



Planning Assessment Report

Development Application DA 130-6-2004

1 SUMMARY

This report is an assessment of the proposed development the subject of Development Application number DA 130-6-2004.

The application seeks consent for the subdivision of lot 4 in DP 259883 into 2 lots, creating lots 41 and 42.

The development application was lodged with the Department on 27 May 2004 in accordance with the *Environmental Planning and Assessment Act, 1979* (the Act).

The Minister for Infrastructure and Planning is consent authority under Clause 10 of State Environmental Planning Policy No 71 – Coastal Protection.

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

2 BACKGROUND

2.1 Site Context

The site is located at lot 4 (No 115) Golf Links Road in the Clarence Valley local government area (formerly Maclean local government area).

The site area totals 8976sqm and presently contains an existing dwelling which will be on proposed lot 42. The site is open with the occasional ornamental tree and the site is characterised primarily by maintained lawn. The land is zoned 1(r) Rural Residential under Maclean LEP 2001.

The site falls at a generally consistent grade from the top of the ridgeline at the SE corner towards Golf Links Road.

The site is immediately bounded to the west by Golf Links Road and sugar cane cultivation occurs on the western (opposite) side of the road. To the immediate north and south the site is bounded by other rural residential lots, while grazing occurs to the immediate east of the site.

In the general locality there have been a number of applications for subdivision in the past 12 months. At present there is an application with the Department for the site immediately to the south of the site.

The site is located within 300m of Niagara Creek, which drains to Poverty Creek and eventually the Clarence River. The site is located within 750m of the Clarence River and within 300m of Woodford North State Forest.

3 THE PROPOSED DEVELOPMENT

The proposed development seeks consent for a 2 lot subdivision creating lot 41 being 4010sqm and lot 42 being 4967sqm and the relocation of utilities. Both lots are to be serviced by an existing gravel single access way.

4 STATUTORY FRAMEWORK

4.1 Statement of permissibility

The proposed development is permissible with development consent in accordance with clause 31 of the Maclean LEP 2001. The subject site is zoned 1(r) Rural Residential.

4.2 Instrument of consent and other relevant planning instruments

Pursuant to clause 10 of SEPP71 the Minister is the consent authority. SEPP 71 provides planning objectives to protect and manage the natural, cultural, recreational and economic attributes of the NSW coast.

The environmental planning instruments, draft environmental planning instruments, development control plans, and regulations applicable to the land to which the development application relate are as follows:

- *State Environmental Planning Policy No.71—Coastal Protection (SEPP 71),*
- *State Environmental Planning Policy No.44—Koala Habitat Protection (SEPP 44),*
- *North Coast Regional Environmental Plan,*
- *Maclean Local Environment Plan 2001 (Maclean LEP), and*
- *Maclean Development Control Plan – Subdivision Guidelines.*

Application of these planning instruments is discussed in the Compliance Tables at Tag C.

4.3 Other statutory provisions

The *Coastal Protection Act 1979* and the *Coastal Policy 1997* are also relevant to the subject site.

In accordance with Clause 18(2) of SEPP 71 a Master Plan is not required for the subdivision.

5 CONSULTATION

5.1 Public consultation

The application was notified, in accordance with the Regulations including:

Notifications – landowners/occupiers	8 adjoining property owners were notified by letter.
Newspaper advertisements	Advertised in the Grafton Examiner on 5 July 2004.
Site notices	No site notice erected.
Exhibition dates	Start: 6 July 2004. End: 20 July 2004.
Exhibition venues	▪ Clarence Valley Council: 50 River Street, Maclean

No public submissions were received regarding the Application. Submissions were received from Council, the Department of Environment and Conservation, the Department's North Coast Regional office. Issues are considered in Section 6.2 of this report.

5.2 Referrals

5.2.1 Integrated Approval Bodies

The application was not made for integrated development.

5.2.2 Council

The application was referred to Clarence Valley Council (formerly Maclean Council) on 30 June 2004. Council responded on 9 August 2004. Issues raised by Council are discussed in detail in Section 6.2 of this report.

5.2.3 Natural Resources Commission

The applicant applied for a waiver for the preparation of a master plan and as such the waiver request was forwarded to the NRC. The NRC determined that no master plan was required under Clause 18(2) of the SEPP 71.

5.3 Internal consultations

The North Coast Region, Local Planning team has been consulted regarding the application and raised several issues with regards to effluent disposal and groundwater management. These are discussed in detail in Section 6.2 of this report.

6 CONSIDERATION

6.1 The Environmental Planning & Assessment Act

6.1.1 Section 79C

The application and the likely impacts of the proposed development have been considered in accordance with Section 79C of the Act. Significant issues are discussed below in Section 6.2.

