

JOINT REGIONAL PLANNING PANEL **(Hunter Central Coast Region)**

JRPP No	JRPP Reference Number
DA Number	336/2012
Local Government Area	Great Lakes
Proposed Development	29 Lot Subdivision
Street Address	70 Carmona Drive, Forster
Applicant/Owner	Applicant: EMGA Mitchell McLennan Pty Ltd Owners: Acornlane Pty Ltd Homeborne Pty Ltd
Number of Submissions	Six
Recommendation	Approval with Conditions
Report by	Robyn Shelley Senior Development Assessment Planner

Assessment Report and Recommendation

DETAILS:

Date Received: 30 March 2012

Applicant : EMGA Mitchell McLennan Pty Ltd

Owner: Acornlane Pty Ltd
Homeborne Pty Ltd

Land: Lot 15 DP 713933, 70 Carmona Drive, Forster

Area: 27.69ha

Property Key: 19124

Zoning: Part 1(d1) Rural Residential and Part 7(a1) Environmental Protection Zone, Great Lakes Local Environmental Plan 1996

SUMMARY OF REPORT:

- The application proposes a community title subdivision of the subject site into 29 allotments.
- The proposal is defined at "integrated development" as the site is identified as bushfire prone land.
- The Minister has waived the master plan requirement pursuant to Clause 18(2) of State Environmental Planning Policy No. 71.
- Six (6) submissions have been received during the public exhibition period.
- The proposal complies with the requirements of relevant legislation and conditions have been proposed which will ensure that the proposal will not have a significant detrimental impact on the surrounding environment.

SUMMARY OF RECOMMENDATION:

Approval subject to conditions.

LIST OF ANNEXURES:

A: Plans of the proposed subdivision
B: Memo Council's Ecologist

1.0 BACKGROUND

On Friday 13 July 2012, Great Lakes Local Environmental Plan 1996 (amendment No 52) was published. The LEP amendment rezoned Lot 15 DP 713933, 70 Carmona Drive, Forster from 7(f1) Coastal Lands Protection to Part 1(d1) Rural Residential and Part 7(a1) Environmental Protection Zone, under the provisions of Great Lakes Local Environmental Plan 1996.

A key component of the proposed rezoning is the implementation of a development/conservation offset whereby the land zoned 7(a1) Environmental Protection (about 6.7 ha) is to be revegetated and dedicated to the adjoining Booti Booti National Park. The proponent is to also revegetate the area referred to as "The Saddle" in the adjoining the National Park.

A Planning Agreement between Council, the Environmental Protection Authority (EPA) and the proponent was prepared as the legal mechanism to give effect to the development/conservation offset arrangement in accordance with the Environmental Planning and Assessment Act, 1979. The Planning Agreement has now been executed by all parties.

Council also adopted a Development Control Plan in relation to the land zoned 1(d1) Rural Residential, which comprehensively addresses the built form of the proposed development, as well as the restoration and management of the landscape and the provision of services and infrastructure.

This development application was lodged with Council on 30 March 2012 and was registered with the Joint Regional Planning Panel (JRPP) on the 21 September 2012. The application was referred to required external organisations and various departments within Council on 10 April 2012. Public exhibition of the application occurred between the 4 May 2012 and 25 May 2012. Six (6) submissions were received during the exhibition period.

Further information was required to be submitted by the applicant after preliminary assessment and referral of the application. The last of the information required to be submitted by the applicant was received by Council on 30 October 2012.

The information was required to be referred to both the NSW Rural Fire Service and to internal Council Sections.

The NSW Rural Fire Service response was received on 14 November, 2012.

2.0 SITE DESCRIPTION

Lot 15 DP 713933 covers an area of 27.69ha and is located at the eastern end of Carmona Drive, South Forster. The site is bordered by Booti Booti National Park to the north, south and east and by rural residential development to the west. The site is largely cleared of native vegetation and is currently used for grazing. The sites topography spans a narrow valley between two coastal rises.

