



Planning Assessment Report

Development Application No. 108-5-2004

File No:	S04/01090 Pt1
Application Number:	DA 108-5-2004
Date of lodgement:	7 May 2004
On land comprising:	Lot 1 DP 722686; Lot 11 DP 740282; Lot 23 DP 236679 and Lot 168 DP 753168 The Lakes Way, Pacific Palms
Application made by:	Doug Sneddon Planning P/L Lot 71 Excelsior Street, Lisarow, NSW 2250
Application made to:	Minister for Planning
Local government area:	Great Lakes Council
State electorate:	Myall Lakes. The views of the local member John Harcourt Turner MP, are not known.
Notification:	Public agencies, adjoining property owners and occupiers were notified
Public Exhibition:	Start: 30 July 2004 End: 30 August 2004
For the carrying out of:	Consolidation and Re-subdivision of 4 Lots to 3 Lots
Estimated cost of works:	Nil
FTE Jobs created:	Nil
Type of development:	State Significant Development; Integrated Development
Was a public inquiry held?	An inquiry under s.119 of the Act was not held.
Integrated approval bodies:	NSW Rural Fire Service
Main Issues:	There are no significant issues.
Compliance with the Act	The application has been considered with regard to the matters raised in section 79C of the Act. The application was notified in accordance with the Regulations. There are no public submissions. Submissions from public agencies have been considered. On balance, it is considered that the proposed development is acceptable and that development consent be granted.

Recommendation

It is recommended that the Deputy-Director General, Office of Sustainable Development, Assessments and Approvals as delegate for the Minister for Planning as described by the Instrument of Delegation dated 12 September 2005, and pursuant to Section 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended) and clause 10 of State Environmental Planning Policy No.71 – Coastal Protection:

- (A) grant **consent** to the application subject to conditions (Tag A), and
- (B) authorise the Department to carry out post-determination notification.

Endorsed:

Approved:

Robert Black
Director – Urban Assessments

Sam Haddad
**Deputy Director-General
Sustainable Development
Assessments and Approvals**

1. SUMMARY

This report is an assessment of the proposed development the subject of Development Application number 108-5-2004. The application seeks consent for consolidation and re-subdivision from four lots to three lots.

The Minister for Planning is the consent authority under clause 10 of SEPP No. 71 - Coastal Protection. The application falls under Schedule 2 of the SEPP as the proposal is located within the coastal zone and there is no reticulated effluent disposal for the site.

As the proposal involves consolidation and re-subdivision with no construction works proposed, there are no significant planning and environmental issues. Proposed Lot 111 does not comply with the minimum 40ha required of the zone. A SEPP 1 has been submitted. The objection has demonstrated that insistence with strict compliance with the development standard in the circumstances of the case is unnecessary and unreasonable.

It is recommended that the development application be granted **consent**.

2. BACKGROUND

1.1 Site Context

The subject land, comprising 4 lots with a total land area of 351.87ha, is described as Lot 168 DP 753168, Lot 11 DP 740282, Lot 23 DP 236679 and Lot 1 DP 722686 The Lakes Way, Pacific Palms. The site is approximately two kilometres west of the village of Bluey Beach. The site locality is shown at Tag B. Details of the subject land are:

- Lot 168 DP 753168 293.69ha; contains one existing dwelling
- Lot 11 DP 740282 45.25ha; contains one existing dwelling
- Lot 23 DP 236679 10.38ha
- Lot 1 DP 722686 2.55ha

The two main properties (Lots 168 and 11) are used for low intensity cattle grazing and have existing residences on each lot. While extensive areas of the subject land are cleared of native vegetation, remnant stands of Group 1 Forest occur over substantial areas of the landholding and some rainforest vegetation is located in the gully adjacent to proposed Lot 111.

3. THE PROPOSED DEVELOPMENT

The proposed development seeks consent for consolidation and re-subdivision of 4 lots to 3 lots. The proposed development is shown at Tag C. Details of the proposed lots are:

- Lot 110 - 304.54ha; contains one existing dwelling
- Lot 111 - 1.17ha; contains one existing dwelling

- Lot 112 - 44.46ha; vacant

Proposed Lot 111 does not comply with the minimum 40ha required of the zone. A SEPP 1 has been submitted seeking variation of the development standard. Access is available to the three proposed lots. An indicative building envelope is located on proposed Lot 112 which demonstrated that a dwelling could be comfortably accommodated on the lot.

