

ASSESSMENT REPORT

Rise Estate Mixed Use Development Concept Plan MP 08_0234 MOD 1

1. INTRODUCTION

This report is an assessment of a request to modify the approved Concept Plan MP 08_0234 for the development of Rise Estate (Concept Approval). The request has been lodged by DAC Planning Pty Ltd on behalf of Terranora Group Management Pty Ltd (the Proponent) pursuant to 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks to correct an error in the Concept Approval which incorrectly references Lot 31 DP 1085109 instead of the correct lot being Lot 32 DP 1085109.

2. SUBJECT SITE

The site is a 187-ha area located within Bilambil Heights, approximately six kilometres west of Tweed Heads and six kilometres south of the New South Wales/Queensland state border (see **Figure 1**). The site is situated within the Tweed local government area (LGA). The site can be accessed by Marana Street via Scenic Drive at its south-eastern corner and by Cobaki Road via Piggabeen Road at its northern boundary. Both Scenic Drive and Piggabeen Road link to Kennedy Drive, a major distributor road connecting the site to Tweed Heads. An aerial photograph showing the site boundary is included at **Figure 2**.

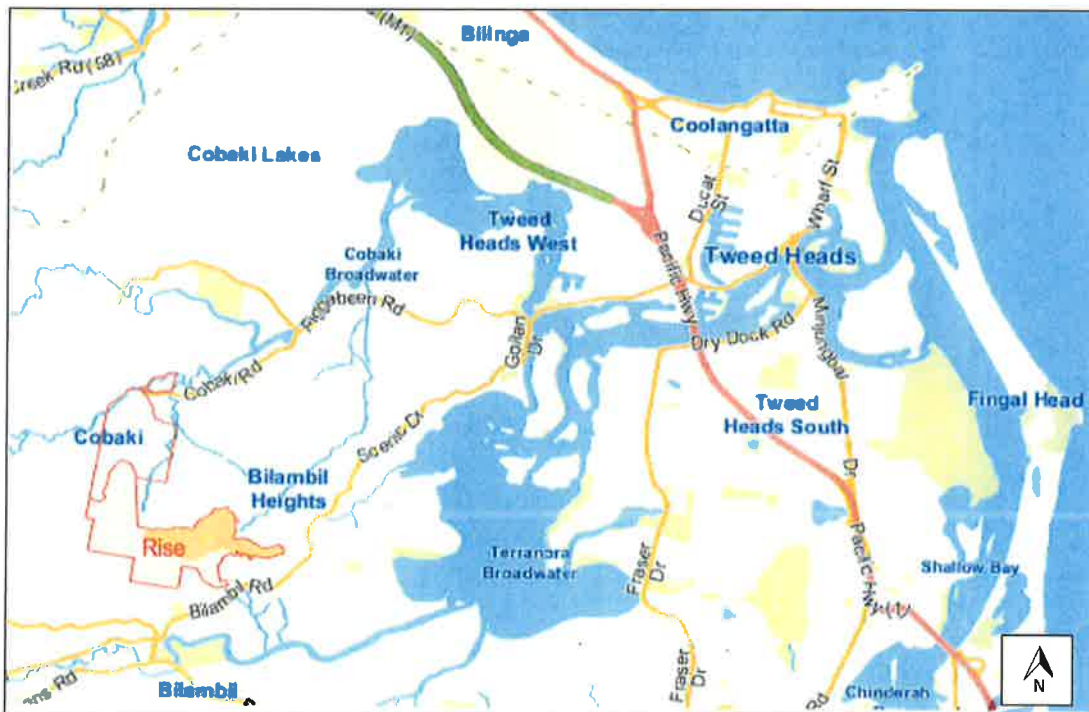
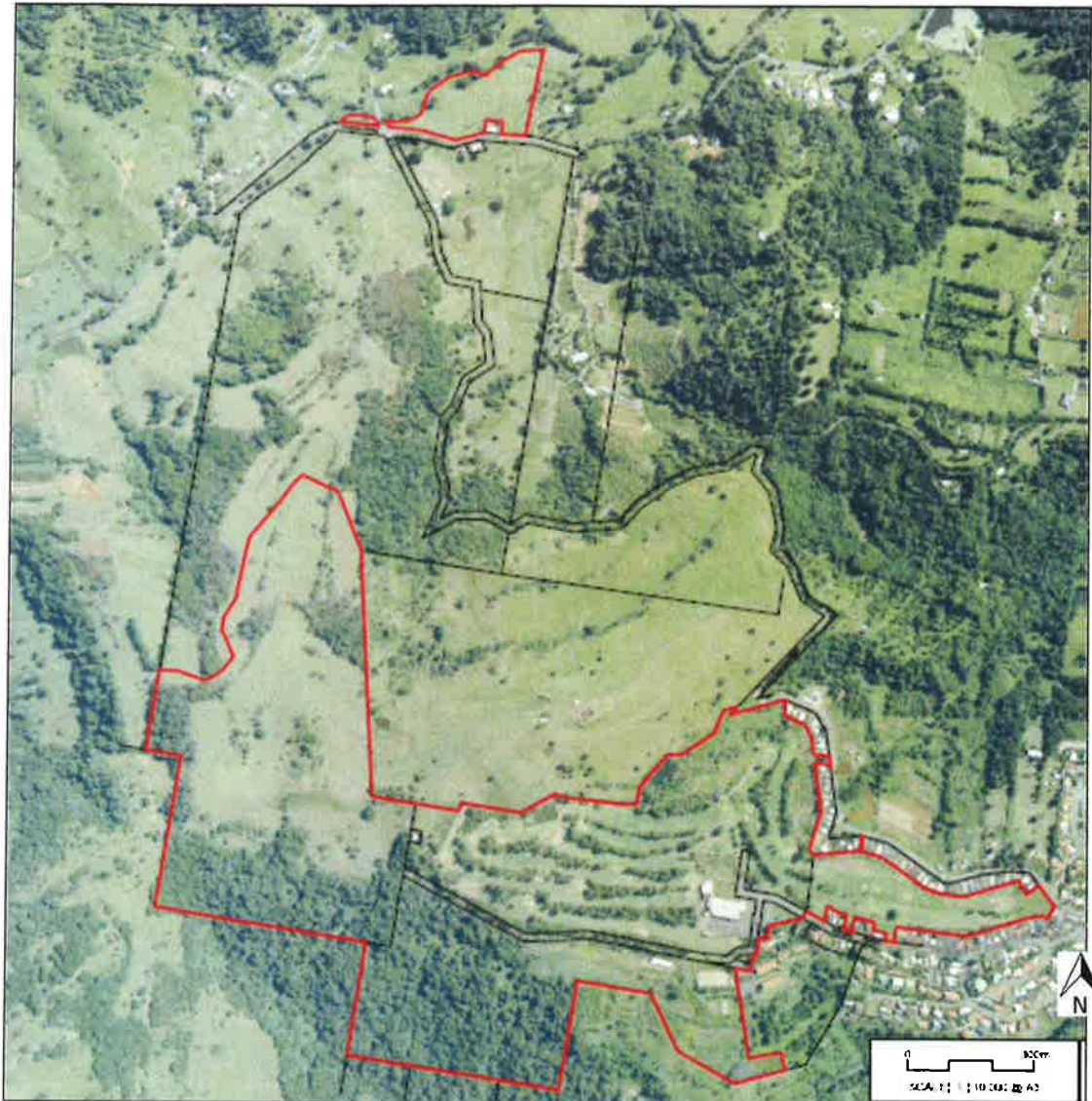