There is a single dwelling in the south-eastern corner of the site and sheds and yard located in the western half of the site. An unsealed road runs from the property entrance to the existing dwelling. A narrow strip of riparian vegetation runs along Dunns Creek in the southern part of the site and some remnant vegetation exists to the north and east. There are four dams on the site which feed into Dunns Creek. The Pacific Ocean is located approximately 300m to the east of the site.

3.0 PROPOSAL

The proposal is for approximately 21ha of the site to be subdivided into 27 house community title lots (Lots 2 to 28). Lot 1 is designated as community land. Approximately 6.7ha in the eastern section of the site (Lot 29 – the Eastern Corridor) is to be dedicated to the Minister for Environment for probable incorporation into Booti Booti National Park. It is also proposed that the applicant will fund revegetation works within the 'Saddle' which is part of the National Park. The revegetation works within the 'Saddle' are included in the Planning Agreement between Council, the Environmental Protection Authority and the proponent.

Proposed lot 27, which is currently developed with an existing dwelling, is to have an area of 16,850m². The remaining allotments to be subdivided have areas ranging from 3,302m² to 5,584m². The average allotment size is 3,859m². Open space, water courses, riparian buffers, roads, cycleway, fire trails and other community facilities are proposed to be contained in a 9.87ha community allotment.

The applicant has notified Council that the community subdivision is not to be a 'gated community'.

Subdivision Staging

It is proposed that the subdivision will be undertaken in the following four stages:

- Stage 1

Release of lot 27, which includes the existing residence and facilities, does not require the provision of any new services, or access to be constructed. Access to Lot 27 will be maintained along the existing internal road.

Stage 1 will also involve the release of lot 29, being the allotment to be transferred to the Minister for the Environment, in accordance with the Voluntary Planning Agreement.

- Stage 2

Construction of lots 2 to 12, associated services and the proposed road from the Carmona Drive entrance, to the boundary of lots 7 and 12.

Access to lot 27 during Stage 2 will continue along the eastern portion of the existing internal road.

