

STATEMENT OF ENVIRONMENTAL EFFECTS

ERECTION OF A DWELLING & RETAINING WALLS

LOT 11 DP 1202684
NO. 132 MAFEKING ROAD,
GOONENGERRY

PREPARED FOR
ECO-ESSENCE HOMES

February 2024



CONTENTS

1.0	BACKGROUND.....	3
1.1	INTRODUCTION.....	3
1.2	BACKGROUND.....	3
1.3	THE SITE AND SURROUNDS	5
2.0	THE PROPOSED DEVELOPMENT.....	7
3.0	PLANNING REQUIREMENTS.....	8
3.1	ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979.....	8
3.2	STATE ENVIRONMENTAL PLANNING POLICY – Biodiversity and Conservation	8
3.3	STATE ENVIRONMENTAL PLANNING POLICY – Resilience and Hazards	9
3.4	STATE ENVIRONMENTAL PLANNING POLICY - BASIX.....	9
3.5	LOCAL ENVIRONMENTAL PLAN	10
3.6	BYRON DEVELOPMENT CONTROL PLAN	12
3.7	BUSHFIRE PROTECTION	16
3.8	ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATIONS.....	17
4.0	CONCLUSION	18
5.0	ATTACHMENTS	19
5.1	ATTACHMENT A - SITE PHOTOS.....	19

1.0 BACKGROUND

1.1 INTRODUCTION

The attached application seeks Council approval for the erection of a new dwelling and associated retaining wall at Lot 11, No. 132 Mafeking Road, Goonengerry. The site is a vacant allotment, which has been created from a relatively recent subdivision approval (boundary adjustment). The lot was registered in 2014 and the site contains a nominated building envelope.

The site is vacant and one new dwelling is proposed, of single storey construction containing three bedrooms, kitchen, dining, and living room. The dwelling will contain a double carport and large outdoor decks. Ancillary works include stormwater disposal works and minor earthworks. The vehicular access to the dwelling site is existing.

1.2 BACKGROUND

A development application was submitted for essentially the same development in 2023. Council had required additional information to be lodged, and hence, the DA was withdrawn. The application number was 10.2023.123.1.

Information requested by Council in relation to the previous development application was:

1. *Removal of infrastructure from the Electrical Easement.*
2. *Provide a 3m setback from the vehicle access on the OSMS report.*
3. *Ecological information on the location of the 100 kL water tank, LAA area and trenching, including information on proximity to threatened flora species.*
4. *If native vegetation required removal, provide offsets.*
5. *Address Chapter B1 of the DCP, regarding 'ref flag' setbacks to HEV vegetation.*
6. *Provide a 'test of significance' to address Section 7.3 of the Biodiversity Conservation Act.*
7. *Update the site plan showing location and size of rainwater tanks to comply with Planning for Bushfire.*

Given that additional biological and ecological reporting was required, it was appropriate to withdraw the application until such time as the issue regarding the Electrical easement was reserved and the biological research had been conducted and an ecological report prepared.

These matters have now been addressed.

- *Approval has been issued by Essential Energy. Refer letter, attached, dated 7th June 2022. This approval pre-dated the original DA. The On-Site Effluent Disposal report was amended on 13th November 2023 to include the Essential Energy Encroachment approval.*
- *An Ecological Assessment report has been prepared by JWA Pty Ltd. The Ecological Assessment is attached to address points 3 – 6, above. The report concludes that the development is suitable for approval.*
- *Amended plans are attached to show the Rain Water Tanks for bushfire. The tank location was selected in collaboration with the Ecological Consultant. A fire fighting RWT is located adjacent to the existing driveway, in close proximity to the dwelling. The location is outside of the High Value Vegetation area. A larger water supply tank of 100kL is located north of the dwelling, also outside of the High Value Conservation area.*

Council's information request on the previous Development Application required that a 3m setback be provided between the "vehicle access" and that this was to be shown on the OSMS report. However, the Ecological report requires that the infrastructure for the water supply tank and the effluent disposal tank follow the cleared area, which was an informal access path. This location of the infrastructure ensures that ecological impacts are minimised, and threatened species are not affected by the works.

