
ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. DA 45-3-2005

(FILE NO. 9038130)

SUBDIVISION OF ONE (1) LOT INTO TWO (2) LOTS

I, Chris Wilson, Acting Deputy Director General, Office of Sustainable Development Assessments and Approvals, Department of Planning as delegate for the Minister for Planning as described by the Instrument of Delegation dated 12 September 2005, and pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10 of State Environmental Planning Policy No. 71, 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 development proceeds in accordance with approved plans;
- (2) To ensure development satisfies the relevant statutory requirements;
- (3) To ensure that measures are implemented to manage environmental and social impacts that may arise from the development;
- (4) To minimise the potential risks associated with bushfire hazards;
- (5) To ensure lots are adequately serviced; and
- (6) To ensure public utility services, access and restrictions are legalised over the land.

Chris Wilson
Acting Deputy Director General
Office of Sustainable Development
Assessments and Approvals

Sydney,

2005

SCHEDULE 1

PART A—TABLE

Application made by:	Simon Carroll CoastPlan Consulting P.O. Box 4184 Forster, NSW, 2428.
Application made to:	Minister for Planning
Development Application:	DA 45-3-2005
On land comprising:	Lot 191 and DP816792 44 Coomba Road, Pacific Palms, NSW, 2428
Local Government Area	Great Lakes Council
For the carrying out of:	Subdivision of One Allotment into Two Allotments A detailed description of the development consented to is described in Conditions A1, Part A, Schedule 2
Estimated Cost of Works	N/A - Subdivision
Type of development:	State Significant Development Integrated Development
S.119 Public inquiry held:	No
BCA building class:	N/A
Approval Body / Bodies:	Rural Fire Service Council
Determination made on:	
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: (1) a shorter period of time is specified by the Regulations or (2) a condition in Schedule 2, or (3) the development has physically commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 45-3-2005

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 the following Section 94 Contributions plans: Great Lakes Wide, Forster District, Standard Schedule for S94 Plans. The above named Plans may be inspected at the following locations during its normal business hours:

- (1) Great Lakes Council

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

PART C—DEFINITIONS

In this consent,

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

Advisory Notes means advisory information relating to the approved development but do not form a part of this consent.

Applicant means Simon Carroll of Coastplan Consulting 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 Great Lakes Council.

DA No. 45-3-2005 means the development application and supporting documentation submitted by the Applicant on 8th March, 2005.

Department means the Department of Planning or its successors.

Director General means the Director-General of the Department

Team Leader means the Team Leader of the Urban Assessments within the Department.

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

Minister means the Minister for 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. 45-3-2005

PART A—ADMINISTRATIVE CONDITIONS

A1 *Development Description*

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

- (1) Subdivision of Lot 191 DP816792, 44 Coomba Road, Pacific Palms into two allotments.

A2 *Development in Accordance with Plans*

The development shall be in accordance with development application number DA45-3-2005 submitted by the Applicant on 8th March, 2005, and in accordance with the following:

Statement of Environmental Effects entitled Statement of Environmental Effects, Proposed Subdivision, Lot 191 DP 816792, 44 Coomba Road, Pacific Palms, Prepared for Mrs I Davis, February 2005 by Coastplan Consulting.			
Bushfire Threat Assessment, Proposed Subdivision, Lot 191 DP 816792, 44 Coomba Road, Pacific Palms, Prepared for Mrs I Davis, February 2005 by Coastplan Consulting.			
Habitat and Threatened Species Assessment at 44 Coomba Road, Pacific Palms (Lot 191, DP 816792) by Leighton C. Llewellyn and Gillian P. Courtice of Curlew Biological Services dated February 2005			
Land Capability Assessment by Marc Watson, Environmental Health Consultants, PO Box 26, Bowraville, NSW, 2449 dated 20th January 2005			
Proposed Subdivision Plan prepared by Rennie Golledge Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
File 647.04 Sheet gl960		Proposed Subdivision of Lot 191, DP 816792, 44 Coomba Road, Pacific Palms	16/2/05

except for:

- (1) any modifications which are 'Exempt Development' as identified in Great Lakes Council DCP 28 Exempt and Complying Development or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- (2) otherwise provided by the conditions of this consent.

A3 *Inconsistency between documents*

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

A4 *Lapsing of Consent*

The development consent shall lapse, unless enacted, in 5 years after the determination date in Part A of Schedule 1 of this consent.

A5 *Prescribed Conditions*

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

A6 *Flora and Fauna*

Any site operations associated with the subdivision are to comply with the recommendations of Chapter 7 of the Habitat and Threatened Species Assessment prepared by Leighton C. Llewellyn and Gillian P. Courtice of Curlew Biological Services dated February 2005.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

N/A

PART C—PRIOR TO COMMENCEMENT OF WORKS***C1 Existing Driveway and Vehicular Access***

- The developer is to submit a Driveway Application to Great Lakes Council's Director of Engineering Services for works to the existing driveway and vehicular accesses
- All works are to be in accordance with the Driveway Levels issued by Great Lakes Council
- Construction details are to be to Council's standards and with sealed turnouts
- To improve sight lines in the road reserve, some trees are required to be removed. Details of the means of tree disposal are to be submitted for Council's approval prior to the commencement of works
- All work is to be at the developer's expense

PART D—DURING CONSTRUCTION

Site Maintenance

D1 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.

