



Office of Sustainable Development Assessment and Approvals, Urban Assessments

Planning Assessment Report

Development Application DA 45-3-2005

1 SUMMARY

This report is an assessment of the proposed development the subject of Development Application number DA45-3-2005.

The application seeks consent for a 2 Lot Rural Residential Subdivision

The Minister for Planning is 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.

The site is zoned 1(d), a rural zoning, is not identified as a sensitive coastal location and is not being subdivided into more than 5 lots. As such a Masterplan is not required under SEPP 71.

As the proposal involves subdivision with minor works, to bring the existing dwelling into compliance with Councils driveway requirements, there are no significant planning and environmental issues. The site under consideration is located on land that is mapped as bushfire prone land. Comments have been sought from the NSW Rural Fire Service and appropriate conditions have been supplied and included in the Conditions of Consent.

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

2 BACKGROUND

2.1 Site Context

The site is located at 44 Coomba Road, Pacific Palms in the Great Lakes Council local government area.

The development application was lodged with the Department on 8th March 2005 in accordance with the *Environmental Planning and Assessment Act, 1979* (the Act).

The site has a total land area of 3.55 hectares and is located on the eastern side of Coomba Road and approximately 500 metres north of the intersection between Coomba Road and The Lakes Way. A map indicating the location of the site is attached at **TAG B**.

An existing brick house with access driveway is located on the south of the site and an electricity easement runs approximately through the middle of the site from the south west to the north east. Much of the western part of the site is relatively cleared grass land with significant areas of vegetation across the north and north east of the site. The subject site is mapped as bushfire prone land. A survey of the site is attached at **TAG C**.

The land is zoned 1(d) Small Holdings under the provisions of the Great Lakes Local Environmental Plan 1996 and is located in the coastal zone requiring assessment under the provisions of the State Environmental Planning Policy No. 71 – Coastal Protection.

A site visit was conducted of the site on 2nd December, 2005

3 THE PROPOSED DEVELOPMENT

The existing allotment of 3.55 hectares is proposed to be subdivided into two allotments being Lot 1 of 1.74 hectares and Lot 2 of 1.81 hectares. This complies with the Great Lakes Council Development Control Plan No. 31, Subdivision, which requires a minimum lot size of 1 hectare. Proposed Lot 1 will comprise the southern part of the site and will contain the existing brick dwelling and existing gravel access road. Proposed Lot 1 will have a frontage of approximately 63.6 metres to Coomba Road. Works prior to the issue of a subdivision certificate the existing driveway and vehicular accesses are to be constructed to Council's standard and some trees are required to be removed for better sight distance in the road reserve.

Proposed Lot 2 will comprise the north and north western part of the site with a road frontage of 71.54 metres. An easement 20 metres wide for overhead electricity supply runs along side the proposed mutual boundary for approximately half the length of that boundary before branching to the north east across proposed Lot 2. A house site has been nominated within proposed Lot 2 such that it will be located within the existing cleared areas on that site to minimise the disturbance of vegetation necessary for maintenance of an Asset Protection Zone for bushfire protection purposes. A restriction is to be registered on the deposited plan requiring any future dwelling on Lot 2 to be sited within the confines of the hatched house site. This has been included in the conditions of consent as Condition No. E5(c). An access point from Coomba Road has been proposed to the north west of Lot 2.

Reticulated sewerage is not available to the site. It is proposed to dispose of effluent on Lot 2 via an on-site sewage management system. A Land Capability Assessment, prepared for the site by Watson Environmental Health Consultants, has concluded that the site is suitable for on-site disposal of effluent by a number of methods including land application via a transpiration area or secondary treated effluent into raised garden beds/shallow trenches. The report recommended that the treatment system best suited to the proposal is a 3,000 litre septic tank or aerobic sand filter or aerated waste water treatment system. This issue should be addressed in the assessment of any future development application submitted by the applicant.

4 STATUTORY FRAMEWORK

The site is zoned 1(d) Small Holdings under the provisions of Great Lakes Local Environmental Plan 1996. Clause 17 requires a minimum lot size of 1 hectare in the zone. Lot 1 is proposed to be 1.74 hectares and Lot 2 to be 1.81 hectares. Both proposed lots comply with the required lot size.

4.1 *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.

4.2 *Legislative context*

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*
- *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 policies are made in Section 79C Evaluation (**Tag D**). 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.

5 CONSULTATION

5.1 Public consultation

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

Notifications – landowners/occupiers	36 adjoining sites
Site notices	Applicant requested to erect site notice
Exhibition dates	Start: 1 st August, 2005 End: 1 st September, 2005
Exhibition venues	▪ Department of Infrastructure, Planning and natural Resources Information centre – 23-33 Bridge Street, Sydney Hunter Regional Office, Suite 6, 464 King Street, Newcastle West ▪ Great Lakes Council, Breese parade, Forster

No submissions were received regarding the Application.

5.1.1 Integrated Approval Bodies

1. Roads Act 1993 –

The application is integrated development under s91 of the Environmental Planning and Assessment Act. The Great Lakes Council is the relevant approval body under the Roads Act 1993 for construction of an access point to the site from Coomba Road. Great lakes Council raised no objections to the proposal however have recommended conditions that prior to the issue of a subdivision certificate a vehicular access is constructed to Council's standards. This is condition E1 in the conditions of consent.

