

INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES

URBAN ASSESSMENTS

Action required: for determination: Development Application

File No:	9035798
Application Number:	DA 203-8-2004
Date of lodgement:	26 August 2004
On land comprising:	Lots 1 & 7 (DP 255731) Mossy Point road, Jeremadra
Application made by:	Paul May - Planning Initiatives
Application made to:	Minister for Infrastructure and Planning
Local government area:	Eurobodalla Shire Council
State electorate:	Electorate of Bega, Mr Andrew James Constance, MP The views of the Member are not known.
Notification:	Not advertised
Public Exhibition	24 September 2004 to 22 October 2004
For the carrying out of:	Boundary adjustment
Estimated cost of works:	Not applicable
FTE Jobs created:	Not applicable
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:	New South Wales Rural Fire Service
Main Issues:	There are no major issues
Compliance with the Act	The application has been considered with regard to the matters raised in section 79C of the Act. On balance, it is considered that the proposed development is acceptable and that development consent be granted.
Applicant views on draft conditions:	The applicant did not provide feedback on the draft conditions of consent.

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:

- (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 Planning and Natural Resources

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Approved:

Robert Black
Director
Urban Assessments

Diane Beamer
Minister Assisting the Minister for Infrastructure and Planning (Planning Administration)



Planning Assessment Report Development Application

DA203-8-2004

1 SUMMARY

This report is an assessment of the proposed development the subject of Development Application number DA 203-8-2004.

The application seeks consent for a boundary adjustment between Lot 1 and Lot 7 to form new Lots 7 & 8. Increasing the area of Lot 1 from 1012m² to approximately 2ha (new Lot 8), and Lot 7 reduced from 115.8 ha to 114ha.

The Minister for Infrastructure and Planning is consent authority under clause 10 of State Environmental Planning Policy No 71 – Coastal Protection. The proposal is considered to be a significant coastal development, as it is located within the Coastal Zone, and is a subdivision where effluent will be disposed of by means of a non-reticulated system, thereby identified in Schedule 2 of SEPP 71.

The proposal is also integrated development with the Rural Fire Service (RFS) under s110B of the *Rural Fires Act 1997*.

Consistent with Eurobodalla Shire Councils notification policy, and due to the minor nature of the development, the application was not advertised. Surrounding residents, Eurobodalla Shire Council and other relevant agencies were notified of the development and given the opportunity to comment.

The following report assesses the environmental and planning issues associated with the proposed development and addresses the issues raised in the submissions.

The report concludes that all relevant environmental issues have been adequately addressed, that potential impacts from the development can be managed, subject to the recommended conditions of consent.

It is therefore recommended that the Minister grant consent to DA 203-8-2004 subject to the recommended conditions of consent.

2 BACKGROUND

2.1 Site Context

The site is located at Lots 1 & 7 (DP 255731) Mossy Point Road, Jeremadra in the Eurobodalla Shire Local Government area (Tagged “C”).

The site is serviced by Old Mossy Point Road, a sealed road to within 100 metres of the property boundary. To the south are significant SEPP 14 wetland areas known as Longvale Swamp. A SEPP 14 wetland (No 186) is also located within the site. It is not envisaged that water-bodies will be adversely affected. The land currently consists of a vegetated vacant lot (Lot 1) and Lot 7 which is partly cleared and contains a dwelling and associated outbuildings. The topography would be described as undulating. Land adjoining to the west and north-west is developed in a manner consistent with rural residential use rather than held in larger scale rural

holdings. A property adjacent and to the north of Lot 7 is utilised for tourist accommodation and associated facilities such as a nine hole golf course.

3 THE PROPOSED DEVELOPMENT

The proposed development seeks consent for (Tagged “D”):

- A boundary adjustment between Lot 1 and Lot 7 DP 255731 Mossy Point Road Jeremadra. Existing Lot 1 will increase in area to 2ha and be renamed “Lot 8”, while Lot 7 will decrease in area to approximately 114ha.

The applicant seeks a boundary adjustment for the following reasons:

- a). to increase the size of Lot 1 so it is more in keeping with the rural character of the area.*
- b). Increased area would permit a dwelling to be located on the proposed lot 8 that would be environmentally sustainable and be able to meet bushfire mitigation planning guidelines.*
- c). Increased area of Lot 1 would allow for on-site waste disposal to be accommodated.”*

4 STATUTORY FRAMEWORK

4.1 Statement of permissibility

Pursuant to Eurobodalla Rural Local Environmental, Plan 1987 (as amended) the land is zoned Rural 1(a). The proposed development is permissible in the zone subject to formal planning consent. In this regard clause 13(2) requires Council to seek comments from the department of Agriculture for any subdivision where all or part of the land is shown as class 1, 2, or 3 agriculture land classification. In this case Lot 7 contains an isolated portion of agricultural classification 3.

