

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 130-6-2004

(FILE NO. S04/01235 PT 1)

2 LOT SUBDIVISION, 115 GOLF LINKS ROAD, MACLEAN

I, the Minister for Infrastructure and Planning, pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10 of State Environmental Planning Policy No 71 – Coastal Protection, determine the development application referred to in the attached Schedule 1, by granting consent to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To ensure the potential for pollution resulting from sewage disposal is appropriately minimised and managed;
- (2) To protect and preserve the environment, in particular groundwater and local waterways;
- (3) To ensure public health; and
- (4) To provide for the orderly use of the subject site while managing environmental, health and safety issues.

Craig Knowles MP
Minister for Infrastructure and Planning
Minister for Natural Resources

Sydney,

2005

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Diane Beamer MP
Minister for Juvenile Justice
Minister for Western Sydney
Minister Assisting the Minister for Infrastructure and Planning
(Planning Administration)

Sydney,

2005

SCHEDULE 1

PART A—TABLE

Application made by:	Douglas Bancroft 115 Golf Links Road, Maclean, NSW, 2463
Application made to:	Minister for Infrastructure and Planning
Development Application:	No 130-6-2004
On land comprising:	Lot 4, DP 259883 115 Golf Links Road, Maclean, NSW, 2463
For the carrying out of:	Development described in Condition A1, Part A, Schedule 2
Type of development:	State Significant Development
S.119 Public inquiry held:	No
Approval Body / Bodies:	Not Integrated
Determination made on:	The date appearing on the notice of determination.
Determination:	A development consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	This development consent commences on the date identified in the formal notification letter accompanying the Determination.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: ▪ a shorter period of time is specified by the Regulations or ▪ a condition in Schedule 2, or ▪ the development has physically commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 130-6-2004

Responsibility for other approvals / agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid for a development application, within 12 months after the date on which the applicant received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

Section 94 Conditions

This development consent contains a levy for development imposed under section 94 of the Act. The imposing of levies where imposed in accordance with Council's Contributions Plans. Council's Contributions Plans may be inspected at Council's offices located at 50 River Street, Maclean.

The specific public amenity or service or both are identified in the monetary contributions conditions in Part B of Schedule 2.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Applicant means Douglas Bancroft or any party acting upon this consent.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means Clarence Valley Council.

DA No. 130-6-2004 means the development application and supporting documentation submitted by the applicant on 27 May 2004.

Department means the Department of Infrastructure, Planning and Natural Resources or its successors.

Director means the Director of the Urban Assessments (or its successors) within the Department.

Director-General means the Director-General of the Department.

Minister means the Minister for Infrastructure and Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2

CONDITIONS OF CONSENT

DEVELOPMENT APPLICATION NO. 130-6-2004

PART A—ADMINISTRATIVE CONDITIONS

A1 Development Description

Development consent is granted only to carrying out the development described in detail below:

- (1) 2 lot subdivision of lot 4 DP 259883 creating lots 41 and 42; and
- (2) Relocation of existing services to be located within the access handle.

A2 Development in Accordance with Plans

The development shall be in accordance with Development Application number 130-6-2004 submitted by the applicant on 27 May 2004, and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

Statement of Environmental Effects entitled Statement of Environmental Effects Ref: 04930 prepared by Gulaptis & Smith Pty Ltd, dated May 2004.			
Subdivision Plans prepared by <i>Gulaptis & Smith Pty Ltd</i>.			
Drawing No.	Issue	Name of Plan	Date
4930 / DA	1	Proposed Subdivision of Lot 4 in DP 259883 - Site Plan: Sheet 1 of Sheet 1	January 2004
On-site Wastewater Disposal Report for Proposed Two Lot Subdivision of Lot 4 DP 259883 115 Golf Links Road, Woodford Island, prepared by David Manners, dated March 2004.			
Bushfire Hazard Assessment for proposed subdivision Lot 4 in DP 259883, prepared by Boambee Forestry Services Pty Ltd, dated October 2003.			

Except where modified by the conditions of this consent.

A3 Subdivision Certificate

An application under Part 4A of the Act shall be submitted to either the consent authority or Council along with a plan of subdivision prepared by a registered surveyor, for certification prior to the issue of the Subdivision Certificate.

A4 Disposal and Control of Stormwater

All stormwater is to be collected within the property and discharged in accordance with Council's 'Engineering Specification for Development'.

Source controls should be employed within all future developments on the Lots to reduce the quantity and flow rate and improve the quality of the stormwater generated on-site. Using source controls in combination with end of pipe solutions such as sedimentation/retention basins, artificial wetlands, gross pollutant traps and sand filters will minimise the impact that the stormwater discharges generated on-site have on the receiving environment.

