
Supplementary Report - DEVELOPMENT APPLICATION 259/12 – [REDACTED]

Purpose of this Report:

This report is in response to additional information provided by the applicant on 13 July 2012.

It is noted that there is no procedure specified in the Joint Regional Planning Panel Operating Procedures that provide for an applicant to provide additional, development application information to the Council or to the Panel Secretariat in the period between submission of the assessment report and the Joint Regional Planning Panel Meeting.

Notwithstanding, the following comments are provided for the assistance of the panel. This report should not be considered in isolation to the development assessment report which provides a complete assessment.

Documents Provided to the Panel and the Assessment Report

All documentation submitted by the applicant, that relates to Development Application 259/12, including all applicant provided opinions on permissibility of the proposed development, have been provided to the panel, as these form part of the Development Application.

The assessment report provides an evaluation of the development application as a whole. It therefore includes consideration of all the additional submitted documentation (including opinions) of the applicant that were available prior to completion of the assessment report.

The report provides a summary assessment of the development application, by addressing all statutory requirements and properly considering all issues, to provide a development assessment position for the application. It does not provide consideration of separately submitted documents in isolation.

Additional Matters Raised on Permissibility

The opinion of Adrian Galasso SC was provided after the development assessment report was prepared so was not available for assessment with the report. Council's legal advisors have now considered this opinion. They have advised that it does not alter their earlier advices.

The development assessment report states that, to determine permissibility, through the process known as characterisation, requires consideration of what is proposed in the development application as a matter of fact. The facts are obtained from the development application, including all development application plans and all written documents including the statement of environmental effects.

The additional information submitted raises connection between buildings. This relates to the form of the development and is only one issue relating to permissibility. The additional matters raised do not change the assessment. The development assessment report should be referred to for the full assessment on permissibility.

Flora and Fauna Impacts

The additional information submitted includes an assessment of those matters under Section 5A of the *Environmental Planning and Assessment Act*. This information has been considered and an assessment of Flora and Fauna impact has been completed.

Section 5A of the *Environmental Planning and Assessment Act* specifies matters that must be taken into consideration to determine the likely environmental impacts of a development on the natural environment. As a result, an amended flora and fauna component for the Section 79C Evaluation, as it relates to the application is appended. This should be substituted for the flora and fauna section of the development assessment report. Also appended is an assessment of the development against Council's Koala Plan of Management.

The assessment concludes that there will be a negligible impact on native flora and fauna, and as such, the recommendation should be amended to remove ground 1(b) for refusal.

Recommendation:

1. **That Development Application 259/12 for a [REDACTED] be refused on the following grounds.**
 - a. **The proposed development is a prohibited use in the 1A Rural Agriculture zone under *Coffs Harbour City Local Environmental Plan 2000*.**
2. **That people who made a submission on the application be advised of this decision.**

**Section 79C Evaluation
Development Application 259/12**

- a. the likely impacts of that development, including environmental impacts, on both the natural and built environments, and social and economic impacts in the locality,***

Flora and fauna impacts

(a) in the case of a threatened species, whether the action proposed is likely to have an adverse effect on the life cycle of the species such that a viable local population of the species is likely to be placed at risk of extinction,

The development has been located outside of forested areas. Asset protection zones will be located in cleared areas. Existing cleared parts of the site consist mostly of grassland which is regularly mown or grazed. Forested areas of the site have been subject to past disturbance from typical rural uses.

All remnant isolated trees identified at the chapel, staff accommodation and group home site are to be retained. These trees do not contain hollow-bearing features. They are in a young-mature growth phase. There will be no environmental impact that results from vegetation removal.