2. NSW Rural Fire -

The site is located on land that is mapped as bushfire prone land. As the proposed development involves the subdivision of land that could lawfully be used for residential purposes, the proposed subdivision requires the issue of a Bushfire Safety Authority by the Commissioner of the NSW Rural Fire Service before the subdivision of the land may take place and is therefore integrated development for the purposes of Section 91 of the Environmental Planning and Assessment Act. A Bush Fire Safety Authority has been granted subject to the installation of a 10,000 litre dedicated water supply tank and provision of asset protection zones to the existing dwelling. These are included in the conditions of consent Nos H2 1. and H2 2.

5.1.2 Council

The application was referred to the Great Lakes Council on 20th July, 2005. Council responded on 26th September, 2005. Council raised no objection to the application subject to the attached conditions. The Great Lakes Council's conditions have been incorporated into the conditions of consent.

5.1.3 *MidCoast Water*

MidCoast Water advised that the development could be connected to reticulated water supply but cannot be served by sewer mains. The issue of on-site effluent disposal is discussed in Section 6.2.1

5.1.4 *DIPNR - Hunter Regional Office*

The Hunter Regional Office has been consulted regarding the application and has raised no objections.

6 CONSIDERATION

6.1 *The Environmental Planning & Assessment Act*

6.1.1 *Section 79C*

The application and the likely impacts of the proposed development have been considered in accordance with Section 79C of the Act (see **TAG D**). Significant issues are discussed below in Section 6.2.

Instrument / Policy	
PLANNING INSTRUMENT(S) [s79C(1)(a)(i)] SEPP No.71 – Coastal Protection Hunter REP 1989 Great Lakes LEP 1996	TAG E TAG D TAG F
DRAFT INSTRUMENT(S) [s79C(1)(a)(ii)] There are no Draft instruments that apply to the subject site	N/A
DCP(S) [s79C(1)(a)(iii)] Great Lakes DCP No. 31 - Subdivision	TAG G
MATTERS PRESCRIBED IN THE REGULATIONS [s79C(1)(a)(iv)] Cl. 92 EP&A Regulation – NSW Coastal Policy in the Great Lakes LGA.	TAG H

The subject site is considered suitable for the proposed development. No submissions were received and issues raised are discussed in Section 6.2. On balance, the proposed development is acceptable and recommended for approval.

6.2 *Issues*

6.2.1 *On Site Effluent Disposal*

<i>Issue:</i>	The likely impact of on-site effluent disposal on water quality in the catchment and the adjacent waterway.
<i>Raised by:</i>	SEPP 71 Cl 8
<i>Consideration:</i>	A report by Watson, Environmental Health Consultants has concluded that the site is suitable for on-site disposal of effluent by a number of methods including land application via a transpiration area or secondary treated effluent into raised garden beds/shallow trenches. The report recommended that the treatment system best suited to the proposal is a 3,000 litre septic tank or aerobic sand filter or aerated waste water treatment system.
<i>Resolution:</i>	It is considered that there are effluent disposal systems appropriate for this site. Council will consider the issue when an application is lodged for construction of a dwelling.

6.2.2 Impact of Bushfire

<i>Issue:</i>	The site is identified as Bush Fire Prone land as such a review of the APZs in relation to vegetation and habitat and threatened species is appropriate
<i>Raised by:</i>	Rural Fire Service
<i>Consideration:</i>	A Bushfire Threat Assessment was completed by the applicant proposing the siting of a building envelope in consideration of the required APZs and vegetation on the site. The NSW Rural Fire Service has granted a Bush Fire Safety Authority subject to conditions which apply to the existing dwelling.
<i>Resolution:</i>	Conditions of Consent have been included as requested by the NSW Rural Fire Service

7 SECTION 94 CONTRIBUTIONS

The proposal to subdivide one lot into two lots activates a requirement to pay Section 94 Contributions. Great Lakes Council has supplied a condition which lists the relevant plans and the amount relevant under those plans to this development. A total of \$10,685.20 in Section 94 contributions payment is required and included as Condition E7 in the attached conditions of consent.

8 CONCLUSION

The Minister Planning is the consent authority.

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 application has been notified in accordance with the Regulations. All submissions received in the period prescribed by the Regulations have been considered.

On balance, it is considered that the proposed development is acceptable and should be approved.

9 CONSULTATION WITH APPLICANT – DRAFT CONDITIONS

The applicant was asked to comment on the draft conditions of consent on 31st October, 2005. The applicant responded on 22 November 2005 requesting changes to the conditions. An assessment of the comments on the draft conditions of consent is attached at **TAG I** and the conditions have been revised as recommended in the response column.

10 DELEGATION

Under the instrument of delegation dated 12th September 2005, the Minister has delegated his functions under Section 23 of the Act to the Acting Deputy Director General, Office of Sustainable Development Assessment Approvals.

Recommendation It is recommended that the Minister for Infrastructure and 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 (Tagged “**A**”), and
- (B) authorise the Department to carry out post-determination notification.

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