It should be noted that this existing cleared access path is not a driveway and does not provide access to the dwelling. The path is a previous cleared area used to provide access within the property for maintenance.

The site is highly constrained, and the proposed location of the infrastructure associated with the dwelling is clearly the most appropriate siting, as it minimises ecological impacts. Alternative locations are unlikely to be suitable. Hence, there is no likely alternative, and the placement of water/sewerage pipes in the location of the cleared accessway is unavoidable.

1.3 THE SITE AND SURROUNDS

The subject property is legally described as Lot 11 DP 1202684, No. 132 Mafeking Road, Goonengerry. The site has an area of approximately 9988m² with a frontage to Mafeking Road at the south boundary.

The site is part of a relatively recent subdivision registered in 2014. The registered Deposited Plan contains a nominated building envelope.

The 88B for the property contains a restriction, limiting the erection of a dwelling to the area within the nominate building envelope, and also contains restrictions relating to the required construction standard of a dwelling, having regard to the requirements for Construction of Buildings in Bushfire Prone Areas. Construction to BAL 29 and BAL 40 is specified.

The building envelope is cleared of substantial vegetation. Outside of the building envelope the site is heavily vegetated. The site currently does not contain any dwelling.

Access to the site is existing, with a sealed driveway providing vehicular access to the dwelling site.

The topography of the dwelling site is gently sloping.

The northern section of the site is affected by an easement for electricity supply. Overhead powerlines are located within the easement.

Surrounding sites are small rural properties that contain detached dwellings and associated outbuildings, with dense vegetation.

The application plans contain additional details on the site and photographs are included in the Annexure to this report.

SUBJECT SITE

SITE: NO. 132 MAFKING ROAD, GOONENGERRY



2.0 THE PROPOSED DEVELOPMENT

Approval is being sought for the construction of a new single storey dwelling and retaining walls on site, known as Lot 11 DP 1202684, No. 132 Mafeking Road, Goonengerry.

The proposed dwelling is to be sited within the south-eastern section of the site, within the nominated building envelope that is identified in the DP and 88B for the property. The dwelling is proposed to be setback 18.43m from the frontage to Mafeking Road, and 16.327m to the western side boundary.

The development proposes the erection of a single storey dwelling, containing three bedrooms, kitchen, dining, and living room. The dwelling will be provided with a double carport, and large covered outdoor decks.

The dwelling is to be constructed of blockwork and axon cladding on the walls and colorbond roof which is to be screened by a parapet roof.

The dwelling is proposed to be accessed via the existing driveway from Mafeking Road.

Minor earthworks are required to prepare the building pad. The pad is proposed to be at a level of 212.8m AHD, and the pad will require a small corner of cut of up to 1.3m AHD, which is to be retained by concrete sleeper retaining walls, up to 1.3m high. The fill is to be battered, and does not require retaining.

The dwelling will be provided with solar electricity panels and tank water supply. Onsite effluent disposal and stormwater disposal is proposed.

Further information is available within the architectural plans attached to this Development Application.

3.0 PLANNING REQUIREMENTS

3.1 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

“Section 4.15 Evaluation” of the Environmental Planning and Assessment Act 1979 requires the following matters to be addressed when considering a Development Application.

(a) the provisions of:

(i) any [environmental planning instrument](#), and

(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the [consent authority](#) (unless the [Planning Secretary](#) has notified the [consent authority](#) that the making of the proposed instrument has been deferred indefinitely or has not been approved), and

(iii) any [development control plan](#), and

(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

(iv) the [regulations](#) (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the [land](#) to which the [development application](#) relates,

(b) the likely impacts of that [development](#), including [environmental](#) impacts on both the natural and built [environments](#), and social and economic impacts in the locality,

(c) the suitability of the site for the [development](#),

(d) any submissions made in accordance with this Act or the [regulations](#),

(e) the public interest.