LARGE RANGE/SEASONALLY NOMADIC SPECIES: - GREY HEADED FLYING FOX, GLOSSY BLACK COCKATOO, LITTLE LORIKEET, MASKED OWL, POWERFUL OWL, SPOTTED TAIL QUOLL, SQUARE-TAILED KITE, RAINFOREST BIRDS (BARRED CUCKOO SHRIKE, WOMPOO FRUIT-DOVE, ROSE-CROWNED FRUIT-DOVE), MICROCHIROPTERAN BATS (EAST COAST FREE-TAIL BAT, EASTERN BENT-WING BAT, EASTERN CAVE BAT, EASTERN FALSE PIPISTRELLE, GREATER BROAD NOSED BAT, GOLDEN-TIPPED BAT, LARGE-EARED PLED BAT, LARGE-FOOTED MYOTIS, LITTLE BENT-WING BAT

These species are mobile, and require home ranges/territories or seasonably, variable ranges that exceed the site routinely during foraging, or seasonally due to their ecology (e.g. following flowering incidences in the bioregion). They also have habitat requirements, for which the site is not sufficient in extent to supply. While an individual of these species may use the site for foraging, etc, at some time, any local population of these species would extend beyond the site to meet their full lifecycle requirements.

The proposal will result in no loss of vegetation and only loss of approximately three hectares of grassland. Forest more so than grassland provides potential foraging habitat or contains some habitat components for some but not all of these species e.g. prey animals, nectar producing trees, etc. Modification to the already disturbed grassland could result in incremental contribution to the primary causes of decline to some of these species i.e. habitat loss/fragmentation. However, foraging habitat for these species is measured in terms of hundreds to thousands of hectares, hence the loss of no forested habitats and only a minimal modification of three hectares of grassland, while a negative impact contributing to these threatening processes, is clearly not of sufficient order of magnitude to significantly impact the foraging capability of any of these species, and hence their ability to fulfill lifecycle needs, especially given the site is on the outer margins of a body of habitat greater than 10 000 hectares in extent.

All of the mammals (except the Grey-headed Flying Fox) and three of the birds are predominately hollow dependent. The mammals are also den-swapping species which require multiple hollows throughout their range depending on lifecycle stage, socio-ecology, predator avoidance, etc. Remnant trees on the site (of which none are to be removed) contained no hollow-bearing features. It is likely that there are a range of hollow resources in the forest area to the north and south of the site. As there is no development proposed for any forested area of the site and no proposed removal of remnant vegetation there is unlikely to be impact on hollow-dependent fauna within the site.

The Flora and Fauna Habitat Assessment report by *Ecological Australia*, submitted with the application, identified one potential habitat feature. The report stated that potential bat habitat may exist within the [REDACTED].

A diurnal assessment of the bridge for potential microbat roosting potential has been conducted. Of the bat species identified as likely to occur on the site, three are known to roost in this type of structure at some point in their lifecycle. Only one; the Large footed Myotis is likely to utilise these type of structures for breeding purposes. The two other species; the little and Eastern bent-wing bats are known not to breed at such locations but migrate to large known maternity caves and to use bridges as intermittent roost sites. The diurnal inspection of the bridge found no current or previous evidence of roosting microbats and limited roosting potential due to few cracks and crevices.

As there are no remnant trees to be removed from the subject site direct mortality due to tree felling, is not a potential risk.

Indirect impacts such as increased human, cat and dog presence may deter the Spotted-tailed Quoll from occurring within the area. The proposal may see a contraction of the outermost fringe of the potential home range of at least one Quoll. Given the extent of habitat within the larger body of habitat (>10 000ha), this is considered as an unlikely impact.

Any impact from the proposed development is considered to be insufficient to result in a decline (i.e. reduce viability) of the local population of any of these species given that;

- The development will be located on already cleared parts of the site.
- Only very minor vegetation removal will be required.
- Remnant trees are to be retained and contain no hollow-bearing features.
- The subject species are known to forage in rural areas and in retained habitat within or adjacent to rural-residential and urban areas and therefore may occur on the property post-development to an equivalent level to current probability.
- Critical lifecycle stages of the species are not likely to be dependent on the site or without alternatives within their range to maintain viability.
- Local populations would routinely extend beyond the confines of the site to meet their lifecycle needs.
- Only the Large footed Myotis has likely potential to utilise the [REDACTED] structure for breeding purposes.
- The diurnal inspection of the bridge found no current or previous evidence of roosting microbats.

- The [REDACTED] provides limited roosting potential due to few cracks and crevices.
- No construction works are proposed for the [REDACTED].