The subject site is considered suitable for the proposed development. Submissions have been considered and issues raised in submissions are discussed in Section 6.2. On balance, the proposed development is considered to be in the public interest.

6.2 Issues

6.2.1 Upslope Drainage Flooding

Issue: The on-site sewerage management report identifies that upslope drainage appears to flood over the lot during heavy rain. This is likely to create issues in regards to flooding of the wastewater disposal system proposed thereby reducing its effectiveness and creating potential pollution issues.

Raised by: DIPNR- Urban Assessments

Consideration: It is considered appropriate to divert storm and flood waters away from the effluent application areas of any future or existing effluent disposal system on both lots to assist in the prevention of pollution of storm waters discharged from the site.

Resolution: A condition is proposed requiring that upslope diversion mounds and/or cut-off drains be installed (following Council approval) above irrigation areas and that rainwater tanks be installed to alleviate the volume of water discharged from the site.
The proposed conditions also require that the diversion drains must not result in any flooding, erosion or pollution that is likely to affect neighbouring properties.
A condition is also proposed for the incorporation of source controls to control the flow of stormwater eg: grass swales etc.

6.2.2 Low Soil pH

Issue: Soil analysis indicated that the soil has a low pH of 5.

Raised by: DIPNR – Urban Assessment

Consideration: It is considered appropriate to condition the management of this issue to ensure that pH levels are maintained at an acceptable level given the likely increase in acidity through the introduction of additional sewage and waste water with the creation of the new lot.

Resolution: Condition that the effluent disposal areas be treated with agricultural lime and gypsum at the rate of 0.1/T/Ha/10cm to raise the soil pH to at least 6.

6.2.3 Slope of the Land

Issue: The land is relatively steeply sloped, which, combined with the high permeability and well-drained nature of the soils, and the flood potential of the site in heavy rain, raises issues regarding the on-site disposal of sewage and pollution of stormwaters, which will naturally discharge from the site.

Raised by: DIPNR – Urban Assessments

Consideration: The proposed system will use evapotranspiration and the sub-surface drip irrigation will release the treated wastewater within the root zone allowing maximum uptake before the wastewater is able to percolate below the root zone.
Conditions could also be imposed to control the flow and speed of stormwater and the volume of stormwater available for discharge from the site.

Resolution: Proposed conditions of consent have been included to alleviate these impacts:

- Upslope diversion mounds or cut-off drains;
- Planting of vegetation on the downslope boundary of each lot.
- Required source controls for future developments eg: grass swales.

6.2.4 Table Drain

Issue: Impact of the proposed on-site wastewater disposal system on the table drain along the western boundary of the site.

Raised by: DIPNR - Urban Assessments

Consideration: The on-site sewerage management report confirms that the additional lot 31 will be able to meet the required buffer distance (Environmental Health and Protection Guidelines) of 40m from the table drain.

Resolution: Issue resolved, no further action required.

6.2.5 Reticulated Water and On-site Sewage Disposal

Issue: Non-reticulated sewage disposal is proposed for the site, which is located on sand soils. Sand soils are generally poor at filtering nutrients and are rapid draining, which is considered inappropriate for the proposed sewage disposal system. There is presently no reticulated sewage system available to the site, however Council has a view to constructing a sewage system in the area in the next few years. The site drains towards Niarga and Poverty Creeks which are tributaries to the Clarence River. The combination of these factors is likely to result in adverse impacts on the water quality of groundwater and local waterways.

The proposal also indicates that the lots would be connected to the reticulated water supply, the use of which would significantly increase the volume of water discharged from the site and increase the likelihood of domestic wastewater discharge to waterways.

The Health Department recommends that subdivisions connected to Town/reticulated water are also connected to sewage systems.

Also of concern is that a number of similar proposals have recently been submitted which raises concerns about the potential for greatly modified cumulative water quality impacts in the area (refer to issue 6.2.6 below).

Raised by: DEC (former EPA) & DIPNR - Urban Assessments

Consideration: The development, as proposed is not considered appropriate in terms of its likely impacts on the water quality of local waterbodies and groundwaters.

Clause 15 of SEPP 71 states that a consent authority can not issue consent to a DA in which effluent is proposed by non-reticulated means that will, or is likely to, have a negative effect on water quality.

To address the issues raised it is considered appropriate to require the use of stormwater retention facilities (such as water tanks) for toilets, washing and garden activities to reduce the use of reticulated water and therefore reduce the volume of wastewater exiting the site. It is also considered appropriate to require the upgrade of the existing system on the site. Further plantings are also considered appropriate to help reduce the volume of wastewater being discharged from the site.