D2 Protection of Trees – On-site Trees

All trees on site within 10 m of any works and 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 any works.

D3 Erosion and Sediment Control

Appropriate erosion and sediment control measures are to be effectively implemented and maintained for the duration of any 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.

D4 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.

PART E—PRIOR TO SUBDIVISION OR STRATA SUBDIVISION

E1 Driveway within Road Reserve

The developer is to submit a Driveway Application to Great lakes Council prior to the issue of a Subdivision certificate.

- All work is to be at the developer's expense and completed in accordance with the Driveway Levels issued by Great Lakes Council, and the following shall apply:
- Construct a driveway within the road reserve in accordance with a Rural property Access – Figure 4.9.7 (preferred Option and Indented Access) of the RTA's Road Design Guideline manual. Note the first 10 metres of the driveway from the edge of bitumen of the Coomba Road carriageway shall be constructed with a minimum two coat seal.
- The driveway footpaths crossing shall be a minimum of 4.0 m wide at the boundary.
- Widen the existing gravel road shoulder located on the western side of Coomba Road adjacent to the driveway to service the development site, in accordance with a Type BAR Right Turn Treatment – Figure 4.8.23 of the RTA's Road Design Guideline Manual.
- Trees adjacent to the driveways are to be trimmed. This condition has been imposed to improve the site distance for drivers of vehicles exiting the driveway to view vehicles travelling along Coomba Road;
- Driveways to meet Great Lakes Council standards issued prior to release of the Damage Bond.

E2 Driveway to Existing Dwelling

The driveway within the property shall be a minimum of 3.5m wide (as in accordance with the Rural Fire Service requirements) and constructed:

- With a dust free surface
- In accordance with all requirements/conditions of the Rural Fire Service

E3 Easements

Certification from a registered surveyor shall be submitted to Council stating that no services or public utility presently connected to the existing building shall straddle the proposed new boundary. Alternatively, an easement shall be provided within one lot to cover services and structures over the other lot.

E4 Application for a Subdivision Certificate

Lodgement to Council of an application for a subdivision certificate. The application is to be accompanied by seven copies of the plans of subdivision prepared by a Registered Surveyor and suitable for registration by the Land Titles Office. Any necessary Section 88B Instruments are to be included.

Note: Council will not endorse restrictions as to user other than those required under these conditions or as approved in the Development Application. The plans of survey are to show connections to at least two survey control permanent marks where such exist in the vicinity of

the subdivision or where practical. Existing and proposed street names are to be shown on the plans.

E5 Part 4A Certificate

Prior to the registration of final subdivision plan in the Office of the Registrar-General, a Part 4A certificate shall be obtained under section 109D(1)(d) of the *Environmental Planning and Assessment Act 1979*.

E6 Section 88B Instrument

The following restrictions as to User are to be entered onto the title of the lot (Section 88B instrument), with Council nominated as the body empowered to modify or waive such requirements:

a) Restricting the removal of any native trees from the proposed Lot 2 outside the APZ and the electricity supply easement and specifically shall apply to the Black She-oak Forest, Paperbark/Rainforest Mixed Forest and the Blackbutt/Smooth-barked Apple/White Mahogany Open Forest communities. Native trees for the purpose of this condition are defined as specimens that, at the time of this determination, exceed a height of 3-metres or a trunk diameter at breast height of 10cm.

b) Protecting the mature and hollow-bearing Blackbutt located 32 metres south of the dwelling footprint.

c) Establishing the dwelling envelope as provided on the Plan of Subdivision (Rennie Golledge 16/2/05) as the area in which a future dwelling shall be permitted on the approved Lot 2.

Details of the instrument are to be submitted with the linen plan for the subdivision. The area encompassed by this condition shall be surveyed and then identified by cross-hatching on the linen plan.

The extent of the Section 88B Instrument shall be endorsed and accepted in writing by the natural Systems and Estuaries Branch of Council prior to finalisation of the subdivision.

E7 Section 94 Contributions

In accordance with Section 94 of the Environmental Planning and Assessment Act 1979, a monetary contribution shall be paid to Council. The services and facilities for which the contributions are levied and the respective amounts payable under each of the relevant plans are set out in the following table:

Contributions Plan	Facilities	qty	Unit	Rate \$	Amount \$
Coomba Rd/Shallow Bay Rd	Coomba Rd/Shallow Bay Rd	1	ETs @	\$7,287.68	\$7,287.68
Forster District	Aquatic Centre	2.8	Persons @	108.36	303.41
Forster District	Pacific Palms SLS	2.8	Persons @	79.84	223.55
Great Lakes Wide	Library Bookstock	2.8	Persons @	41.94	117.43
Great Lakes Wide	Library Facility	2.8	Persons @	255.78	716.18
Great Lakes Wide	Fire fighting Coastal	2.8	Persons @	505.77	1,416.16
Great Lakes Wide	S94 Admin	2.8	Persons @	45.91	128.55
Great Lakes Wide	S94 Preparation	2.8	Persons @	0.37	1.04
Great Lakes Wide	Headquarters Building	2.8	Persons @	175.43	491.20
TOTAL					\$10,685.20

Contribution rates are subject to indexation. The rates shown above are applicable until 30 June following the date of consent. Payment made after 30 June will be at the indexed rates applicable at the time.