The relevant matters are addressed in the following sections of this report.

3.2 STATE ENVIRONMENTAL PLANNING POLICY – Biodiversity and Conservation

The SEPP for Biodiversity and Conservation become effective in March 2022 and consolidated a number of prior SEPP's. The relevant chapters of the Biodiversity and Conservation SEPP are addressed below:

Chapter 2 – Vegetation in Non-Rural Areas

The construction works are occurring on a cleared section of the lot, with no tree vegetation requiring removal. The site is in a rural area.

Chapter 3 & 4 – Koala Habitat Protection

The erection of the dwellings will not require the removal of protected trees, and as such, Koala Habitat will not be affected by the proposal. The dwelling is located within the building envelope nominated on the property title.

Additionally, refer to the Ecological Assessment from JWA which addresses the SEPP in further detail.

3.3 STATE ENVIRONMENTAL PLANNING POLICY – Resilience and Hazards

Chapter 4 - Remediation of Land

In summary, Clause 4.6 of this Policy provides that the consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated and if it is, it is satisfied that the land is suitable for the purpose of the development.

If land is identified as being in an 'investigation area' or is land to which a land use in 'Table 1' has been carried out, consent cannot be granted until the consent authority considers a preliminary investigation of the land concerned, in accordance with the contaminated land planning guidelines.

The site, being in an identified 'building envelope', has not been used for any of the purposes listed in Table 1 of the Contaminated Land Guidelines. The suitability of the dwelling site was considered with the Development Application that approved the creation of this allotment.

3.4 STATE ENVIRONMENTAL PLANNING POLICY - BASIX

An Energy Efficiency assessment has been prepared in accordance with the requirements of the SEPP. A copy of the BASIX certificate is attached to this Statement of Environmental Effects. The dwelling will meet the energy efficiency requirements.