Figure 1: The site (shown in red) and the surrounding region (source: original assessment report).



Figure

2: Aerial photograph showing the site boundary in red (source: original assessment report).

3. APPROVAL HISTORY

On 29th June 2010, the Minister for Planning granted Concept Approval (MP 08_0234) for a mixed use residential community known as Rise Estate comprising:

- 1604 residential lots across 187 hectares
- a 200 bed nursing home
- retail and community facilities
- ancillary infrastructure.

The Concept Approval has not been modified.

4. PROPOSED MODIFICATION

On 20 March 2018, the Proponent lodged a request (MP 08_0234 MOD 1) seeking to correct a referencing error in the Concept Approval which incorrectly references Lot 31 DP 1085109. The correct lot is Lot 32 DP 1085109.

5. STATUTORY CONSIDERATION

5.1 Modification of approval

The Concept Approval was originally approved under Part 3A of the EP&A Act. The power to modify concept plans approved under Part 3A of the EP&A Act under former section 75W of the EP&A Act is being wound up. Clauses 3BA(2) and (3) of Schedule 2 to the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (EP&A (ST&OP) Regulations) provide that an approved concept plan cannot be modified under section 75W on or after the cut-off date of 1 March 2018, unless the request to modify was lodged before 1 March 2018.

However, clause 3BA (5) of Schedule 2 to the EP&A (ST&OP) Regulations provides that a concept plan may continue to be modified under section 75W in response to a request lodged before or after 1 March 2018 if the Minister is satisfied that:

- a) the proposed modification is to correct a minor error, misdescription or miscalculation, or
- b) the proposed modification is of minimal environmental impact, or
- c) the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).

This proposal simply corrects an error in the description of land to which the Concept Approval applies. Therefore, the Department is satisfied the proposal is within the scope of clause 3BA(5)(a) as a modification to correct a misdescription and can be dealt with under section 75W.

5.2 Approval Authority

The Minister for Planning is the approval authority for the request. However, the Director Modification Assessments may determine the request under delegation as:

- the relevant local council has not made an objection;
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of an objection.

6. CONSULTATION

The Department made the modification request publicly available on the Department's website. No submissions were received.

7. ASSESSMENT

The proposal seeks approval to correct an error in the Concept Plan Approval which incorrectly references Lot 31 DP 1085109 instead of the correct lot being Lot 32 DP 1085109. The Department has checked the cadastral site plan accompanying the Environmental Assessment showing the various lot and DP numbers and Schedule 1 of the Concept Approval and is satisfied the Concept Approval should have referenced Lot 32 DP 1085109 and not Lot 31 DP1085109.

The Department considers the modification is therefore acceptable as it will simply correct an error in the description of the land to which the Concept Approval applies.

8. RECOMMENDATION

It is recommended that the Director, Modification Assessments, as delegate for the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application MP08_0234 MOD 1 falls within the scope of Section 75W of the EP&A Act
- **approves** the modification request MP08_0234 MOD 1 subject to the modified terms of approval
- **signs** the attached modification of the Concept Approval (Appendix A).

Endorsed by:



Timothy Green
Planning Officer
Modification Assessments

DECISION

The recommendation is Approved by:



Anthony Witherdin
Director
Modification Assessments
as delegate of the Minister for Planning

APPENDIX A: MODIFICATION CONSENT

A copy of the modified Concept Approval can be found on the Departments website at:

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9212

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9212