4.2 Instrument of consent and other relevant planning instruments

Pursuant to Clause 10 and Schedule 2 of State Environmental Planning Policy No. 71 – Coastal Protection, the Minister is the consent authority.

The environmental planning instruments applicable to the site are as follows:

1. State Environmental Planning Policy No. 71 – Coastal Protection
2. Regional Environmental Planning Policy No. 2 – Lower South Coast
- 3 Eurobodalla Rural Local Environmental Plan, 1987 (as amended)

Assessment of the application against the requirements of the planning instruments confirms that the proposed development is satisfactory in terms of the objectives of the policies. It is envisaged the boundary adjustment will not have an adverse impact on the environment nor the character of the area.

4.3 Legislative context

The proposed development is state significant development pursuant to Section 76A of the *Environmental Planning & Assessment Act, 1979*.

4.4 Other statutory provisions

Eurobodalla Shire Council's Development Control Plan No. 156 – Rural Subdivision applies to the development. Assessment of the application against the requirements of the plan confirms the proposed development is satisfactory in terms of site areas and dimensions of the lots.

5. STATE ELECTORATE AND MEMBER

The site is within the electorate of Bega. The views of the local member Mr Andrew James Constance MP are not known.

6. CONSULTATION

Public consultation

The application was on exhibition for public viewing at the Department of Infrastructure, Planning and Natural Resources Offices; Information Centre 20 Lee Street, Sydney, and at the South coast Regional Office, Wollongong. It was also exhibited at the Eurobodalla Shire Council, Moruya and the Batemans Bay library from the 24 September 2004 to 22 October 2004.

No submissions were received from the surrounding residents or community.

Referrals

Rural Fire Service

The application is integrated under the *Rural Fires Act 1997*. The New South Wales Rural Fire Service in correspondence dated 2nd November 2004 provided the following comments:

"Based upon assessment of the plans and documentation received for the proposal the NSW Rural Fire Service is prepared to grant a Bush Fire Safety Authority subject to the following conditions:

1. The recommendations detailed in the Bushfire Protection Assessment prepared by PMA Consulting (dated June 2004) shall be complied with except for the construction of the dwelling, which shall comply with AS3959 – 1999 level 3 'Construction of Buildings in bushfire prone areas'.

This response is to be deemed the Bush Fire Safety Authority as required under section 100B of the Rural Fires Act 1997."

Department of Primary Industries

The application was forwarded to the Director – General of Agriculture for comments in accordance with Eurobodalla Rural Local Environment Plan 1987, *"if all or part of the land to be subdivided is shown as class one, two or three on maps entitled "Agriculture Land Classification Map", class 3 agriculture land is present on Lot 7.*

In correspondence from the Department of Primary Industries dated 17th January 2005 the following comments were provided.

"Under normal circumstances, the Department does not support the increase of rural residential lots at the expense of larger holdings on a 1(a) zoned land. In this case, however, the Department has no objections to the proposed increase because the land on Lot 8 is heavily vegetated and not suitable for agricultural purposes."

Eurobodalla Shire Council

The application was referred to Eurobodalla Shire Council on 17 September 2004. Council responded on 19 October 2004. The main issues raised were:

- Area of existing Lot 1 is not contained within the area of proposed Lot 8 therefore the proposal is not an adjustment of boundaries (DCP No. 156)
- Land contains Agricultural Classification Class 3, Rural LEP requires advice from Director-General of Agriculture
- Land contains part of SEPP 14 Wetland No. 186

The issues raised by Council were detailed to the applicant. The applicant in response resubmitted a revised site plan so that the boundary adjustment results in new Lots bearing some semblance of the original lots. Other issues raised by Council have been satisfied in conditions of consent (Tagged "A").

8. CONSIDERATION

The proposed development generally complies with the relevant provisions of s79C of the Act, SEPP 71 – Coastal Protection, Eurobodalla Rural Local Environmental Plan, 1987 (as amended), Regional Environmental Planning Policy No. 2 – Lower South Coast, Rural Fires Act and the Coastal Policy 1997. The key issues arising out of the assessment of this application comprise:

Effluent Disposal:

The applicant submitted a report titled On-site Wastewater Management Study Proposed Subdivision Mr and Mrs Ennis Lots 1& 7, off Mossy Point Road Jeremadra by PMA Consulting Engineering & Environmental. This report comprised an overall site and soil assessment with an excavation and sampling of test-holes for soil classification and testing purposes, and was prepared taking into consideration the following documents:

- AS/NZS 1547:2000, and
- Environmental & Health Protection Guidelines 'On-site Sewage Management for Single Households' (1998)

The report identifies the sites condition and limitations and provides an assessment of the proposed systems against site feature criteria. The report indicates that although the site does contain limitations, that on-site disposal systems can still be installed and operated without significant detrimental impact on the existing environment.