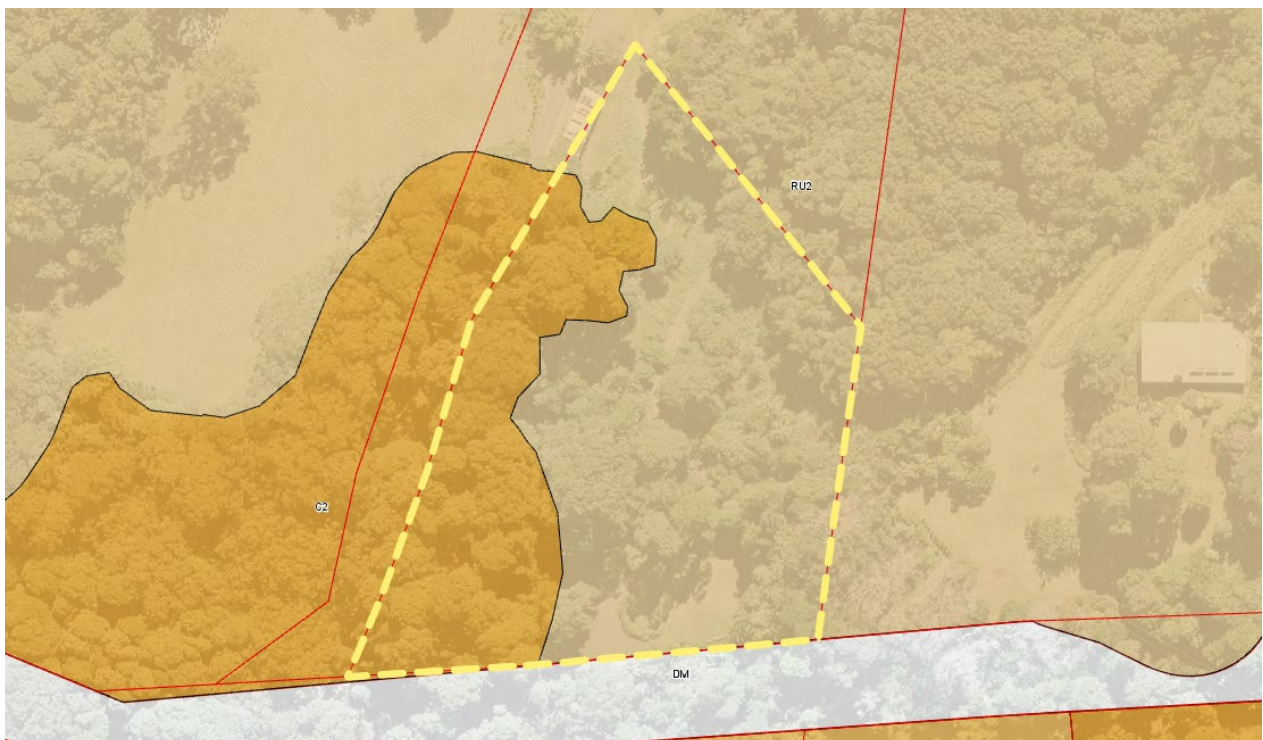
3.5 LOCAL ENVIRONMENTAL PLAN

According to the provisions of the Byron Local Environmental Plan, the site is partly zoned C2 Environmental Conservation, and partly RU2 Rural Landscape. The location of the proposed dwelling is zoned RU2 Rural Landscape.

Dwellings are a use permitted in the zone.

An extract from the BLEP 2014 zoning maps is provided below for Council's information.

SITE LOCATION & ZONING SITE: NO. 132 MAFEKING ROAD, GOONENGERRY



CLAUSE 4.2A - ERECTION OF DWELLING HOUSES IN CERTAIN RURAL AND ENVIRONMENTAL PROTECTION ZONES

This clause essentially relates to whether the site has a 'dwelling entitlement' for a house or dual occupancy. In this instance, the lot is a Council approved land parcel, which has a nominated building envelope identified on the Deposited Plan and in the 88B. The lot was created via a Council endorsed subdivision with provision for a future dwelling. The requirement of Clause 4.2A is met.

CLAUSE 4.3 - HEIGHTS OF BUILDINGS

According to the Height of Buildings Map, the site is restricted to a 9.0m maximum building height. The proposed dwelling will comply as the dwelling is low in height (single storey) with a low pitch roof. The height limit will not be exceeded.

CLAUSE 4.4 - FLOOR SPACE RATIO

The site is not mapped on the Floor Space Ratio Maps. FSR will be very low due to the large site size.

CLAUSE 5.16 – SUBDIVISION OF, OR DWELLINGS ON, LAND IN CERTAIN RURAL, RESIDENTIAL OR CONSERVATION ZONES

This clause requires that consent must not be granted until the consent authority takes into account certain matters in Subclause (4) before granting consent to development for a subdivision or the erection of a dwelling. Subclause 4 is as follows:

(4) The following matters are to be taken into account—

- (a) the existing uses and approved uses of land in the vicinity of the development,*
- (b) whether or not the development is likely to have a significant impact on land uses that, in the opinion of the consent authority, are likely to be preferred and the predominant land uses in the vicinity of the development,*
- (c) whether or not the development is likely to be incompatible with a use referred to in paragraph (a) or (b),*
- (d) any measures proposed by the applicant to avoid or minimise any incompatibility referred to in paragraph (c).*

The following comments are offered:

- *The dwelling is in an approved building envelope, and setbacks, siting and adjoining land uses were considered with the Development Application which created the building envelope. Additionally, large setbacks are proposed to the boundaries, and the adjoining land is vegetated with no uses adjoining the boundaries that would cause land use conflict.*
- *The erection of a dwelling in an approved building envelope would not significantly impact on the anticipated and desired land uses in the area.*
- *The use of the site for a dwelling is entirely consistent with the zoning and with surrounding land uses.*
- *No issues of incompatibility are identified.*

3.6 BYRON DEVELOPMENT CONTROL PLAN

Byron Shire Council's Development Control Plan 2014 contains specific requirements relating to the erection of dwellings and dual occupancies. The provisions are contained within Part D and Chapter D1 of the Plan.