SQUIRREL GLIDER

The Squirrel Glider may have individual home ranges which in some situations may be as large as the study area, but only in high quality habitat. The species has been recorded near the property (approximately 5km) (DECCW 2010a). Forested vegetation communities on the northern arc of the study area provide potential habitat for the Squirrel Glider.

The Squirrel Glider prefers more optimum habitats i.e. an understory dominated by Acacias and/or banksias (Smith and Murray 2003, Faulding and Smith 2009, Murray 2006, Dobson 2002, Goldingay et al 2006, Melton 2007). In terms of physical extent, the total site could potentially form a substantial part of at least one colony's home range, and also part of the home range of other overlapping colonies, if it were high quality habitat. Due to aforementioned habitat limitations, it seems logical to deduce however those animals potentially using the site would need to use resources (such as hollow-bearing trees) throughout their lifecycle occurring beyond the study area to retain long term viability,

The proposed development is considered unlikely to directly undermine the viability of a local population to 'the extent required to place it at certain risk of extinction given the following;

- all available potential habitats are to be retained onsite (including remnant trees) so that there is no likelihood of fragmentation or reduction in foraging resources.
- The riparian corridor along Bucca Bucca Creek is suboptimal habitat for the squirrel glider
- Distance from the northern forested area to the southern riparian zone is too great for gliding opportunities to occur.
- Remnant trees contain no hollow-bearing resources that could be utilized by hollow-obligate species such as the squirrel glider.
- There is a rarity of hollow-bearing trees on site and in the study area.
- Local population of the species would be likely to extend beyond the study area given the habitat limitations of the study area and adjacent section of the property (i.e. lack of hollows, etc), as required to meet their lifecycle needs (DECC 2007).
- the development proposes no loss or disturbance of forest cover which will not reduce the current carrying capacity of the site due to loss of nectar and insect sources.
- Connectivity north will be retained on the remainder of the site and on adjacent lands allowing the species to disperse and/or forage over their wider home ranges post- development.

KOALA

The Koala has been considered in the section relating the Koala Plan of Management.

STEPHEN'S BANDED SNAKE

This species has been recorded in the locality (DECCW 2010a), and more widely they have been recorded in the Coffs Harbour LGA (DECCW 2010a), mostly in State Forest Estate where intensive fauna assessment is conducted prior to logging events. This species is considered to have some generic potential to occur locally due to the extent of forest to the north and south of which the property forms a small fraction of, and more so due to the range of potential den sites provided by the sandstone / meta-sediment geology along the escarpment. This species is normally associated with landscapes characterised by mosaics of rainforest, and wet and dry sclerophyll (DECCW 2010b, Smith et al 1995, Fitzgerald et al 2005).

The forested areas on the site are considered potential quality habitat but limited due to:

- rarity of hollows which are a key part of the Stephen's Banded Snake species' ecology (Gibbons and Lindenmayer 2002, DECCW 2010b,).
- Intensive disturbance history of the site and adjacent lands, due to previous logging and grazing, and has relegated the existing forest to relatively mature regrowth forest
- frequent fire history which has contributed to floristic and structural modification as well as loss of refugia and may have resulted in direct mortality.

Retention of the forested landscapes is likely to contribute to potential habitat for the species and in the long term considered that disturbance regimes are reduced then recolonisation of these habitats is likely, particularly if a greater abundance of tree hollows are developed.

If present, the species is considered potential occurrence on the property only in low density (at most single animals) as per their ecology and the marginal habitat quality (Smith et al 1995, Fitzgerald et al 2005, DECCW 2010b). These animals are also considered likely to use habitat outside the study area as part of their periodic lifecycle requirements (e.g. to utilise other hollows, seek mates, etc) due to the low quality habitat in the study area. Given this information and the survey area's habitat constraints, it is readily apparent that the local population would be likely to extend beyond the study area to obtain sufficient resources to maintain its lifecycle.

Connectivity to the north, the most likely area where habitat conditions and forest extent will remain will be maintained. The development will not interfere with current forest connectivity to existing habitats.

The potential increase of cats to the property is unlikely to affect the snake due to direct mortality as it is predominantly arboreal and as no hollows are found in the remnant isolated trees, interaction is unlikely within the subject site

The proposal will have an overall very minor net negative impact, incrementally and cumulatively contributing to threatening processes due to increased human activity at the site, but unlikely be responsible for the decline of this species, and not considered likely to be significant to place a local viable population at risk of extinction.

