

INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES

URBAN ASSESSMENTS

Action required: for determination: Development Application

File No:	S04/01106 Pt1
Application Number:	DA 115-5-2004
Date of lodgement:	18 May 2004
On land comprising:	Lot 10 DP 815169 Alex Pike Drive, Raleigh
Application made by:	Bellingen Shire Council Hyde St Bellingen 2454
Application made to:	Minister for Infrastructure and Planning
Local government area:	Bellingen Shire Council
State electorate:	Electorate of Coffs Harbour, Andrew Raymond Gordon Fraser MP. The views of the Member are not known.
Notification:	Not advertised. Council, relevant agencies and surrounding landowners were notified
For the carrying out of:	3 lot subdivision for industrial purposes, comprising on-site effluent disposal and connection to town water.
Estimated cost of works:	N/A subdivision
FTE Jobs created:	N/A subdivision
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:	Nil
Main Issues:	Implementation of on-site sewerage systems.
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 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.

Approved:

Sam Haddad
Executive Director
Office of Sustainable Development
Assessments and Approvals

Craig Knowles
Minister for Infrastructure and Planning
Minister for Natural Resources

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- (C) grant **consent** to the application subject to conditions (tagged **A**), and
- (D) authorise the Department to carry out post-determination notification.

Approved:

Sam Haddad
Executive Director
Office of Sustainable Development
Assessments and Approvals

Michael Egan MLC
Acting Minister for Infrastructure and Planning
Acting Minister for Natural Resources

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Recommendation

It is recommended that the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration) 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.

Approved:

Sam Haddad
Executive Director
Office of Sustainable Development
Assessments and Approvals

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



Planning Assessment Report Development Application 115-5-2004

Alex Pike Drive, Raleigh Industrial Estate 3 Lot Subdivision

1 SUMMARY

Bellingen Shire Council has submitted a development application (DA 115-5-2004) seeking consent for a 3 lot subdivision at Lot 10 DP 815169, Alex Pike Drive, Raleigh. The subdivision will create two new lots for industrial purposes, with the remaining lot being largely unsuitable for development due to environmental constraints. The new lots will have on-site sewerage systems and be provided with connection to town water.

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

Consistent with Bellingen Shire Council's advertising and notification policy, and due to the minor nature of the development, the application was not advertised. Surrounding residents, Bellingen Shire Council and other relevant agencies were however 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 issues raised in submissions. The report concludes that all relevant environmental issues have been adequately addressed and 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 115-5-2004 subject to the recommended conditions of consent.

2 BACKGROUND

2.1 Site Context

The site is located at Lot 10 DP 815169 Alex Pike Drive, Raleigh, in the Bellingen Local Government Area (LGA). The site is approximately 3 kilometres north-west of the town of Urunga and approximately 300m west of the Pacific Highway at the Raleigh Industrial Estate. The site is accessed from the end of Alex Pike Drive which in its current form is a gravel turning area. The entire site comprises approximately 13 hectares (see Tag C).

The site is currently vacant, except for stockpiles of fill and building materials. In the location of proposed Lot 2, the land forms a relatively flat ridge area extending from Alex Pike Drive to the eastern property boundary. The land generally slopes from this ridge to the south towards an unnamed gully and to the north towards a low-lying area.

The site is within Zone 4 Industrial and Zone 7(s) Special Emphasis under Bellingen LEP 2003. Subdivision is permissible with consent in both zones.

A site visit was conducted on 9 June 2004.

3 THE PROPOSED DEVELOPMENT

It is proposed to subdivide Lot 10 DP 815169 into three (3) lots, being:

- Lot 1 of 0.66 ha – future industrial development,
- Lot 2 of 1.54 ha – future industrial development, and
- Lot 3 of 10.54 ha – residual lot.

Proposed Lot 1 and Lot 2 are both situated in within Zone 4 – Industrial and are intended for future industrial development. The residual area of Lot 3 comprises land within Zone 4 and Zone 7(s) and is intended to be retained by Council.

Access to the site will be from a formed cul-de-sac and will include an easement to allow access to the adjacent Lot 9 DP 839899 (see Tag D).

The subdivision also includes the extension of Council's water main along Alex Pike Drive to service Lot 1 and Lot 2 and to formalise the existing storm water drainage pattern. Effluent disposal from future development on the land will be via an on-site disposal system.

The existing stockpile of clean fill on the site will be relocated and the landform returned to natural ground level. No filling, excavation or clearing is proposed as part of the subdivision.

