

Recommended Reasons for Refusal DA25/0011

1. Pursuant to Section 4.15(1)(a)(i) the application fails to satisfy Clause 4.8 of SEPP (Biodiversity and Conservation) 2021 given the submitted BDAR fails to address Section 5 of Tweed Coast Comprehensive Koala Plan of Management (TCCKPoM). The consent authority is therefore not satisfied the development meets the aims of Chapter 3 and Chapter 4 of this policy.
2. Pursuant to Section 4.15(1)(a)(i) the application fails to satisfy Chapter 2 of SEPP (Resilience and Hazards) 2021 given that the consent authority cannot be satisfied the development is not designated development pursuant to Clause 4.6(1) and Clause 4.6(2) of the policy based on the information submitted (which is lacking).
3. Pursuant to Section 4.15(1)(a)(i) the application fails to satisfy Chapter 2 of SEPP (Resilience and Hazards) 2021 having regard to the applicable Coastal Zone Management Plan(s) that apply to the site and the proposed ecological setback from the wetland and lack of information to address matters of Aboriginal Cultural Heritage in accordance with Tweed Byron Aboriginal Cultural Management Plan.
4. Pursuant to Section 4.15(1)(a)(i) the application fails to satisfy Chapter 4, Section 4.6 of SEPP (Resilience and Hazards) 2021 given the information in the DA fails to satisfy the consent authority that the land will be suitable after remediation works are undertaken with the provision of a Details Site Investigation (DSI) and/or Remediation Action Plan (RAP) prepared by a suitably qualified consultant in accordance with NSW EPA Guidelines.
5. Pursuant to Section 4.15(1)(a)(i) the application fails to satisfy matters for consideration under Tweed Local Environmental Plan 2000. In particular, the development is inconsistent with Clause 4- Aims of the Plan, Clause 5 – ESD Principles, Clause 8 – Consent considerations and Clause 11 – Zone objectives. In addition, the development fails to satisfy consent considerations under Clause 15 – Essential Services, Clause 17- Social Impact Assessment, Clause 25 – Development in Zones 7(a) Environmental Protection (Wetland and Littoral Rainforests) and on adjacent land, Clause 31 – Development on adjoining waterbodies, Clause 35 – Acid Sulfate Soils, Clause 39 – Remediation of contaminated land, Clause 39A – Bushfire Protection, Clause 40-46 – Heritage, and Clause 54 – Tree Preservation Order.
6. Pursuant to Section 4.15(1)(a)(i) the application fails to satisfy matters for consideration under Tweed Local Environmental Plan 2014. In particular, the development is inconsistent with Clause 1.2 – Aims of the Plan and Clause 2.3 Zone objectives. In addition, the proposal fails to satisfy consent considerations under Clause 5.10 Heritage, Clause 5.11 - Bushfire, 5.21 - Flood planning, Clause 6.2 – Public Utility Infrastructure, Clause 7.1 – Acid Sulfate Soils, Clause 7.2 – Earthworks, Clause 7.6 – Stormwater Management and Clause 7.10 Essential Services.
7. Pursuant to Section 4.15(1)(a)(iii), the application fails to satisfy Section A2 (Site Access and Parking Code) of Tweed DCP 2008 in terms of pedestrian/cycleway connectivity and access for bus routes and waste collection services.
8. Pursuant to Section 4.15(1)(a)(iii), the application fails to satisfy Section A5 (Subdivision Manual) of Tweed DCP 2008 in terms of landforming, stormwater run off, drainage, waterways and flooding, urban structure, movement network, open space network, lot layout, lot design and frontage to parks and natural areas and infrastructure.