COMMON PLANIGALE

This species has broad generic potential to occur within the site, most likely in the riparian zone along [REDACTED] and forested vegetation to the north where dense cover, fallen logs and rock crevices are dominant habitat features.

Due to its ecological preferences and possibly physiological dependence on dense vegetative cover, the Common Planigale is likely to be highly sensitive to any process that reduces vegetative cover e.g. grazing, fire, slashing, logging and clearing (Smith et al 1995, DECCW 2010b). The small home range and limited mobility also predisposes the species to a high vulnerability to direct mortality during clearing or bushfire (Smith et al 1995, DECCW 2010b).

The proposal will see modification of three hectares of derived grassland which offers little generic potential foraging and refugia for the species. The best potential habitats on site are the drainage line and forested landscapes which will remain effectively intact. The likely introduction of pet cats will incrementally and cumulatively add to the predation risk by native predators, and likely occurring foxes and potentially occurring feral cats.

The proposal thus will overall have a very minor net negative Impact on the potential occurrence of this species on site. While this is an incremental and cumulative impact and contribution to the processes responsible for the decline of this species (DECCW 2010b), the order of magnitude of these impacts is not considered likely to place a local viable population at risk of extinction as:

VARIED SITTELLA

This passerine bird has been recorded in forested habitats to the west of the locality. It prefers forest habitats. Its avoidance of open cleared areas (DECCW 2010b, NSWSC 2010e) and the extent of forest (>10 000ha) suggests the site would lie on the outermost fringe of potential habitat for this species.

The bird is sedentary, living in family groups with territories of 13-20 Ha (Noske 1998), which it only weakly defends. The proximity of remnant trees within the subject site thus has little generic potential to comprise territory for a family group. The limited extent of habitat on site, direct continuity with extensive forest to the north, and to some extent south suggests this family group would be likely to routinely use habitat outside the study area during its lifecycle and due to various habitat disturbances (e.g. bushfire, drought, etc) and prey abundance. In doing so, it would interact/overlap with other family groups in the study area and wider property. The local population would extend beyond the study area and perhaps the property.

Due to limited forest cover on the site and no loss or modification of forest within the site the proposed development is unlikely to impact on potential habitat for the species. The species is also unlikely to occupy any areas of the site due to its avoidance of open areas. Consequently, the proposal will have no adverse impact on the species.

GREEN-THIGHED FROG

The Green-thighed Frog occurs in isolated localities from the NSW Central coast to southeast Queensland. They occur in a range of habitats from rainforest and moist Eucalypt forest to dry Eucalypt forest and heath (NPWS 2000b).

Breeding occurs following heavy rainfall events in late spring and summer, with frogs congregating around large, temporary pools where males generally only call

for one or two nights. Breeding may occur just once or twice per year or not at all and breeding success may be highly variable (Lemckert Slayter 2002). How these frogs use forested environments during non-breeding times has not been documented (Lemckert & Slayter 2002), although it is suspected that they forage in leaf litter and dense groundcover vegetation. Although the species breeding sites have not been determined, it is considered likely that any creekline and/or low lying area capable of holding water for extended periods may provide potential habitat for this species.

Only one record was determined from the 10 km search conducted for the current project 3.5 km to the west in forested landscape adjacent to the Orara River. The forested drainage lines including the Bucca Bucca Creek to the south of the property could be considered potential habitat for the species. The areas within the proposal are subject to grazing and, routine slashing and are unlikely to be areas suitable for the species. All the potential habitats on the site are well away from the proposed development areas and are unlikely to affect important areas for the species.