4. STATUTORY FRAMEWORK

4.1 *Statement of permissibility*

The site is zoned Rural 1(c) Future Urban Investigation under the provisions of Great Lakes LEP 1996. Clause 17 requires a minimum lot size of 40 ha in the zone. Proposed Lot 111 does not comply with the development standard. A SEPP 1 objection is submitted citing grounds to vary the standard. The matter is discussed in Section 79C Evaluation.

4.2 *Instrument of consent and other relevant planning instruments*

The proposed subdivision is located within the coastal zone, as defined in Part 1(3) of SEPP No. 71. The application falls under Schedule 2 of the SEPP as the proposal is located within the coastal zone and does not have reticulated effluent disposal. Pursuant to clause 10(2), the Minister for Infrastructure and Planning is the consent authority.

The environmental planning instruments, development control plans, and State policy applicable to the land to which the development application relates are as follows:

- *SEPP No.71 - Coastal Protection*
- *SEPP No. 1 - Development Standards*
- *SEPP No. 44— Koala Habitat*
- *NSW Coastal Policy 1997*
- *Hunter REP 1989*
- *Great Lakes LEP 1996*
- *Great Lakes DCP No.31 - Subdivision*

Assessment of the proposal against matters for consideration pursuant to Section 79C matters for consideration and the aims and objectives of above planning instruments and State policy are made in Section 79C Evaluation (Tag D). The proposal involves consolidation and re-subdivision with a net reduction of one lot. No construction works are proposed. In this regard, there are no significant planning and environmental issues. Any impact on the natural environment and water quality will be negligible.

Proposed Lot 111 does not comply with the minimum 40ha required of the zone. A SEPP 1 has been submitted. The objection has demonstrated that insistence with strict compliance in the circumstances of the case is unnecessary and unreasonable.

5. CONSULTATION

5.1 *Public consultation*

The application was notified in accordance with the Regulations, including:

Notifications landowners/occupiers	Eleven (11) notification letters were sent to nearby property owners/occupiers.
Exhibition dates	30 July 2004 to 30 August 2004
Exhibition venues	<ul style="list-style-type: none">• Planning Information Centre, 20 Lee Street, Sydney• Hunter Office, Level 4, 251 Wharf Road Newcastle• Great Lakes Council, Breese Parade, Forster

No submissions were received from residents. Great Lakes Council and relevant government agencies were notified of the application and the response are as follows:

Great Lakes Council

The Council raised no objection to the proposal subject to the recommendation of an appropriate condition relating to vehicular access. The Council commented that there are a number of alternative areas in proposed Lot 112 for the siting of an on-site effluent disposal. This issue will be addressed by the Council should an application be lodged for the construction of a dwelling.

Rural Fire Service

The application is integrated development under the Rural Fires Act 1997. The Rural Fire Service was notified of the proposal. The RFS has issued a Bush Fire Safety Authority subject to conditions.

MidCoast Water

MidCoast Water advised that the development could be connected to reticulated water supply but cannot be served by sewer main. The issue of on-site effluent disposal is addressed in Tag D.

Department of Environment and Conservation

The DEC (formerly NPWS) raised concern relating to potential impact on threatened species and further subdivision of proposed Lot 110 in the future. These matters are addressed in the next section of this report.

6. CONSIDERATION

6.1 Environmental Planning & Assessment Act 1979

6.1.1 Section 79C

The application and the likely impacts of the proposed development have been considered in accordance with s79C of the Act. Issues of concern are discussed in section 6.2 and, where relevant, detailed assessment is provided as noted in the table below.

Instrument / Policy	
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SEPP No.71 – Coastal Protection (see Tag E); SEPP No. 1 – Development Standards SEPP NO. 44 – Koala Habitat NSW Coastal Policy 1997 Hunter REP 1989 Great Lakes LEP 1996	[See Tag D]
There are no Draft instruments that apply to the subject proposal [s79C(1)(a)(ii)]	n/a
Great Lakes DCP No.31 – Subdivision	See Tag D
There are no Master Plans that apply to the subject proposal [s79C(1)(a)(iii)]	n/a
Matters prescribed in the Regulation [s79C(1)(a)(iv)]	Cl. 92 EP&A Regulation – NSW Coastal Policy in the Great Lakes LGA. See Tag D

The subject site is suitable for the proposed development. On balance, the proposed development is considered to be ecologically sustainable and will be in the public interest.