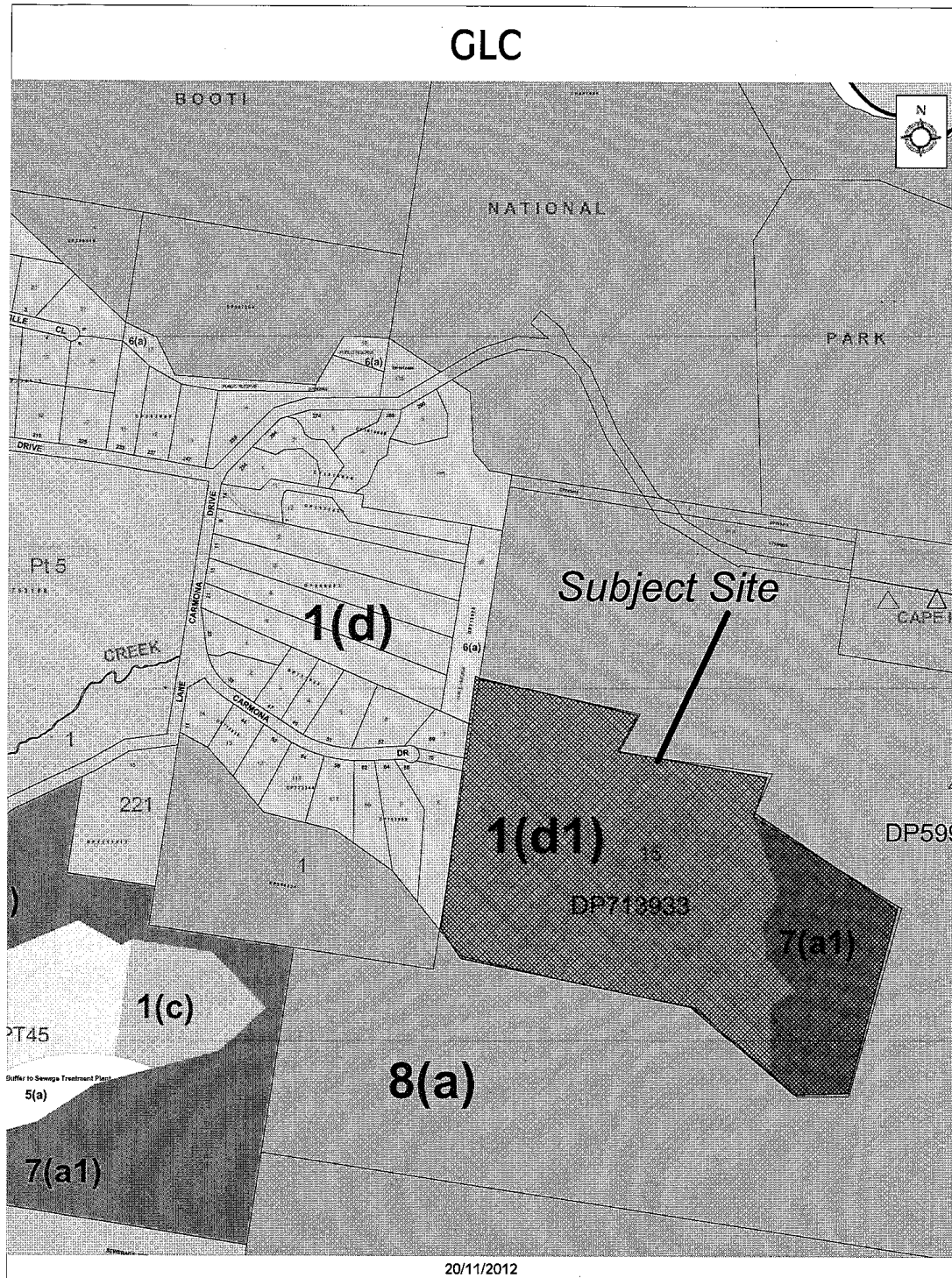
- Stage 3

Construction of lots 14 to 21, associated services and the proposed road from Lot 12 to lot 21.

- Stage 4

Construction of Lots 13, 22 to 26 and 28, associated services and the proposed road from lot 12 to lot 22. Community works within lot 1, such as the Council cycleway, landscaping and public recreation areas will be undertaken during Stage 4 as it will be more efficient to undertake these works following the completion of all other construction works.

Plans of the proposed development are contained in Annexure 'A' to this report.



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Figure 1: Subject site, Locality and Zoning

4.0 REPORT

The proposal is defined as 'integrated development' under Section 91 of the Environmental Planning and Assessment Act 1979 for the purpose of the Rural Fires Act 1997 and the Water Management Act 2000.

The applicant has identified the development as integrated development for the purpose of the Rural Fires Act 1997 but the application has not been identified as integrated development for the purpose of the Water Management Act 2000.

In accordance with legal advice,)that was attained in relation to whether an applicant must inform a council that a development is an Integrated Development, as defined in Section 91 of the Environmental Planning and Assessment Act 1979), the application was not treated as integrated development for the purpose of the Water Management Act 2000. Case cited in legal advice Land & Environment case *Maule v Liporoni & Anor* [2002] NSW LEC 25.

4.1 Section 79C – Matters for Consideration

The following matters listed under Section 79C of the Environmental Planning and Assessment Act, 1979, are relevant in considering this application:

The provisions of any environmental planning instrument; any draft environmental planning instrument that is or was on public exhibition and which have been notified to the consent authority; any DCP; any matters prescribed by the regulations, any coastal zone management plan that apply to the development application on the subject land.