9. Pursuant to Section 4.15(1)(a)(iii), the application fails to satisfy the aims of Section A6 - Biting Midge and Mosquito Control given there is insufficient information available to ensure that the recommendations in the submitted Biting Insect Impact Assessment can be achieved in relation to stormwater disposal and bioretention eliminating standing water and ensuring that any bioretention system won't hold water for more than 48 hours.
10. Pursuant to Section 4.15(1)(a)(iii), the application fails to satisfy Section A13 (Socio Economic Impacts Assessment) of Tweed DCP 2008 as the findings in the submitted Socio Economic Impact Assessment Report fail to acknowledge alternate options available for the subject land and the likely negative impact on Community Infrastructure in terms of access and social impacts in terms of housing and public realm considerations.
11. Pursuant to Section 4.15(1)(a)(iii), the application fails to satisfy Section A16 (Preservation of Trees or vegetation) of Tweed DCP 2008 given the lack of information available to measure the impact of vegetation removal and also ecology is preserved through appropriate buffer distances from the wetland.
12. Pursuant to Section 4.15(1)(a)(iii), the application fails to comply with Development Controls under Section 2 of A19 (Biodiversity and habitat management) and the objectives of Section 2 as well as the overall objectives of A19 of Tweed DCP 2008.
13. Pursuant to Section 4.15(1)(a)(iii), the application fails to satisfy Section B1 (Terranora) of Tweed DCP 2008 as the proposal fails to satisfy matters for consideration in relation to subdivision layout in accordance with the Locality Plan, Scenic and Environmental landscape values, transport and roads, open space considerations, as well as utility requirements. As such, the proposal fails to comply with the overarching design principles and objectives of this DCP.
14. Pursuant to Section 4.15(1)(a)(iii), the application fails to satisfy Section B24 (Area E Urban Release Development Code) of Tweed DCP 2008 having regard to the design principles established in this Section as they relate to open space, environment, landscape character and views, landforming, urban footprint, traffic and road capacity, and dwelling and allotment mix.
15. Pursuant to Section 4.15(1)(b) the likely impacts of the development are not satisfactorily addressed given that ecological impacts cannot be determined, environmental impacts have not been fully contemplated (through the provision of ASS Management Plans and subsequent review of geotechnical assessment), water management and impact to the wetland from the cumulation of stormwater, flooding and high groundwater. Impact on health and safety of the community through the provision of adequate detailed site investigation and/or remediation action plans to satisfy matters for consideration under Clause 4.6 of SEPP (Resilience and Hazards) 2021, planning for bushfire protection measures are not satisfactory, adequate arrangements for the provision of sewer, water and road infrastructure to support the proposal are not available. Impact on Aboriginal Cultural Heritage are not fully comprehended based on the proposed urban footprint (which differs to that contemplated in the submitted Site Inspection Report prepared by TBLALC). The provision of open space, urban footprint, lot design and layout fails to respond to CPTED principles and the lack of information to assess certain aspects of the proposal.
16. Pursuant to Section 4.15(1)(c), the consent authority cannot be satisfied that the site is suitable for the proposed development having regard to the environmental

constraints of the land and the lack of public utility infrastructure to service the scale of the proposed urban subdivision.

17. Pursuant to Section 4.15(1)(d), valid submissions were received from objectors and external referral agencies. The submissions are valid and form reasons for refusal elsewhere under the Act and Regulation.
18. Pursuant to Section 4.15(1)(e), the development is not considered to be in the public interest given the lack of information, the likely impacts of the development and consequential construction costs on future landowners. The development fails to satisfy the objects of the Environmental Planning & Assessment Act 1979.
19. Pursuant to Clause 24 of the Environmental Planning and Assessment Regulation 2021, landowners' consent is not provided for proposed earthworks on Lot 2 DP 622318.
20. Pursuant to Clause 24 of the Environmental Planning and Assessment Regulation 2021, there is insufficient information to assess matters for consideration under the Act in relation to:
 - i. Acid Sulfate Soils;
 - ii. Hydrogeological Impacts (and potential dewatering);
 - iii. Stormwater Management;
 - iv. Hydrogeological Impacts (and potential dewatering);
 - v. Ecological Impacts;
 - vi. Contamination pursuant to Clause 4.6 of SEPP (Resilience and Hazard) 2021;
 - vii. Geotechnical impacts;
 - viii. Open Space and embellishment;
 - ix. Demarcation of waterfront land for the purposes of Water Management Act 2000;
 - x. Construction Noise Assessment and Management;
 - xi. Aboriginal Cultural Heritage and;
 - xii. Matters for consideration pursuant to Fisheries Management Act 1994.