4 STATUTORY FRAMEWORK

The following legislation applies to this proposal:

1. The Environmental Planning and Assessment Act 1979: Matters for consideration by the determination authority are listed in section 79C of the *Environmental Planning and Assessment Act 1979*.

It is considered that the proposal is consistent with the aims and objectives of s79C. The proposal is considered consistent with the current zoning of the land and with the objectives of the relevant instruments. Any potential impacts of the proposed development are discussed in Section 7 of the Planning Report and it is considered that any potential impacts can be managed to acceptable levels.

The site is considered suitable for the proposed use and it is considered unlikely that the existing amenity of the area will be affected.

The following instruments apply to this proposal:

State Environmental Planning Policy No. 71 – Coastal Protection

The proposed subdivision is located within the coastal zone, as defined in Part 1 (3) of SEPP 71, and falls within Schedule 2, part (b) 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 that the proposal is 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 affect 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 the area and would result in the creation of two additional lots for industrial purposes and the residual to remain in ownership of Council.

It is considered unlikely that the proposed development would have a detrimental impact on the environment. Measures outlined in the effluent disposal report will be undertaken to ensure that the future effluent disposal system will not cause harm to the quality of any of the nearby

vegetation. The proposed effluent systems have been developed taking into account appropriate guidelines and best-practice methods.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

Chris Moon undertook a flora and fauna report, which involved a survey involving identification of potential Koala habitat and scanning tree canopies for Koalas. In addition, the survey searched for faecal remains and claw marks and scuffing. Based on the findings, the report concludes that the site does not qualify as potential Koala habitat, as such a survey to determine whether or not core Koala habitat occurs on the site was not required.

A further survey for Koala activity was however carried out, with the results indicating no evidence of scats or scratches.

The report concludes that there are no Koala populations which might be affected by this development, and that it is even unlikely that individual or nomadic Koalas would be disadvantaged by the development.

DIPNR is satisfied that the surveys were undertaken in an appropriate manner and that the conclusions are based on sound survey work. As such, it is considered unlikely that any Koalas or their habitat will be affected by the proposed development.

Coastal Protection Act 1979

In terms of the relevant 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 is not inconsistent 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.

Bellingen Local Environmental Plan 2003

The subject land is within Zone 4 Industrial and Zone 7(s) Special Emphasis under BLEP 2003. Subdivision is permissible with consent in both zones.

The proposal is consistent with the objectives for each zone, providing for further industrial development on Lots 1 and 2 (Zone 4) and allowing for conservation of natural habitat areas over the residual Lot 3.

5 STATE ELECTORATE AND MEMBER

The site is within the electorate of Coffs Harbour. The views of the local member Andrew Raymond Gordon Fraser MP, are not known.

6 CONSULTATION

The application, in accordance with Bellingen Shire Council DCP 16 – Advertising and Notification of Development Applications, required only notification. Bellingen Shire Council, relevant government agencies and surrounding residents were notified of the application and asked to provide comment.

Bellingen Shire Council

Council provided a submission comprising a desktop assessment and recommended conditions of consent. Generally, Council raised no issues and were supportive of the development.

Council's conditions have been included in the recommended conditions as appropriate.

Department of Environment and Conservation

The DEC identified issues relating to the level of assessment for potential Aboriginal archaeology, the areas of swamp forest be protected, appropriate stormwater controls be implemented and that appropriate asset protection zones be implemented for bushfire protection. These issues are addressed in section 7 of this report and it is considered that subject conditions all issues can be satisfactorily managed.

DIPNR – Regional Office

The Regional office raised no objections to the proposal, however identified that residential occupancy must not occur on the site and that the existing fill on the site should be removed in an appropriate manner.

DIPNR – Natural Resources

Natural Resources raised concern relating to Lot 3 being potentially subject to flood. They have recommended that should any development occur on this lot, it should be positioned above the 1% flood level.

A submission was also received from a neighbouring landowner, their concern related to access, particularly the limitations that would occur should the proposed cul-de-sac be constructed at the end of Alex Pike Drive. This issue was raised with Council and the subdivision plan has now been amended to allow an easement between proposed Lot1 and proposed Lot 2 which will provide suitable access to the adjoining land.

7 CONSIDERATION

The proposed development generally complies with the relevant provisions of s79C of the Act, SEPP 71 – Coastal Protection, Bellingen LEP 2003 and the Coastal Policy 1997.