Resolution: Conditions of consent have been proposed to ensure that appropriate water retention facilities such as rain water tanks are installed for use in toilets, washing and garden/outdoor activities.

The conditions also require plantings on the down-slope side of each lot to assist in water retention on the site, and require the connection of each Lot to any future sewage systems.

6.2.6 Combined Impacts of Subdivisions in the Area – Wastewater Disposal

Issue: A number of subdivisions are taking place within the Woodford Island area, all of which will require on-site sewage management systems as there is no reticulated sewerage infrastructure in the area. Given the area's soil types, proximity to local waterways, the need for on-site disposal and the use of primary septic systems for existing dwellings in the area, and given the number of applications that have been submitted for subdivision, it is likely that the cumulative impacts will become a pollution issue for the local waterways and potentially the groundwater.

On-site wastewater disposal has the potential to impact on groundwater resources and contamination of the groundwater by effluent could result in contamination of nearby creeks and watercourses through natural discharge.

Use of reticulated water for the site, combined with on-site waste water disposal, will result in a larger volume of water, than would naturally occur, being discharged from the site, and the likelihood of the water being polluted due to waste water disposal in the area is greater as a result of the development.

Raised by: DEC (former EPA), DIPNR – Regional, DIPNR – Urban Assessments

Consideration: The existing dwelling operates a primary treated septic system, which discharges into conventional trenches behind (upslope of) the dwelling. As such the proposed development will not impact on the operation of the existing system.

In addition to the existing dwelling on the site, the neighbouring and surrounding residences operate septic tanks (primary treated effluent) discharging to conventional trenches. As such there is an existing pressure on the quality of water being discharged to and from the sites within the area (by overland flow and subsurface drainage). The proposed site and locality is in close proximity (within 300m) of Niarga Creek, which is a tributary to the Clarence River. The Department has received a number of subdivision proposals for the area known as 'Woodford Island', which the subject site is a part. It is considered that the cumulative impacts of allowing these subdivisions and associated on-site wastewater disposal systems will continue to increase to the detriment of the local waterways, especially given the sandy – sandy loam (well drained) soil types and relatively steep slopes of the area.

The existing wastewater treatment system on lot 32 is a septic tank system with conventional absorption trenches. This is primary treated sewage and wastewater. It is considered appropriate, to alleviate the cumulative impacts of the subdivisions in the area, to which this proposed subdivision will significantly contribute.

The proposed on-site sewage management system has been designed, to an extent, in accordance with the NSW Government's Environment and Health Protection Guidelines: *On-site Sewage Management for Single Households* however the document indicates that its requirements are recommendations for ideal site and soil conditions and that in some cases, dependent on site conditions, the requirements may need to be altered eg: buffer distances should be made larger in the case that conditions are not ideal. It is considered that given the sandy soil types in the area and the cumulative impact of a number of subdivisions within the area, in addition to the existing primary effluent discharge, that stricter requirements be appropriate for assessing the appropriateness of the development.

It is also considered appropriate to minimise the use of reticulated water to reduce the volume of water discharged from the site that may carry contaminants, and thereby increase the smaller volume of water's ability to be evaporated and/or transpired.

As such it is considered appropriate to require the installation of rainwater tanks to existing and future dwellings, to be connected to house and garden for toilet flushing, garden activities, clothes washing and for all other non-potable water uses as approved by Council.

Resolution:

Proposed conditions of consent to help managed these cumulative impacts:

- Requiring 10,000L rainwater tanks to be installed and connected to the dwellings for toilet flushing, clothes washing machines, garden activities and any other non-potable water use approved by Council.
- Future connection to reticulated sewage, within 3 months of it becoming available.
- Additional plantings on the down-slope boundary of each lot.

7 CONCLUSION

The Minister for Infrastructure and Planning is the consent authority.

The application has been considered with regard to the matters raised in section 79C of the.

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 CONSULTATION WITH APPLICANT – DRAFT CONDITIONS

The applicant was asked to comment on the draft conditions of consent on 2 March 2005. The applicant responded on 4 March 2005 and requested a few minor amendments and also that the condition regarding retrofitting of the existing dwelling with raintank to service toilet, washing machine and outdoor use be removed.

9 RECOMMENDATION

It is recommended that the Minister for Infrastructure and Planning pursuant to section 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended) and clause 10 of State Environmental Planning Policy No 71 – Coastal Protection:

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

(B) authorise the Department to carry out post-determination notification.

For Ministerial Approval

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