

4. Statutory Assessment

Section 4 documents the range of planning controls applicable in the subject case pursuant to Section 79C(1)(a) of the Act and facilitates the effect of these instruments in the circumstances of the development.

State Environmental Planning Policies (SEPP)

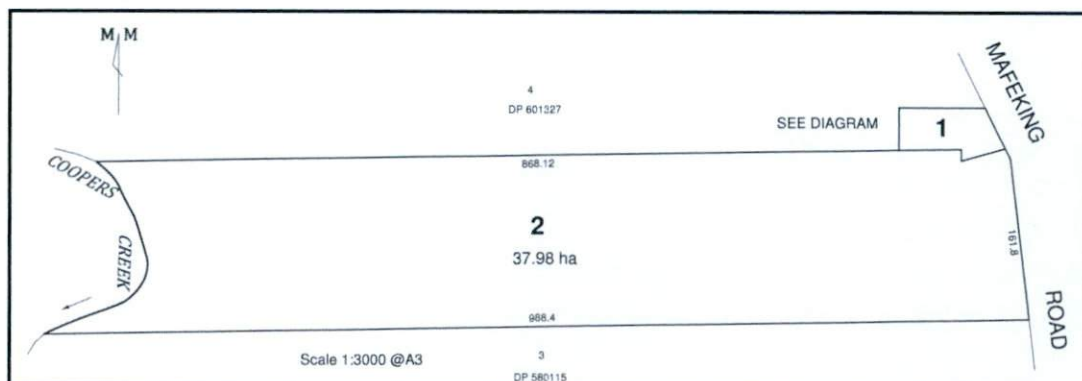
SEPP No.1 – Development Standards

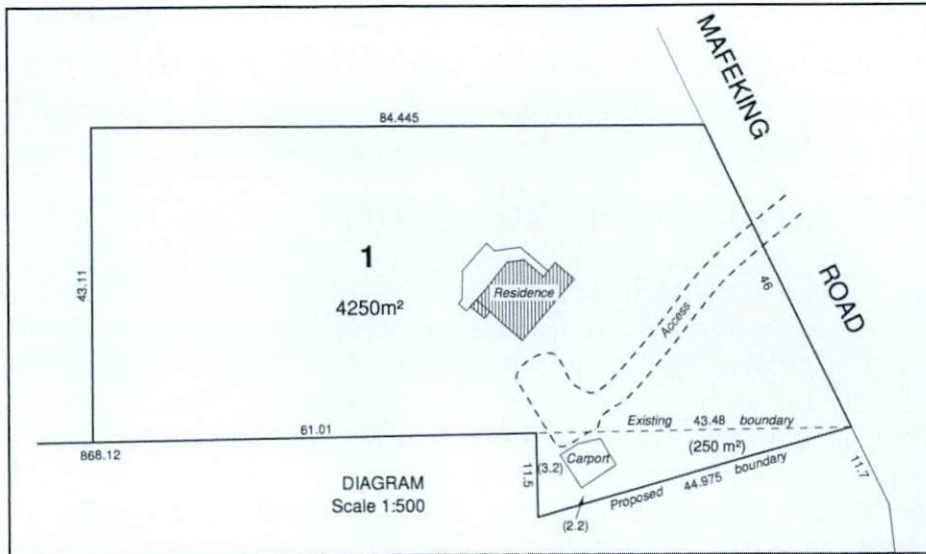
SEPP 1 provides flexibility in the application of planning controls by allowing councils to approve a development application that does not comply with a development standard where this can be shown that compliance is unreasonable or unnecessary. Due to the existing encroachment of the driveway and carport on the adjoining lot to the south, both land owners have reached an agreement to rectify the situation via a boundary adjustment and a SEPP 1 objection.

The proposed amount of land to be transferred is only 250m² which is deemed minor and will not impact on the existing use or potential viability of either lot. The minimum lot size in this locality is 40 Hectares with both lots already being below the required minimum. It is deemed that strict compliance with the development standard would be unreasonable and unnecessary and therefore a SEPP 1 objection is requested.

The subject site is approx 4000m² with the adjoining lot to the south (Lot 2 DP 580115) being approx 38 Hectares. The proposed 250m² land swap will only reduce Lot 2 from 38 Hectares to 37.98 Hectares (as seen below, Lot 1 being the subject site and Lot 2 being the adjoining lot to the south).

The reduction in lot size will not detract from the potential agricultural viability of the adjoining lot, does not require any clearing of land nor create any additional dwelling entitlements. This minor land swap rectifies an existing situation that has been in place for many years without detriment to either lot.





Clause 8 of SEPP 1 requires council to assess whether non-compliance with the development standard raises any matter of significance for State and regional planning, and the public benefit of maintaining the planning controls adopted by the environmental planning instrument. For the reasons stated above there are no matters raised of state, regional or public benefit with the proposed boundary adjustment.

The proposed boundary adjustment meets the aims and objectives of the 1(a) Rural Zone, has no environmental impact on either lot and subsequently meets all of the requirements under SEPP 1 to justify contravening the development standard.

SEPP No. 55 - Remediation of Land

The subject site is a small lot within a rural zone which has not been used for agricultural purposes and is predominately covered in mature vegetation. The area for the proposed alterations and additions are immediately adjacent to the existing dwelling. The existing improvements to the dwelling were approved by Council in 2006, at which time any issues relating to potential contamination under SEPP 55 would have been addressed.

The storage of contaminated materials is highly unlikely in this location and no evidence was found on site that could be suggestive of past or current contaminating practices. It is deemed that a SEPP 55 Contamination Report is not required in this instance.

SEPP Building Sustainability Index (BASIX 2004)

The proposed dwelling alterations have been designed to comply with all requirements of the SEPP and a BASIX Certificate has been included in the Appendices to this report.

State Environmental Planning Policy (Rural Lands) 2008

The proposed additions are of a low impact within an existing rural lot. The proposed works will not cause fragmentation or degradation of viable agricultural land and does not give rise to any issue having regard to the Rural Planning Principles stipulate by the SEPP. Furthermore, the proposed