THREATENED RAINFOREST AND WET SCLEROPHYLL UNDERSTORY FLORA SPECIES, MILKY SILKPOD, SLENDER MARSDENIA, TYLOPHORA WOOTSII, MOONEE QUASSIA, RAINFOREST SENNA, RUSTY PLUM, ORARA BORONIA, SLENDER SCREW FERN

The subject species listed are found in a range of moist habitat types from rainforest, rainforest margins to wet sclerophyll forest. They include the climbers (Milky Silkpod, Slender Marsdenia, Tylophora Wootton), a fern (Slender Screw Fern), shrubs (Moonee Quassia, Orara Boronia, Rainforest Senna) to a mid size tree (Rusty Plum). Some can be highly restricted in range but locally common including the Orara Boronia and the Moonee Quassia, others have a much greater range but occur sparsely such as Tylophora Wootton. One relatively common trait is that the Coffs Coast ranges and escarpment forests are the strong hold of most of these species distribution. Plants such as the Rusty Plum are relatively common in the coastal forests of Coffs Harbour but outside the area are extremely rare (Harden 200, Plantnet 2012).

These plants have been restricted in range due to habitat clearance, increased or inappropriate fire regimes, disturbance through logging and grazing and corresponding increase in weed growth. It is expected that the forested habitats of the property, north of the subject site provide habitat types that support these potential species (NPWS 2002).

Survey effort in the subject site and surrounding study area found no occurrence of any of the above species.

As the development proposal targets existing disturbed derived grassland sites no impact to the lifecycle of these plants is expected to occur.

(b) in the case of an endangered population, whether the action proposed is likely to have an adverse effect on the life cycle of the species that constitutes the endangered population such that a viable local population of the species is likely to be placed at risk of extinction,

No Endangered Populations are considered to occur in the study area; they are listed on Part 2. of Schedule i of the *Threatened Species Conservation Act 1995* and none are affected by the proposal.

(c) in the case of an endangered ecological community or critically endangered ecological community, whether the action proposed:

(i) is likely to have an adverse effect on the extent of the ecological community such that its local occurrence is likely to be placed at risk of extinction, or

(ii) is likely to substantially and adversely modify the composition of the ecological community such that its local occurrence is likely to be placed at risk of extinction,

One EEC was identified as a possible occurrence that of Lowland Rainforest in the NSW North Coast and Sydney Basin Bioregions, No EECs were determined to occur in the study area; as no forested landscapes are to be modified or remnant isolated trees are to be removed or disturbed with the development is focused on disturbed grassland therefore not to be affected by the proposal.

(d) in relation to the habitat of a threatened species, population or ecological community:

(i) the extent to which habitat is likely to be removed or modified as a result of the action proposed, and

(ii) whether an area of habitat is likely to become fragmented or isolated from other areas of habitat as a result of the proposed action, and

(iii) the importance of the habitat to be removed, modified, fragmented or isolated to the long-term survival of the species, population or ecological community in the locality,

The proposal will result in three hectares of grassland being lost as part of the 97 Ha property, No forested landscapes will be disturbed or removed, including no removal of remnant trees within the site. The area to be disturbed is regularly mown as part of the current rural use.

The subject site may form part of the foraging habitat of the large range highly mobile species such as the microbat group as outlined in part (a) of this report but this is such a minor component it is not considered to be a significant impact.

The eastern extent of the study area has conservation value as part of a larger wildlife corridor network incorporating a regional corridor as mapped by Scotts (2003). This mapping is embedded within the Mid North Coast Regional Strategy (2009) and has been considered within the context of the proposed development. The impacts are negligible given the corridor does not intersect with the proposed development and minimal vegetation removal is proposed across the entire site.

There is also a local vegetated corridor to the south of the property where there is contiguous forest cover from the northern escarpment forests to the Bucca Bucca Creek riparian zone; this is on an adjacent property and not impacted on by this proposal. There is limited movement likely through the study area from north to south on the property as there is no current forested connection, as distances and the current disturbance regime are considered too great to currently function. No forested landscapes are to be

fragmented or isolated from other areas of habitat and current habitat connection and functionality will be maintained for example via the riparian corridor along Bucca Bucca Creek.

As noted in part (a), the property offers (in a broad, conservative sense) generic potential habitat for a number of forest dependant mammal, bird and reptile species. As these forest landscapes are to be maintained and remnant trees are not to be removed and as this habitat on the property forms part of a larger forest mosaic to the north (>10 000ha, including Sherwood Creek Nature Reserve) no long term impacts to species or populations and communities are considered likely.