The relevant controls of the DCP are addressed as follows:

CHAPTER B1 – BIODIVERSITY

This chapter of the DCP aims to retain and restore native vegetation and habitats. The Chapter applies to development on land with High Environmental Value vegetation or land with identified conservation value.

The NSW Biodiversity Values Map has been reviewed, and the site of the dwelling and associated infrastructure is not mapped as containing vegetation of significance.

The site is partly affected by a Conservation Zone. However, the development works are not proposed in this area.

Furthermore, the dwelling and development has been carefully designed to avoid any impact on tree vegetation:

- *The dwelling is sited in a nominated building envelope.*
- *The building envelope is cleared of tree vegetation.*
- *The bushfire report takes into account the proximity to the vegetation and does not propose vegetation removal to achieve the required bushfire construction levels.*
- *The effluent disposal location has been selected in a cleared area, in the electricity easement, to negate the need to clear tree vegetation.*
- *Pipes to the effluent area and water tanks are to follow an existing cleared path.*
- *Clearing of tree vegetation is not proposed.*

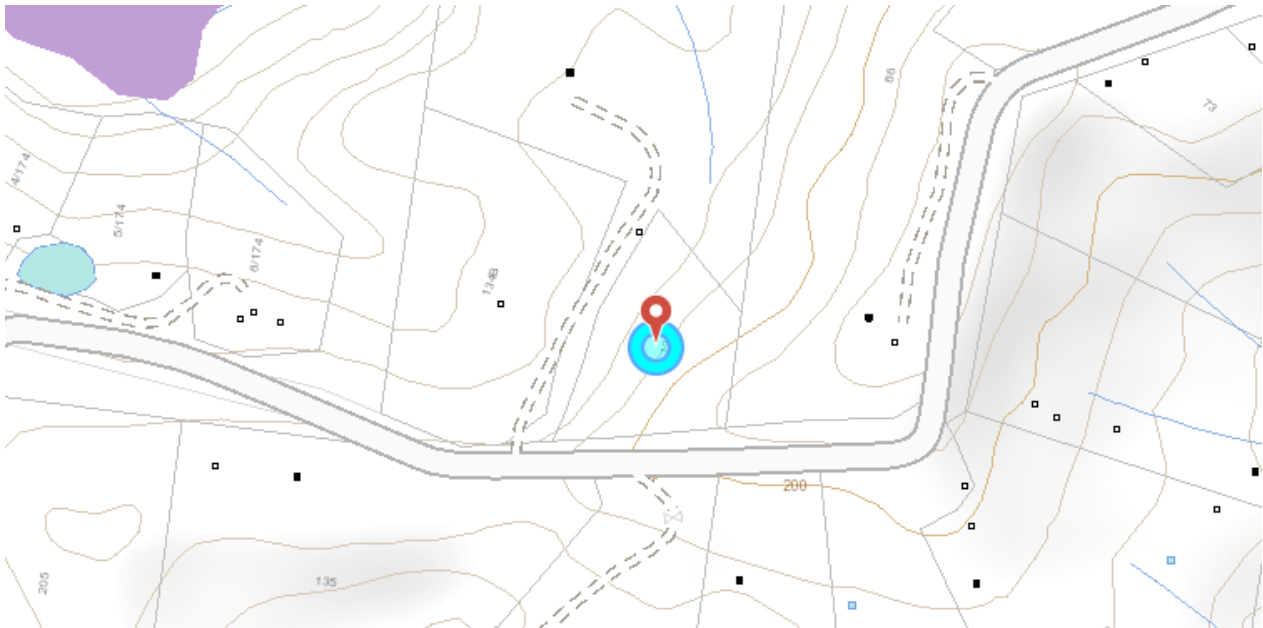
The building envelope on the DP and 88B is considered to be the Development Envelope, together with the cleared access path to the electricity easement and the easement area itself. The provisions relating to 'red flag' areas and the buffer setbacks required are noted. However, the siting of the proposed dwelling is dictated by the pre-existing building envelope. Setbacks to vegetation can not be increased, as no alternative locations exist on the site for a dwelling.