Examples of effective source controls include rainwater tanks, grassed swales rather than traditional kerbing and guttering, pervious pavements and infiltration mechanisms. Source controls are the preferred and most effective way of contributing to the delivery of the water quality objectives, river flow and integrated water cycle management recommendations for the Clarence River contained within the Healthy Rivers Commission's *Independent Inquiry into the Clarence River System, Final Report* dated November 1999.

A5 *On-site Sewage Disposal*

The on-site sewage treatment and disposal system constructed on lot 41 shall be consistent with the recommendations of the approved On-site Sewage Management Report prepared by David Manners, dated March 2004. In particular the following recommendations of the report shall be adhered to:

- (1) The system shall result in secondary treatment of sewage or treatment to a higher quality;
- (2) The use of sub-surface drip irrigation;
- (3) A disposal area of at least 400sqm;
- (4) The land application area is to be exposed to sun and wind and is to be designed to allow evapotranspiration;
- (5) Compliance with all required buffer distances; and
- (6) Installation by a suitably qualified irrigation consultant.

A6 *Developer Costs*

The developer is responsible for any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.

A7 *Exclusion – Removal of Trees*

The removal of any trees is specifically excluded from this consent. A separate application will need to be lodged for the removal of trees on the subject site.

A8 *Prescribed Conditions*

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

B1 *Additional Details – Widening of Golf Links Road*

The applicant shall prepare a detailed plan for the widening of the existing bitumen seal on Golf Links Road along the full frontage of the development site. The plans shall include a 6m seal with a 1m shoulder and shall address all Council's drainage requirements. All works are to be in accordance with Council's Development Specification - Aus-Spec.

The plans shall be submitted to Council for approval prior to the issue of the construction certificate.

Note: As the required works are within the road reserve it is likely that approval under S138 of the *Roads Act 1993* will be required from Council.

B2 *Erosion and Sedimentation Control*

The control of erosion and the discharge of silt into drainage systems, street drainage systems and waterways is to be in accordance with the document *Managing Urban Stormwater–Soils & Construction* (NSW Department of Housing, 1998) and Council's Erosion and Sediment Control DCP. Details are to be submitted to the satisfaction of the PCA prior to the issue of a Construction Certificate for all approved works.

PART C—PRIOR TO COMMENCEMENT OF WORKS

C1 *Notice to be Given Prior to Excavation*

The PCA and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site.

C2 *Construction Management Plan*

Prior to the commencement of any works on the site, or in the adjacent road reserve, a Construction Management Plan shall be submitted to and approved by Council. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work;
- (2) contact details of site manager;
- (3) traffic management;
- (4) noise and vibration management;
- (5) waste management; and
- (6) erosion and sediment control.

The Applicant shall submit a copy of the approved plan to the PCA.

C3 *Contact Telephone Number*

Prior to the commencement of the works, the Applicant shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

PART D—DURING CONSTRUCTION

D1 *Erosion and Sediment Control*

All erosion and sediment control measures are to be effectively maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

The control of erosion and the prevention of silt discharge into drainage systems, street drainage systems and waterways is to be in accordance with Council's Erosion and Sediment Control DCP and the document *Managing Urban Stormwater—Soils & Construction* (NSW Department of Housing, 1998).

D2 *Disposal of Seepage and Stormwater*

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

D3 *Approved Plans to be On-site*

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

D4 *Site Notice*

A site notice shall be prominently displayed at the front boundary of the site for the purposes of informing the public of project details. The notice is to satisfy all but not be limited to, the following requirements:

- (1) The notice is to be at least A3 in size and the lettering/text used is to be of a size and type that is legible;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (4) The notice is to be mounted at eye level on the front perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

D5 *Contact Telephone Number*

The applicant shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

D6 *Protection of Trees – On-site Trees*

All trees on the site that are not approved for removal are to be suitably protected by way of tree guards, barriers or other measures as necessary are to be provided to protect root system, trunk and branches, during construction.

D7 *Dust Control Measures*

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

- (1) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material;
- (2) Covers are to be adequately secured;
- (3) Cleaning of footpaths must be carried out regularly; and
- (4) Roadways must be kept clean.

D8 *Hours of Work*

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (4) the delivery of materials is required outside these hours by the Police or other authorities;
- (5) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (6) the work is approved through the Construction Noise and Vibration Management Plan; and
- (7) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D9 *Recycling of Concrete*

Any existing concrete of suitable volume, which is not used as fill, shall be taken to a concrete recycling works and evidence that this has occurred shall be provided to the PCA.

D10 *Compliance Report – Part D*

The Applicant, or any party acting upon this consent, shall, for the duration of construction period, submit to the Department a three monthly report addressing compliance with all relevant conditions of Part D of this consent.