This report was also forwarded to Eurobodalla Shire Council, who advised that the method of disposal outlined in the report is considered suitable for the proposed subdivision.

The report does give details in regard to location and types of systems and these have been incorporated in the recommended conditions of consent.

Bushfire Prone Land:

The land is zoned bushfire prone under the Rural Fires Act 1997. Therefore the application is integrated with the NSW Rural Fire Service, under section 100B of the Rural Fires Act 1997, and as such requires a Bushfire Safety Authority from the Rural Fire Service.

The Rural Fire Service was notified of the proposal and have issued the Bush Fire Safety Authority subject to general terms of approval. It is considered that should the development proceed all conditions can be suitably met.

Water Management:

The site slopes slightly towards the south 0° to 5° in the direction of the wetlands and also slopes down towards a moist intermittent creek line, a tributary of Candlagan Creek, which runs north and south towards the western side of this area

As this application is only for the subdivision of land, no actual works are to be undertaken and therefore it is unlikely that erosion and sedimentation concerns will arise. Future development including the building of the access road should however take into consideration appropriate measures to limit any impact on the intermittent creeks running south to the wetlands, an approved erosion and sedimentation management plan will be required at construction stage and is a recommended condition of consent.

Flora and Fauna:

The study site is largely covered with Eucalypt forest (Spotted Gum - Blackbutt Forest) of mixed age, which appears to have been selectively logged in the past, some cleared understorey patches are present. The vegetation provides reasonably good quality habitat. The flora and fauna survey presented in the report titled "Flora and Fauna Assessment Proposed Subdivision Mr and Mrs Ennis Lots 1 & 7, off Mossy Point Road Jeremadra" by PMA Consulting Engineering and Environmental revealed evidence of the likely presence of species of conservation significance on the site.

Eurobodalla Shire Council provided comments and the recommendations to reduce impacts of the proposed development on threatened and other species on the site provided in the PMA report are to be incorporated in the recommended conditions of consent.

Coastal Zone Impact Assessment:

The proposal has no direct foreshore access or frontage. It will not impact upon coastal hazards or coastal processes or severely alter or affect water quality. The site is not visible from the foreshore.

Generally, the proposal is consistent with the provision of the relevant planning controls and is not inconsistent with the surrounding environment. The proposal can be adequately serviced and accessed. It is considered that the land is suitable for the proposed development.

Access:

Access to the proposed lot would be via Old Mossy Point Road, which is sealed to within 100m of the property boundary. Access within the site will run along the northern boundary crossing the intermittent creek then south down to the proposed dwelling site. Submission of an erosion and sediment control plan approved by the consenting authority prior to construction of the access road is incorporated in conditions of consent.

9. SECTION 94 CONTRIBUTIONS

Eurobodalla Shire Council requires the following section 94 Contributions per additional lot:

	\$ Per Lot
- Open Space	386.15

- Community Facility	nil
- Cycleway & Pedestrian Facilities	70.65
- Waste Disposal	92.65
- Administration	75.25

The Section 94 contribution is currently \$624.70 for this 2 lot subdivision.

These contributions have been incorporated into the conditions of consent.

10. CONCLUSION

The proposed boundary adjustment generally complies with the provisions of all statutory controls and planning instruments which relate to the site. Eurobodalla Shire Council has raised no objection to the proposal. The proposal is classed as integrated development under the EP&A Act 1979, with the Rural Fire Service. The RFS have assessed the proposal and granted a Bush Fire Safety Authority.

The proposal is considered to be consistent with the surrounding, existing properties along Mossy Point Road, being rural residential lots within a sensitive coastal location. It is not considered that the application will result in any unreasonable impacts on the amenity of the coastal zone, existing utilities, foreshore access or on coastal processes.

The proposal does not seek approval for any building works. Any future development will require development consent.

Following this assessment, it is concluded that the proposed development is acceptable, subject to compliance with the recommended conditions of consent. The applicant has been notified of the recommended conditions of consent and has accepted all of the requirements. It is recommended that the Minister grant consent to the proposal subject to conditions.

11. RECOMMENDATION

It is recommended that the Minister for Infrastructure and Planning:

1. Grant consent pursuant to Section 80 of the Environmental Planning and Assessment Act 1979, and Clause 10 of State Environmental Planning Policy No 71, to Development Application No 203-8-2004 for the proposal as described in Schedule 1, subject to Conditions of Consent in Schedule 2 (Tag A); and
2. Sign and date the Notice of Determination for DA 203-8-2004 (Tag B); and
3. Advise the applicant and Eurobodalla Shire Council of the determination.

Prepared by	Endorsed:
Kylie Rolls Environmental Planner Urban Assessments - Coastal	

David Mutton Team Leader Urban Assessments - Coastal	Robert Black Director Urban Assessments
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