6.2 Issues

6.2.1 On-Site Effluent Disposal

- Issue:** The likely impact of on-site effluent disposal on water quality in the catchment and the adjacent waterway.
- Raised by:** Great Lakes Council and DIPNR
- Consideration:** The concern was originally raised by the Council because part of proposed Lot 112 was flood prone. Since then Council has re-assessed the matter and advised that there are a number of suitable alternative areas in Lot 112 for the siting of an on-site effluent disposal system.
- Resolution:** Proposed Lot 112 is 44.46ha. It is considered that there are suitable non-floodable areas on the site to locate an effluent disposal system which will not take more than 600m² of land for the drainfield. Council will consider the issue when an application is lodged for construction of a dwelling.

6.2.2 Impact of Bushfire

- Issue:** Existing dwelling on proposed Lot 111 is subject to threat of bushfire having regard to the proposed APZ and the dwelling construction.
- Raised by:** RFS
- Consideration:** The applicant has submitted amended plans which demonstrated that a 30m APZ could be provided to the southern boundary.

Resolution: The Rural Fire Service is now satisfied with the proposal and has issued a Bushfire Safety Authority under s100B of the Rural Fires Act 1997. An appropriate condition is also recommended requiring an upgrade of the existing dwelling located on Lot 111.

6.2.3 Potential for Further Subdivision of Proposed Lot 110

Issue: There is potential for further subdivision of Lot 110.

Raised by: DEC

Consideration: Proposed Lot 110 is 304.37ha. The concern for further subdivision is purely speculative. Should a development application be submitted for further subdivision in the future, the proposal should be considered on its merits having regard to relevant planning instruments at the time.

Resolution: Issue is noted.

6.2.4 Potential Impact on Threatened Species

Issue: The proposal will result to potential impact on threatened species in the locality.

Raised by: DEC

Consideration: The proposal is for consolidation and re-subdivision with a net reduction of one lot. No construction works is proposed with the application. Should a dwelling be proposed at a later stage, Council is obliged to consider the matter as part of the assessment.

Resolution: Issue is noted.

7. SECTION 94 CONTRIBUTIONS

There is no increase in the lot yield. The Council has advised that no contribution will be levied.

8. CONSULTATION WITH APPLICANT – DRAFT CONDITIONS

The applicant was requested to comment on the draft. The applicant advised that the conditions are acceptable.

9. CONCLUSION

The proposal complies with the provisions of all statutory controls. Great Lakes Council has raised no objection to the proposal. The proposal is an integrated development under the Rural Fires Act 1997. The RFS have assessed the proposal and granted Bush Fire Safety Authority.

The proposal will have minimal detrimental impact on the natural environment and water quality as no building works are proposed. Any future development will require development consent.

Following the assessment, it is concluded that the proposed development is acceptable. It is ecologically sustainable. It is recommended that the Minister grant consent to the proposal subject to conditions.

9. RECOMMENDATION

It is recommended that the Minister for Planning pursuant to Section 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended) and clause 10 of State Environmental Planning Policy No. 71:

- (A) grant **consent** to the application subject to conditions (Tag A), and
- (B) authorise the Department to carry out post-determination notification.

Prepared by:

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Endorsed:

David Mutton
Team Leader
Urban Assessments

Robert Black
Director
Urban Assessments

Recommendation has been amended to reflect the Instrument of Delegation dated 12 September 2005.

Recommendation

It is recommended that the Deputy-Director General, Office of Sustainable Development, Assessments and Approvals, as delegate for the Minister for Planning as described by the Instrument of Delegation dated 12 September 2005, and pursuant to Sections 81 and 96(1A) of the *Environmental Planning and Assessment Act, 1979* and clause 122 (2) of the *Environmental Planning and Assessment Regulations, 2000*:

- (A) **approve** the application subject to conditions (tagged “A”), and
- (B) authorise the Department to carry out notification of determination of the application to modify the consent.

Robert Black
Director, Urban Assessments