PART E—PRIOR TO SUBDIVISION**E1 *Battle Axe Handle***

Prior to release of the Subdivision Certificate the subdivision plan shall be amended to ensure the provision of a 5m wide battle axe handle to proposed Lot 42.

E2 *Rainwater Tank – Lot 41*

Prior to issue of a Subdivision Certificate, pursuant to the *Conveyancing Act 1919* a Section 88B Instrument shall be created over the title of Lot 41 requiring the following:

- (1) no dwelling shall be constructed without the provision of a rainwater tank(s) with a minimum storage capacity of 10, 000L,
- (2) the rainwater tank(s) be installed and used to satisfy the property's water supply needs for toilet flushing, the supply of water for washing machines and all external uses including, but not limited to watering landscaped and garden areas, topping up swimming pools or water features, any other gardening activities and other non-potable internal water uses as approved by Council,
- (3) tanks installed are to collect water from at least 50% of the roof area of the main dwelling and be in addition to any water stored for fire fighting purposes,
- (4) security of supply to these components of household water use can be maintained by using a float valve connection to the mains supply to maintain a minimum volume in the rainwater tank(s).
- (5) use of the reticulated water supply is not permitted for toilet flushing, washing machines or garden activities, except in the case that water levels within the rainwater tank(s) are at or lower than the minimum volume.

Prior to effecting the Section 88B Instrument, the proposed wording shall be submitted to the Team Leader - Urban Assessments for approval.

Reason: To reduce the volume of water discharged from the site, thereby reducing the likelihood of pollution of nearby waterways given the on-site sewage disposal arrangements.

E3 Connection to Future Reticulated Sewage Systems

Prior to issue of a Subdivision Certificate, pursuant to the *Conveyancing Act 1919* a Section 88B Instrument shall be created over the title of both of lots 41 and 42. The restriction shall require the following:

- (1) In the event that reticulated sewage is provided to the area, each of Lots 41 and 42 are to be connected to the system within 3 months of the system becoming available to those properties. In the case that septic tanks and trench systems have been installed prior to the connection to a sewage system, these are to be removed from service at this time.

Prior to effecting the Section 88B Instrument, the proposed wording shall be submitted to the Team Leader - Urban Assessments for approval.

Reason: To remove the likely impacts of existing and future on-site sewage disposal systems on nearby waterways.

E4 Diversion Mounds / Cut off Drains – Lot 41

Prior to issue of a Subdivision Certificate, pursuant to the *Conveyancing Act 1919* a Section 88B Instrument shall be created over the title of lot 41. The restriction shall require the following:

- (1) Upslope diversion mounds and/or cut-off drains are to be installed above any sewage disposal irrigation area constructed on lot 41. Designs for the diversion drains are to be submitted to and approved by Council prior to issue of a Construction Certificate for the approved on-site sewage treatment system. The diversion mounds / cut-off drains are to be installed prior to commencement of use of the approved on-site sewage treatment system.

(2) Design of the diversion drains is to ensure that flooding, erosion and/or pollution of neighbouring properties does not result.

Reason: to alleviate the identified flooding over the lot during heavy rainfall as a result of upslope drainage, in particular across the future sewage disposal area.

E5 *Diversion Mounds / Cut off Drains – Lot 42*

Prior to the issue of a Subdivision Certificate upslope diversion mounds and/or cut-off drains are to be installed upslope of the land application area on lot 42.

Plans are to be submitted to and approved by Council prior to construction.

Reason: To divert surface runoff away from the land application area.

E6 *Monetary Contributions – Section 94*

The applicant shall make payment to Council of the contributions required pursuant to Section 94 of the Act as follows:

(a) Open Space / Recreation Facilities Contribution Plan 1993

Regional: \$75.05 x 2.6 persons x 1 = \$195.13	18015 003
Passive: N/A	
Active: \$124.00 x 2.6 persons x 1 = \$322.40	17970 002

(b) Community Amenities & Services Contributions Plan 1993

Regional: \$53.80 x 2.6 persons x 1 = \$139.88	16880 800
Local: \$151.90 x 2.6 persons x 1 = \$394.94	16880 000

(f) Rural Road Upgrading Contributions Plan

Maclean Catchment: \$1, 404.00	21300 000
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Note:

The contribution(s) shall be paid in the form of cash or bank cheque. For accounting purposes, the contribution may require separate payment for each of the categories above and you are advised to check with Council prior to making payment.

Evidence of the payment to Council shall be submitted to the PCA prior to the issue of the Subdivision Certificate.

The contribution for land will be adjusted in accordance with the latest annual valuations. As such the applicant should check with Council prior to making payment, to obtain the updated Section 94 contributions required for payment in accordance with the adopted Schedule of Fees and Charges current at the time of payment.