Clearing of tree vegetation is not proposed. As such, no 'net loss' of biodiversity would occur as a result of the construction of the dwelling, in the nominated building envelope, which does not contain tree vegetation.

To address the DCP Biodiversity requirements in detail, an Ecological Report has been prepared by JWA Pty Ltd. The report is attached to the amended Development Application. The report concludes that the development will generally be located within cleared areas of the site, however, potential impacts may arise from location of the associated infrastructure and construction. Recommendations are made to minimise potential impacts.

SITE LOCATION & BIODIVERSITY VALUES MAP AND THRESHOLD

SITE: NO. 132 MAFEKING ROAD, GOONENGERRY



CHAPTER B2 – PRESERVATION OF TREES AND OTHER VEGETATION

The site of the development works is cleared of tree vegetation and as such this section is not relevant to the assessment of the dwelling. Note the comments in the section above regarding the development being designed to avoid impact on tree vegetation, including for the dwelling, bushfire protection and effluent disposal. Access is existing. Refer the Ecological Report, attached, for further information and detailed discussion.

CHAPTER B6 – BUFFERS AND MINIMISING LAND USE CONFLICT

The dwelling is not located nearby any intensive horticulture or agriculture. Recent aerial photography of the site and surrounds have been reviewed, and no intensive horticulture is located in close proximity to the proposed development.

CHAPTER B14 - EXCAVATION AND FILL

The DCP generally limits all excavation and filling to a depth of 1.0m. Provided that where excavation is incorporated into a dwelling structure to provide for minimum car parking requirements, a depth of up to 2.0m is allowed.

The development proposes cut of up to 1.3m and fill of up to 500mm, as indicated on the application plans. A small retaining wall, with a maximum height of approx. 1.3m is required to retain the cut within the nominated building envelope. The fill is not required to be retained and will be battered.

The earthworks represent a 'variation' to the controls of the Development Control Plan. Council is respectfully requested to consider the proposed variation, having regard to the following:

- *the site is a rural property, and the earthworks will be well removed from any neighbouring site.*
- *Natural ground levels will be retained at the site boundaries.*
- *Cut and fill of over 1.0m is generally acceptable on larger sites, in rural localities.*
- *The earthworks are setback from the roadway by a large distance, and will therefore not be visible from any public area.*
- *The earthworks have been designed to avoid the need to import or export material to/from the site. A balance of cut and fill will be achieved.*

For the above reasons, it is submitted that the earthworks comprising cut of more than 1.0m are appropriate in this case.

PART D2 - RESIDENTIAL DEVELOPMENT IN RURAL ZONES

D2.2.1 Location and Siting of Residential Accommodation & Other Buildings

The DCP aims to allow development that meets the needs of Byron's residents while conserving ecosystems, agricultural viability, heritage and the like.

The dwelling is proposed to be sited within the nominated building envelope, in a grassed area of the site, and will not therefor impact on any ecosystems, vegetation or natural features. This part of the site is clear of substantial vegetation, and is not used for any intensive agricultural purposes.

D2.2.2 - Setbacks from Boundaries

The aim of the setback controls of the DCP are to achieve varied and interesting landscapes, to achieve good orientation and to minimise land use conflict.

To achieve these objectives, a number of prescriptive measures are provided, including controls that specify a numeric standard for the front setback.

Mafeking Road would be classified as a local road. The DCP specifies that the setback from a local road is to be 15m. A setback of over 18m is proposed to the front boundary, in accordance with the DCP.

The development is to be sited with a minimum setback of over 16m to a side boundary and over 60m to the rear boundary. This is compliant with the DCP setback controls.

