



Planning Assessment Report

Development Application DA 234-9-2004

1 SUMMARY

This report is an assessment of the proposed development, the subject of DA 234-9-2004. The application seeks consent for a 2-lot rural residential subdivision.

The development falls under Part 1(3) of SEPP 71 – Coastal Protection. It is significant coastal development pursuant to Schedule 2 as the development will require effluent to be disposed of by means of non-reticulated system. The Minister for Planning is the consent authority under clause 10(2).

The proposed development is satisfactory. It is ecologically sustainable as it will have minimal impact on the environment and water quality. It is recommended that the development application be granted **consent subject to conditions**.

2 BACKGROUND

2.1 Site Context

The site is located at Portion 134 DP752130 Comben Lane, Bermagui in the Bega Valley Shire local government area. Refer to **TAG B** for site context.

The development application was lodged with the Department on 28 September 2004 in accordance with the *Environmental Planning and Assessment Act, 1979* (the Act).

The 16.1ha site, located to the north of Baragoot Lake, is square in shape. A watercourse and a 15m wide transmission easement transverse the site in a north-south direction. The watercourse drains into Baragoot Lake. The site contains an existing dwelling adjacent the western property boundary. Access to the site is via Comben Lane. The site is covered with vegetation. Rural residential lots adjoin the site to the north-east and south-east.

3 THE PROPOSED DEVELOPMENT

The applicant seeks consent to create a 2 rural residential lots. Lot A is 2.2ha and Lot B, which contains the existing dwelling, is 13.9ha. Electricity is available to the land. Water supply will be from rainwater tank. On-site effluent disposal is proposed for Lot A. Access to the development is via Comben Lane. The proposed plan of subdivision is at **TAG C**

4 STATUTORY FRAMEWORK

4.1 Statement of permissibility

The subject site is zoned 1(c) (Rural Small Holdings) under the Bega Valley Shire Council LEP 2002. The development is permissible within this zone. The minimum lot size for the zone is 5,000m². For a full assessment against the LEP see **TAG E**.

4.2 Instrument of consent and other relevant planning instruments

Legislative context

SEPP 71- Coastal Protection

The proposal is State significant development under Schedule 2 of SEPP 71 as effluent will be disposed of by means of non-reticulated system. Pursuant to Clause 10(2) the Minister is the consent authority. The proposal will have minimal impact on the environment and water quality. It, therefore, complies with the aims of the planning instrument. For a full assessment see **TAG E**.

NSW Coastal Policy 1997 and Lower South Coast Regional Environmental Plan No. 2

The NSW Coastal Policy 1997 and the Lower South Coast Regional Environmental Plan No. 2 apply to the development. The proposal does not front coastal foreshore. The proposed effluent disposal system can be satisfactorily accommodated on the site. Therefore, any impact on the coastal environment and water quality will be minimal. For a full assessment see **TAG E**.

SEPP 44 – Koala Habitat

SEPP 44 – Koala Habitat applies to the development as the site is over 1ha. This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

The DEC has advised that there is no endangered or threatened ecological community listed on the subject site. An indicative building footprint, effluent disposal area and vehicular access are shown on proposed Lot A. The applicant's consultant, Resources Allocation Pty Limited, conducted a survey of proposed Lot A and advised that there are no feed trees, or hollow bearing trees that could be potential habitat, for glossy black cockatoos.

4.3 Other statutory provisions

Bega Valley Shire Council DCP No. 2 - Subdivision Standards and DCP 9 - Rural Residential Development

The proposal complies with the objectives of DCP Nos. 2 and 9. For a full assessment see **TAG E**.

5 CONSULTATION

5.1 Public consultation

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

Notifications landowners/occupiers	Nine (9) notification letters were sent to nearby property owners/occupiers.
Newspaper advertisements	Not advertised

Site notices	No
Exhibition dates	Start: 20 October 2004. End: 17 November 2004.
Exhibition venues	▪ Planning Information Centre, 20 Lee Street Sydney ▪ Queanbeyan Office, 2 Lowe Street, Queanbeyan ▪ Bega Valley Shire Council, Zingel Place, Bega; and Bermagui Branch Office, 14 Young Street, Bermagui

Two submissions were received from the residents raising concerns relating to potential impacts on threatened species of flora and fauna, water quality and privacy impact. A concern is also raised that clearing on the subject site has resulted in sediment impacting the watercourse. These matters are addressed in section 6.2 of this report.

5.2 Referrals

5.2.1 Integrated Approval Bodies

The application is integrated development pursuant to Section 100B of the Rural Fires Act 1997. The NSW Rural Fire Service has issued a Bushfire Safety Authority with general terms of approval for the development.

5.2.2 Council

The application was referred to the Bega Valley Shire Council on 14 October 2004. The Council raised no objection to the proposal subject to recommendation of conditions of development consent.

5.2.3 Natural Resources Commission

Referral to the Natural Resources Commission was not required as the proposal does not involve a draft master plan or a request for a draft master plan waiver.

5.2.4 DIPNR South Coast Office

The application was referred to the Department's South Coast Office. The Office raised no concern with underscrubbing in proximity to the watercourse provided that mature trees are not removed. The applicant is required to obtain a Part 3A Permit pursuant to the Rivers and Foreshores Improvement Act 1948.