(e) whether the action proposed is likely to have an adverse effect on critical habitat (either directly or indirectly),

No relevant areas of critical habitat have been declared, within the locality, under Part 3 of the *Threatened Species Conservation Act 1995*, therefore no critical habitat will be affected.

(f) whether the action proposed is consistent with the objectives or actions of a recovery plan or threat abatement plan,

Draft/final recovery plans have only been prepared for the Forest Owls, Koala and Quassia sp B (OEH 2012). Priority actions have been identified for all of the other species (DECCW 2010b). For these and all other species, as the proposal will not remove forest habitat or isolated remnant trees; or hollow-bearing trees (in an area where this critical habitat component appears to be rare); reduce connectivity; and not contribute to secondary impacts, and hence overall not contribute to the primary processes responsible for the decline of these species: it would be considered consistent with objectives of a recovery plan(s), threat abatement plan or priority action now or in the future.

The retention of the overwhelming majority of habitat on the property will retain the potential for the local populations of these species to occur post-development.

(g) whether the action proposed constitutes or is part of a key threatening process or is likely to result in the operation of, or increase the impact of, a key threatening process.

The *Threatened Species Conservation Act 1995* defines a "threatening process" as "a process that threatens, or may have the capability to threaten, the survival or evolutionary development of species, populations or ecological communities".

Loss and fragmentation of habitat due to urban, residential and rural development is a recognised threat to these species (Smith et al 1995, Lindenmayer and Fisher 2008, Johnson et al 2007, Smith et al 1995, Gibbons and Lindenmayer 2002, DECCW 2010b, NPWS 1999b, Gilmore and Parnaby 1994, etc)

As no forested vegetation nor remnant trees are to be removed and only already disturbed landscapes have been targeted and the existing disturbance regimes will be maintained (i.e. slashing and mowing of these areas) the proposal isn't considered likely to introduce any additional threatening processes.

Koala Plan of Management

Sightings for Koala have occurred within 10 kilometres from within the National Park and State Forest to the north and south of the property. The property itself has Secondary and Tertiary habitat in accordance with Council's Koala Plan of Management. The eucalypt species found on the property contribute to habitat potential for the koala. It is likely that Koalas do utilise the northern forested areas of the property as part of their foraging habitat.

Searches for koala activity conducted at all development areas, specifically looking for faecal pellets or scats and scratch marks were conducted with no evidence found. A forested corridor east of the property links the escarpment forests on the northern side with the riparian corridor (Bucca Bucca Creek) to the south and is considered a significant regional corridor (Scotts 2003).

Koalas can also occupy areas of urban development. They have also been documented to traverse open grassland areas to access preferred habitat. The relatively small scale and rural context for the proposed development is unlikely to create barriers for movement between forested landscapes.

The main threats to koalas are habitat loss, and direct mortality through dog attacks and vehicle strikes. Maintenance of habitat and connection of these core areas are the key issue for koala population conservation.

As the habitat of the subject site is limited to a few isolated trees it is unlikely the lifecycle of a single koala is dependent on these features, expanding this to the study area a sparsely distributed population is more likely the case. The habitat requirements are therefore not restricted to the site and likely extend much beyond these boundaries to include the forest to the north of the property.

The lifecycle of an individual or small population of koalas is not dependant on the resources scattered throughout the property and therefore unlikely to undermine the viability of a local population.

The objectives Secondary and Tertiary habitat in accordance with Council's Koala Plan of Management are to:

- minimise barriers to koala movement;
- reduce the risk of koala mortality by road kill by appropriate road design, lighting and traffic speed limits;
- minimise the removal of koala tree species listed above under Tertiary Koala Habitat; provide preferred Koala trees in landscaping where suitable;
- minimise threats to Koalas by dogs i.e. banning of dogs or confining of dogs to Koala proof yards; minimise removal or disturbance of Tertiary Koala Habitat in fire protection zones, including fuel reduced zones and radiation zones

As the proposed development avoids forested habitats and retains all remnant trees and focuses development on derived grassland, the proposed development is considered to meet the primary objectives of secondary and tertiary koala habitat requirements.

While considered a minor risk, further consideration may need to be given to the threat of dogs and additional traffic. Support of the application will require demonstration of how this risk will be further minimised.