D2.2.3 - Character & Visual Impact

To preserve the rural amenity, the DCP specifies that the maximum number of residential buildings per property in the RU2 zones including dual occupancies is not to exceed 6. The proposed dwelling will not result in more than 6 residential buildings being present on the site and will achieve compliance with the DCP.

SITE LOCATION & SURROUNDING LAND USE

SITE: NO. 132 MAFEKING ROAD, GOONENGERRY



D2.3.1- On-Site Car Parking & Access

The DCP refers to Chapter B4 for Traffic Planning, Parking and vehicle circulation. The proposed dwelling will contain a double carport, with a turning area to allow vehicles to leave the site in a forward direction. Ample driveway parking will be available for visiting vehicles.

D2.3.2 – Recycling and Waste Management and On-Site Sewer Management

Ample room exists on site for the provision of garbage and recyclable storage. An on-site sewer management report is attached, and onsite disposal approval is being sought. Approval has been granted for the use of the electrical easement for the disposal of effluent.

3.7 BUSHFIRE PROTECTION

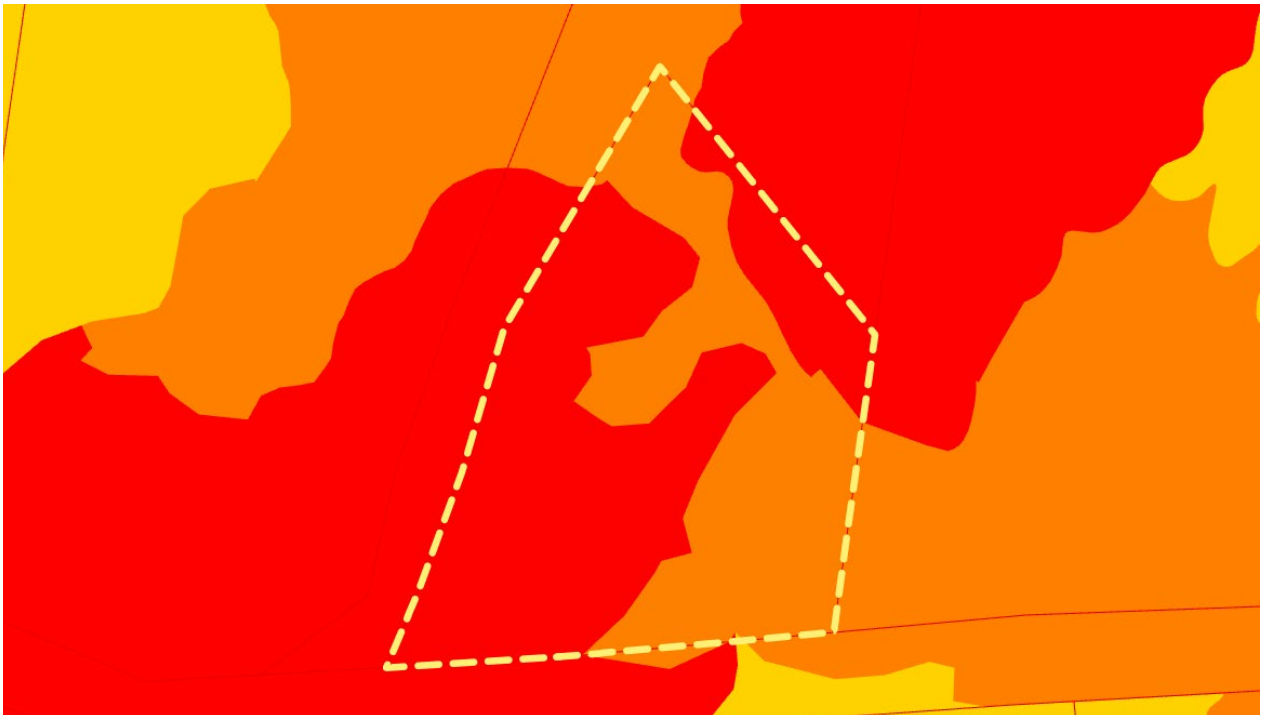
According to the Bushfire Hazard Maps, the site of the dwelling is mapped as being within bushfire hazard area.