6 CONSIDERATION

6.1 The Environmental Planning & Assessment Act, 1979

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 (see **TAG D**). Significant issues are discussed in section 6.2 of this report.

The proposed development is ecologically sustainable. Submissions from public agencies have been considered and issues raised by the public are discussed in

section 6.2. On balance, the proposed development is satisfactory and will be in the public interest.

Instrument / Policy	
SEPP No. 71 - Coastal Protection	TAG E
NSW Coastal Policy 1997	TAG E
Lower South Coast REP No.2	TAG E
SEPP 44 – Koala Habitat	See Planning Assessment Report
Bega Valley Shire Council LEP 2000	TAG E
Bega Valley Shire Council – DCP Nos.2 & 9	TAG E

6.2 Issues

(1) On-Site Effluent Disposal

Issue: Whether the site can accommodate an on-site effluent disposal system.

Raised by: Department of Planning

Consideration: A report, prepared as part of the development application, has proposed a wastewater treatment system for primary and secondary treatment and 800m² surface irrigation for the new Lot A, assuming 1,000L/day wastewater flow rate as recommended in Bega Valley DCP No. 5 – On-site Sewage Management 2001.

Resolution: The size of proposed Lot A is 2.2ha. The lot is sufficiently large to accommodate an absorption bed associated with an on-site effluent disposal system.

(2) Potential Impact on Watercourse and Water Quality

Issue: Whether the development will have impact on adjacent watercourse and water quality.

Raised by: Department of Planning and Public

Consideration: The proposed Asset Protection Zone (APZ) is located in proximity of the watercourse that runs through the site. Concern is raised that the required APZ to reduce bushfire hazard will result in removal of vegetation which is required to protect the watercourse and thus water quality. The clearing will have impact on the fishing industry.

Resolution: The Department's South Coast Office has advised that underscrubbing of vegetation is unlikely to impact on the watercourse and water quality provided that mature trees are retained. The applicant is required to

obtain a Part 3A Permit under the Rivers and Foreshores Improvement Act 1948.

(3) Potential Impact on Flora and Fauna.

Issue: Whether the development will have potential to impact on rare and endangered species of flora and fauna.

Raised by: Department of Planning and Public

Consideration: The DEC has advised that there is no endangered or threatened ecological community on the subject site pursuant to the Threatened Species Conservation Act 1995. The proponent's consultant, Resources Allocation Pty Limited, conducted a survey of proposed Lot A and advised that there are no feed trees, or hollow bearing trees that could be potential habitat, for glossy black cockatoos.

Resolution: The matter is noted.

(4) Bushfire Protection

Issue: Whether the site can provide adequate APZ to minimise bushfire risk to residents of the new lot.

Raised by: Department of Planning

Consideration: The proposal is integrated development under Section 100B of the Rural Fires Act 1997. Concern is raised whether the APZ can be contained within the site to allow for effective bushfire protection in accordance with the Act.

Resolution: The NSW Rural Fire Service is satisfied with the proposed APZ and has issued a Bushfire Safety Authority under Section 100B of the Rural Fires Act 1979 subject to general terms of approval.

(5) Clearing of Vegetation on the Site

Issue: The owner has been clearing vegetation on the subject land.

Raised by: Public

Consideration: Allegation has been made that the owner of the subject site has been clearing vegetation. Sediment from the clearing is impacting the watercourse.

Resolution: The matter has been brought to the attention of the Department's South Coast Office for investigation.

(6) Privacy Impact

Issue: Whether the development will have potential to impact on privacy of adjoining neighbours.

Raised by: Public

Consideration: The extent of privacy impact could be determined only when details of the siting and design of the dwelling are known. The size of proposed Lot A is large enough to allow flexibility in the siting and design of a dwelling to address privacy concern. It is expected that the Bega Valley Shire Council will consider the issue when an application is submitted to erect a dwelling.

Resolution: The matter is noted.

7 CONCLUSION

The Minister for Planning is the consent authority.

The application has been considered with regard to the matters for consideration under s79C of the EP & A Act 1979. The NSW Rural Fire Service was consulted and has issued a Bushfire Safety authority with general terms of approval under the Integrated Development provisions of the Act.

The application was notified and two submissions from residents were received. Submissions were also received from the Bega Valley Shire Council and the Department's South Coast Office. All the submissions were considered in the assessment.

On balance, it is considered that the proposed development is satisfactory and ecologically sustainable. It is recommended that the development application be granted **consent subject to conditions**.

8 CONSULTATION WITH APPLICANT – DRAFT CONDITIONS

The applicant was requested comment on the draft conditions of consent. The applicant has advised that the conditions are acceptable.

9 RECOMMENDATION

It is recommended that the Acting Deputy Director-General of the Office of Sustainable Development Assessments and Approvals, as delegate of the Minister for Planning as described by the Instrument of Delegation dated 12 September 2005 and 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 (**TAG A**), and
- (B) authorise the Department to carry out post-determination notification.

For Ministerial Approval

Prepared by:

Endorsed by

Eng-Joo Ong
Senior Planner, Urban Assessments

Pradesh Ramiah
Acting Team Leader, Urban Assessments

Robert Black
Director, Urban Assessments