Effluent Disposal:

The applicant submitted a Wastewater Disposal System Report prepared by GHD regarding the suitability of on-site wastewater disposal on the site. This report comprised an overall site and soil assessment with sampling of test-holes for soil classification and testing purposes.

This report was also forwarded to Bellingen Shire Council, who advised that the report identifies that adequate area is available for waste-water disposal.

Whilst the report does not identify an exact system or location, the recommended conditions required that Council approves of the system and location prior to works on the site.

Bushfire Prone Land:

The land is zoned bushfire prone under the Rural Fires Act 1997. However as Planning for Bushfire protection does not include considerations for industrial development, the application is not subject to asset protection zone provisions.

Water Management:

The development site forms a relatively flat ridge area extending from Alex Pike Drive to the eastern property boundary. The land generally slopes from this ridge to the south towards an unnamed gully and to the north towards a low-lying area. Proposed Lot 1 and Lot 2 are above the 1% flood level and as such can suitably accommodate industrial development. Land to the north of the site is fairly low lying and likely to at times experience ponding. This would need to be considered should any future development of this lot occur.

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

however should take into consideration appropriate measures to limit any impact on the environment.

Flora and Fauna:

A Flora and Fauna assessment was undertaken by Chris Moon and was included with the development application documentation. This assessment considers threatened flora and fauna species and also addressed SEPP 44 – Koala Habitat Protection.

The assessment, which included site inspections and survey work concluded that, there are no threatened plants, endangered ecological communities or critical habitats, as defined under the TSC Act on Lots 1 or 2.

DEC (formerly NPWS) commented that the site may in fact provide habitat for threatened fauna species on the site. From this they have recommended that no development occur in within proposed Lot 3 and that buffers of 50m be established to ameliorate potential impacts of the proposal on adjacent swamp forest.

Council has identified that they intend to retain Lot 3 and have acknowledged that environmental constraints of this area will limit any development. As such, no development is proposed for this area and therefore buffers to the swamp forest can be achieved.

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:

The site is currently serviced by a bitumen sealed road, known as Alex Pike Drive. It is proposed that the existing gravel turning area will be formalised into a cul-de-sac for direct access to lots 1 and 2 and allow a right of way to Lot 3. In addition, a proposed 20 metre wide easement has been included to allow any future access to the adjacent property being Lot 9 DP 839899.

It is expected that the small increase in traffic along Alex Pike Drive that would occur should this development proceed, would not impact on the existing amenity. It is not anticipated that safety along Alex Pike Drive or its intersection with Short Cut Road would be adversely affected by the potential minor increase in traffic volumes.

Aboriginal Heritage:

It is unclear whether any Aboriginal Cultural Heritage study has been undertaken for the site. As such, the recommended conditions of consent require that an assessment should be undertaken to Council's satisfaction prior to any works being undertaken on the site.

9. SECTION 94 CONTRIBUTIONS

Bellingen Shire Council requires the following section 94 Contributions:
Community Services and Amenities (per allotment):

- (a) Community Services and Amenities (per allotment):
 - Entire Council Area: $\$632.88 \times 2 = \$1,265.76$
 - Catchment (Seaboard): $\$9.10 \times 2 = \18.20
 - Area (Raleigh): $\$2,231.18 \times 2 = \$4,462.36$
 - Total: \$5,746.32**

- (b) Bellingen Council Roads (per allotment):
Shire Wide Contribution: $\$381.11 \times 2 = \762.22
Total: \$762.22
- (c) Bushfire Services Contribution Plan (per allotment):
Shire wide contribution: $\$331.46 \times 2 = \662.92
Brigade Areas (Raleigh): $\$223.53 \times 2 = \447.06
Total: \$1,109.98
- (d) Water Supply Augmentation Charges (per ET):
Urunga: $\$6157 \times 2 = \$12,314$
Total: \$12,314

These contributions have been incorporated into the conditions of consent.

10. CONCLUSION

The proposed 3 lot subdivision generally complies with the provisions of all statutory controls and planning instruments which relate to the site. Bellingen Shire Council has raised no objection to the proposal.

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 115-5-2004 for the proposal as described in Schedule 1, subject to Conditions of Consent in Schedule 2 (Tagged A); and
- 2) Sign and date the Notice of Determination for DA 115-5-2004 (Tagged B); and
- 3) Advise the applicant and Bellingen Shire Council of the determination.

Endorsed:

Pradesh Ramiah
Senior Planner
Urban Assessments

Robert Black
Director
Urban Assessments

Prepared By;
Alix Hussey
Environmental Planner
Urban Assessments