A bushfire report is attached to address the bushfire risk.

The report takes into account the nominated Building Envelope on the DP and the provisions of the 88B which include restrictions on the building envelope and construction standards. Additionally, the report refers to the Vegetation Management Plan prepared for the site subdivision, as it is relevant to the implementation of Asset Protection Zones. The bushfire report refers to conditions placed on the subdivision certificate, including the need to prepare the Vegetation Management Plan, and that it is mandated that the dwelling be constructed in a certain location and that no further clearing occur. The recommendations of the bushfire report take this into account.

Construction to BAL 29 and BAL 40 is recommended.

SUBJECT SITE – Bushfire Mapping SITE: NO. 132 MAFEKING ROAD, GOONENGERRY



3.8 ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATIONS

Clause 50 of the Environmental Planning & Assessment Regulations requires the following matters to be considered:

Potential areas of concern arising from the proposed development are as follows:-

- *Impacts on the character and amenity of the area;*
- *The need to restrict any likely loss of amenity*

The above matters have been identified by reviewing applicable planning controls and a detailed review of the survey plan and site analysis plan.

The measures proposed to ameliorate the matters identified above are summarised as follows:-

- *Provision of all essential infrastructure;*
- *Ensuring the development is located clear of all infrastructure.*
- *General compliance with Council's controls and regulations.*

(a) The likely impacts of that development, including environmental impacts on both the natural and built environment, and social and economic impacts in the locality

The proposal represents an appropriate use of a site in a rural environment. The design quality demonstrated is consistent with the intent of Council's Development Control Plan and Local Environmental Plan for dwelling in a rural locality.

(b) The suitability of the site for the development

The subject site does not possess any constraints that would preclude the development of the land. As such, the site is considered highly suitable for the construction of the new dwelling, within the nominated building envelope, as proposed. The dwelling has been well-designed having regard to the constraints and opportunities of the site.

(c) Any submissions made in accordance with the Act or the Regulations

The Council will need to consider any submissions it may receive from the public or other government agencies.

(d) The public interest

It is considered the proposed development will not prejudice or compromise the public interest.

4.0 CONCLUSION

Approval is being sought for the erection of a new dwelling and retaining wall on the site at Lot 11, No. 132 Mafeking Road, Goonengerry.

The site contains a nominated building envelope and the dwelling is proposed to be sited within the nominated area. Associated infrastructure (water tanks, effluent disposal) have been positioned in areas where potential impacts on vegetation is minimised and are outside of the high value ecological area. The ecological report from JWA Pty Ltd addresses the development in detail and makes recommendations to ensure ecological impacts are minimised.

The dwelling and works are designed to avoid impacting on the vegetation and to ensure the environmental values of the site are not affected.

The proposed dwelling is an appropriate development for a site which is constrained by slope and vegetation. It is not considered that the proposed dwelling would result in adverse effects on the natural environment or the surrounding land uses.

The access is existing, and tree removal is not proposed, as the dwelling site is cleared of substantial vegetation. The Bushfire report takes into account the existing vegetation, and the proximity to the dwelling, and recommends BAL construction commensurate with retaining the existing vegetation.

Approval has been issued from Essential Energy for onsite disposal of the effluent within the electrical easement.

The dwellings design meets the objectives of Council's controls for a residential development on a rural property.

The Council's support for the proposed erection of one new dwelling and retaining wall, is respectfully requested.

5.0 ATTACHMENTS

5.1 ATTACHMENT A - SITE PHOTOS

SITE PHOTO

SITE: NO. 132 MAFEKING ROAD, GOONENGERRY



SITE PHOTO

SITE: NO. 132 MAFEKING ROAD, GOONENGERRY