In the event of any subsequent amendment to the approved Development Plans, the calculated contribution amounts may vary.

All contribution plans are available for inspection at Council's offices, 50 River Street, Maclean.

The applicant shall submit to the PCA, documentary evidence of the payment of the section 94 contributions, prior to the issue of the Subdivision Certificate.

E7 *Geotechnical Engineer Report*

A report from a qualified Geotechnical Engineer indicating the lot classification of each allotment in accordance with AS2870, is to be submitted to and approved by Council, prior to the issuing of a Subdivision Certificate.

E8 *Widening of Golf Links Road*

The road widening works as required by condition **B1** of this consent are to be completed prior to the release of a Subdivision Certificate. All works are to be in accordance with Council's Development Specification - Aus-Spec.

E9 *Approved Access*

An approved access in accordance with Council's Development Specification – Aus – Spec is to be provided to every lot. (The pipe culvert may be deleted, depending on location).

E10 *Compliance Certificate, Water Supply Authority Act , 2000*

The extension and provision of water main reticulation is required to service all proposed lots in the subdivision.

Prior to issuing a Subdivision Certificate, a Compliance Certificate shall be provided to the PCA showing that the development has met with the detailed requirements of the relevant water supply authority for the region that the subject site is located within.

E11 *Telephone and Electricity Services*

Telephone services are to be installed overhead and the extension and provision of overhead or underground electricity main reticulation is required to service all proposed lots in the subdivision.

Prior to the issue of a Subdivision Certificate the applicant shall provide to the PCA a letter from Country Energy and a Compliance Certificate from Telstra stating that satisfactory arrangements have been made for the supply of electricity and telephone services in the subdivision. Easements for the electricity purposes, satisfactory to Country Energy, shall be created over existing and proposed electricity lines (pursuant to Section 88B of the Conveyancing Act 1919).

E12 *Requirements of Public Authorities for Connection to Services*

The applicant shall comply with the requirements of any public authorities (e.g. Country Energy, North Coast Water, Telstra Australia, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the subdivision, in addition to any further requirements of Council.

Any costs in the relocation, adjustment or support of services shall be the responsibility of the applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the PCA prior to the issue of the Subdivision Certificate.

E13 *Landscaping - Additional Vegetation*

Additional vegetation, including appropriately deep rooted species, is to be planted on the down-slope boundary of each lot. In order that views to the existing residence on Lot 42 may be maintained, appropriate lower height trees may be used to substitute deep rooted species.

Plantings are to be to the satisfaction of Council and are to be planted prior to the issue of the Subdivision Certificate. The applicant is to provide evidence of the survival of the plantings to Council 12 months after the issue of the Subdivision Certificate. In the event of death or poor health within the 12 months, the applicant is to replace those plants affected. Replacement is to continue until successful plantings are achieved on the site.

Reason: To improve privacy and amenity of and between the two lots and to reduce the volume of water discharged from each of the sites.

E14 Access and Services Encumbrances

The following encumbrances are to be created pursuant to Section 88B of the *Conveyancing Act 1919* prior to the release of the Subdivision Certificate:

Encumbrance	Lot Burdened	Lot Benefited	Terms
Right of Carriageway 5m wide	42	41	Terms set out in Schedule 8, Part 1 of the <i>Conveyancing Act 1919</i> .
Easement for services 5m wide	42	41	Terms set out in Schedule 8, Part 11 of the <i>Conveyancing Act 1919</i> .

E15 Documentary Evidence

Prior to the issue of Subdivision Certificate, the applicant is to provide documentary evidence that the property has been development in accordance with plans approved by Development Application No 130-6-2004 and in accordance with all conditions of the consent.

PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

N/A – There are no Part F Conditions relevant to this consent.

PART G—POST OCCUPATION

G1 Soil pH

All on-site effluent disposal areas are to be treated with agriculture lime and gypsum at the rate of 0.1/T/Ha/10cm to raise the soil pH to at least 6.

PART H—GENERAL TERMS

N/A - The application was not made for integrated development and as such there are no General Terms of Approval that apply to this consent.

ADVISORY NOTES

AN1 Shared Trenching

Council will consider proposals to provide compatible public utility services in common trenching. In such instances the proposal is to be discussed with the relevant service providers.

AN2 Noise Generation

Any noise generated during the construction of the development shall not exceed the limits specified in the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.

AN3 Excavation – Aboriginal Relics

Should any Aboriginal relics be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the National Parks and Wildlife Service shall be informed in accordance with Section 91 of the *National Parks and Wildlife Act, 1974*.

AN4 Excavation – Historical Relics

Should any historical relics be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the Heritage Council of NSW shall be informed in accordance with Section 146 of the *Heritage Act, 1977*.