The Contributions Plan and the Standard Schedule for Section 94 Plans may be viewed on Council's web site www.greatlakes.nsw.gov.au or at Council's offices at Breese parade, Forster.

PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

N/A

PART G—POST OCCUPATION**N/A****PART H—GENERAL TERMS****H1 MidCoast Water****1. Provision of Certificate of Compliance**

A Certificate of Compliance being received from MidCoast Water **prior to the release of this subdivision**, stating that satisfactory arrangements have been made and all payments have been finalised for the provision of water supply and sewerage to the development

2. MidCoast Water requires that the following conditions be met prior to the issue of a Certificate of Compliance to Great Lakes Council:**(i) Water Supply**

The construction of a water supply to service the new subdivision.

(ii) Water & Sewerage Development Charges & Fees

That all satisfactory arrangements have been made with MidCoast Water for the payment of water and sewerage development charges & fees.. The amount is to be paid at the rate applicable at the time of payment. The contribution is based on an additional 2 ET

Rural Fire Service**H2 NSW Rural Fire Service****1. A 10,000 litre dedicated water supply tank shall be provided to the existing dwelling and a minimum of 3kW (5hp) petrol or diesel powered pump. A 65mm storz fitting and ball or gate valve shall be installed in the tank.****2. Asset Protection Zones to the existing dwelling shall be provided as identified in recommendation 1(e) of the Bushfire Threat Assessment prepared by Coastplan Consulting dated February 2005.****Council****H3 Council Conditions****1. A Certificate of Compliance from Telstra Australia is to be submitted to verify that satisfactory arrangements have been made and all payments have been finalised for the supply of telephone services to the development.****2. A Certificate of Compliance from Country Energy is to be submitted to verify that satisfactory arrangements have been made and all payments finalised for the supply of electricity to the development and that all headworks charges have been paid.****3. Submission is required of documentary evidence from MidCoast Water that satisfactory arrangements have been made and all payments finalised for the supply of reticulated water to the development and that headworks charges have been paid.**

4. Vegetation (including trees) shall not be disposed of by burning unless specifically approved by Council.
5. The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times to the satisfaction of Council.
6. The developer, at no cost to Council, shall make any necessary alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposed subdivision. Such utilities include water, drainage, power, communication, footways, kerb and gutter.
8. The hollow-bearing Blackbutt tree located 32 metres south of the dwelling footprint shall be retained and protected in its present state, free from any direct or indirect impacts from the works.
9. A minimum of four (4) logs with the minimum diameter of 30cm and minimum length of 3 metres shall be retained on the Approved Lot 2 outside the building envelope as cover for fauna. Logs of these dimensions are to be retained unless written confirmation is received from Rural Fire service that such logs are ground fuel for the purpose of the required Asset protection zones. The logs shall be sourced from the timber removed from the APZ.
10. Any fencing on this Lot shall be of a design that maintains and facilitates fauna movements.

ADVISORY NOTES

AN1 *Requirements of Public Authorities for Connection to Services*

The Applicant shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. 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 Construction Certificate.

AN2 *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*.

AN3 *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*.

AN4 *Application under Part 4A of the Act*

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

AN5 *Other Details Required prior to Issue of Subdivision Certificate*

The Applicant shall submit to the satisfaction of the consent authority or the council, the following information, prior to the issue of the Subdivision Certificate:

- (1) Documentary evidence of the payment of required Section 94 contributions
- (2) Documentary evidence that the property has been developed in accordance with plans approved by Development Application No. 45-3-2005 and of compliance (or a Compliance Certificate) with the conditions of that consent.

AN6 *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the proponents responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of consent as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

AN8 *Compliance with Conditions*

The Applicant will be required to submit, documentary evidence that the property has been developed in accordance with plans approved by Development Application No. 45-3-2005 and of compliance (or a Compliance Certificate) with the conditions of that consent, prior to the issuing of Strata Plan of Subdivision.

AN7 *Street Numbering*

Street numbers and the building name(s), if any, will need to be clearly displayed in accordance with Council's Policy, prior to the occupation of the building(s) or commencement of the use.

If street numbers or a change to street numbers are required, a separate application shall be made to Council.

AN8 *Stormwater drainage works or effluent systems*

A construction certificate for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work
- (2) management of waste

as defined by Section 68 of the Local Government Act, 1993 will not be issued until prior separate approval to do so has been granted by Council under Section 68 of that Act. Applications for these works must be submitted on Council's standard Section 68 application form accompanied by the required attachments and the prescribed fees.