coastline.

## **Residential Design & Development Guidelines – Subdivision Development Control Plan**

The proposed lot sizes of 1.63 ha are consistent with the minimum permitted allotment size of 5000sqm in the 1(c) Rural (Small Holdings Zone). The average permitted allotment size for allotments not on reticulated water or sewer ranges between 1ha and 2 ha.

The proposed subdivision is also consistent with the objectives and subdivision design principles applying to the property under the Residential Design and Development Guidelines. It is considered that the proposed allotment sizes and design are consistent with the physical characteristics of the site.

## **Section 94 Contributions**

Eurobodalla Shire Council requires the following section 94 Contributions to be paid as a consequence of the proposed subdivision:

- Open Space \$298.75

▪ Community facilities	\$336.65
▪ Cycleway & Pedestrian Facilities	\$48.40
▪ Waste Disposal	\$90.50
▪ Roads (Arterial/Local)	\$729.00
▪ Administration	\$73.50

These contributions have been incorporated into the conditions of consent.

**Section 79C of the EP&A Act requires the likely Environmental, Social or Economic Impacts of the development be assessed.**

The following issues are relevant to the proposal:

**Effluent Disposal**

No reticulated water or sewer is available to the site. The existing dwelling on proposed lot 1 is serviced by tank water and on-site effluent management system in the form of a septic tank and associated absorption bed. The existing effluent system appears to be operating effectively and the effluent re-use area can be fully contained within the boundaries of proposed lot 1.

An on-site sewerage management report has been undertaken by Geoff Metzler and Associates (and submitted in support of the proposed subdivision) to determine the suitability of proposed lot 2 for effluent disposal. The report concludes that *“the proposed subdivision is suitable for the disposal of effluent by evapo-transpiration/ absorption beds or trenches and irrigation on the proposed lots”*. In this regard, it is noted that the selection of house site and proposed earthworks must be finalised and approved by Council prior to commencing any bulk earthworks. The selection of the house site and the effluent disposal area should be considered simultaneously in order to achieve conditions which will not lead to erosion or degradation of the development location.

**Access**

The site is serviced by a bitumen sealed carriageway along the frontage, known as Flying Fox Road. Both proposed lots will have separate access directly to this roadway.

**Aboriginal Heritage**

No issues have been raised in relation to Aboriginal Heritage.

**Impact on Coastal Zone**

The proposed development is not visible from the foreshore. The proposal has no direct foreshore access or frontage. It is not considered the proposal will impact upon coastal hazards or coastal processes.

**Suitability of the site for the Development**

The proposed development is consistent with the provisions of the Eurobodalla Shire Council Rural Local Environmental Plan 1987, Council’s relevant Development Control

Plan, and provisions of the State Environmental Planning Policy No 71 – Coastal Protection. It is not considered that the site would be unsuitable for the proposal subdivision.

### **Any Submissions to the Development**

Eurobodalla Shire Council submitted comments and recommended conditions to be attached. These conditions are recommended to be included as part of the conditions of consent.

The NSW Rural Fire Service submitted general terms of approval for the integrated approval under the EP&A Act, which have been included as part of the conditions of consent.

### **The Public Interest**

It is considered that the proposed subdivision does not contravene the provisions of any planning instruments which apply to the site and will not result in any significant negative impacts on the environment. It is considered that the proposed development is in the public interest.

## **7 CONCLUSION**

The Minister for Infrastructure Planning and Natural Resources is the consent authority. The application has been considered with regard to the matters raised in s79C of the Act and the NSW Rural Fire Service, who were consulted and provided general terms of approval under the Integrated Development Provisions within the Act.

The application has been notified in accordance with the Regulations. All submissions received in the period prescribed by the Regulations have been considered. On balance, it is considered that the proposed development is acceptable and should be approved.

## **8 RECOMMENDATION**

It is recommended that the Minister for Infrastructure, Planning and Natural Resources pursuant to section 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended) and clause 10 of SEPP 71:

- (A) grant **consent** to the application subject to conditions (Tagged “**A**”), and
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Prepared by:

Endorsed:

David Gibson  
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Pradesh Ramiah  
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