4.1.1 Environmental Planning Instruments

State Environmental Planning Policy (State and Regional Development) 2011 (SEPP State and Regional Development)

SEPP State and Regional Development aims to identify classes of regional development to be determined by joint regional planning panels.

Clause 20 of SEPP State and Regional Development applies to development of a class or description included in Schedule 4A to the Environmental Planning and Assessment Act, 1979.

In accordance with Schedule 4A, Clause 9(c)(ii) subdivision of land for rural-residential purposes into more than 25 lots, if the land is wholly or partly in a sensitive coastal location, the Hunter Central Coast Joint Regional Planning Panel is the consent authority responsible for determining the application.

State Environmental Planning Policy No 26 – Littoral Rainforests (SEPP 26)

SEPP 26 aims to protect littoral rainforest areas by providing a mechanism for the consideration of applications for development that are likely to damage or destroy such areas.

There are no gazetted SEPP 26 littoral rainforests in relevant proximity to the development site. The nearest gazetted SEPP 26 littoral rainforest is some 300 metres upslope and away from the subject land in Booti Booti National Park, near the Cape Hawke Lookout.

There is modified Littoral Rainforest on parts of the riparian zones of the subject land, but these are not gazetted on SEPP 26 and are of demonstrably low condition and integrity. Such areas will be generally protected within the development layout and enhanced by riparian restoration efforts. Littoral Rainforest in the locality will be enhanced by the development via the targeted recruitment and conservation of areas of the “*Eastern Corridor*” and “*The Saddle*”.

No littoral rainforest, or vegetation within Booti Booti National park, will be damaged or destroyed by the proposed subdivision.

As such, no further provisions of SEPP 26 Littoral Rainforests apply to the subject land or the development proposal.

State Environmental Planning Policy No 44 – Koala Habitat Protection (SEPP 44)

SEPP 44 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline. An ecological assessment of the site has been undertaken and no evidence of koalas was identified within the development site. The holding was found not to contain potential koala habitat and therefore under the provisions of SEPP 44, no further assessment of core koala habitat or a koala plan of management is required.

Council’s Senior Ecologist has reviewed the proposal and concurs with the submitted ecological assessment.

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

The object of this Policy is to provide for a Statewide planning approach to the remediation of contaminated land. In particular, the Policy aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment, by specifying when consent is required, and when it is not required, for a remediation work. The Policy also specifies certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out a remediation work in particular, and by requiring that a remediation work meet certain standards and notification requirements.

A consent authority must not consent to the carrying out of any development on land unless:

- (a) it has considered whether the land is contaminated, and
- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

A preliminary contamination assessment of the site was undertaken in 2007. The assessment identified visible signs of contamination in the vicinity of an above ground diesel storage tank and a chemical storage area, both adjacent to the storage sheds in the middle of the site. The preliminary contamination assessment recommended that a detailed assessment and analysis would need to be undertaken prior to construction of any residences or other works that would involve excavation in these potential affected areas.

A condition requiring the submission of a contamination report, including methods of remediation, has been included in the recommendation to this report.

State Environmental Planning Policy No. 71 – Coastal Development (SEPP 71)

SEPP 71 applies to all land within the coastal zone as defined in the *Coastal Protection Act 1979* and accordingly applies to the subject site to the extent of requiring Council to consider the matters listed in Clause 8, 16 and 18 of the Policy. The site is also within a sensitive coastal location, ie: 100m from Booti Booti National Park. The proposal is considered to be consistent with the aims of the Policy and the matters for consideration under Clause 8 for the following reasons:

- The proposal does not impact on existing or potential public access to a coastal foreshore.
- The proposed subdivision is considered to have been designed to suit the site and surrounding development.
- The proposal will not impact on a coastal foreshore and is not visible from a coastal foreshore.
- Approximately 6.7ha in the eastern section of the site (Lot 29 – the Eastern Corridor) is to be dedicated to the Minister for Environment for probable incorporation into Booti Booti National Park. The eastern corridor dedication will provide conservation and native vegetation, protects the scenic qualities of the area and allows for the preservation of animals, plants and their habitats.
- Aboriginal cultural heritage and archaeological values of the site were surveyed and assessed as part of the development of the Local Environmental Study. One Potential Archaeological Deposit (PAD) was found, known as Booti Booti PAD 1 located on the northern bank of Dunns Creek within the site. This potential Aboriginal place will not be damaged during the proposed subdivision, as it will be fenced off and no planting will occur in that area. PAD 1 will be contained within the Community Lot to ensure it is properly managed and maintained in accordance with element 6.1 of Development Control Plan No 59. If further investigations determine that the PAD has no cultural heritage value, and this is confirmed in writing by the Office of Environment and Heritage, then the PAD may be developed for community purposes or as a public recreation area.
- The site is located in an area that will not be affected by flooding or erosion as a result of coastal processes, including the predicted impacts associated with climate change.

- The proposal will not conflict with water-based coastal activities.
- The inclusion of bio-retention stormwater treatment devices will ensure that stormwater run-off from the development site will not impact on the water quality of coastal waterbodies.
- The proposed development will not contribute to a detrimental cumulative impact on the environment.

Clause 16 of the Policy requires that consent cannot be granted to a development if the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform. An extensive stormwater quality treatment regime has been prepared for the site. Accordingly, Clause 16 is considered to be satisfied.

Clause 18 of the Policy requires that consent cannot be granted to a development for the subdivision of land within a residential zone, or a rural residential zone, if part or all of the land is in a sensitive coastal location unless the Minister has waived the need for a master plan to be adopted because of the nature of the development concerned, the adequacy of other planning controls that apply to the proposed development or for other such reasons as the Minister considers sufficient.

The Minister's delegate has waived the master plan requirement pursuant to Clause 18(2) of SEPP 71. The waiver was granted as the proposed subdivision is considered to be a development of minor nature and is generally consistent with the existing planning controls provided by Great Lakes Development Control Plan 59.

Great Lakes Local Environmental Plan 1996 (GLLEP 1996)

The site has two zonings Part 1(d1) Rural Residential and Part 7(a1) Environmental Protection Zone under the provisions of GLLEP 1996.

The objectives of the 1(d1) Rural Residential zone are:

- (a) To enable cluster rural residential development to be carried out on land which is suitable for that development, being development which is unlikely:
 - (i) to create a demand for the uneconomic provision of services; or
 - (ii) to prejudice the agricultural capability of prime agricultural land; or
 - (iii) to detract from the scenic or rural character of the area: or
 - (iv) to detract from the ecological or conservation values of the area, and
- (b) To enable other development where that development is:
 - (i) compatible with cluster rural residential development; and
 - (ii) unlikely to create an unreasonable demand for public services or substantially reduce existing levels of those services; and
 - (iii) unlikely to interfere unreasonably with the amenity of adjoining properties.

The proposed subdivision is located within the part of the site that is identified as 1(d1) Rural Residential and there are no works proposed within the area of the site identified as 7(a1) Environmental Protection zone.

Subdivisions are permissible with consent within the 1(d1) Rural Residential zone.

Clause 17(1) (3) and (5A) – Subdivision and Clause 34 of GLLEP1996 and is relative to the development.

Objective of Provision

To impose restrictions on the subdivision of land.

Subdivision

- (1) A person may subdivide land to which this plan applies but only with the consent of the Council.
- (3) The council may consent to the subdivision of land within Zone No 1(a), 1(c) 7(a), &a1), 7(b), 7(f1) and 7(f2) only if each allotment to be created will have an area of not less than 40 hectares.
- (5A) The Council may consent to the subdivision of land within Zone No. 1(d1) only if each allotment to be created will have an area of not less than 5000 square metres.

Clause 34 Development of Lot 15 DP 713933 at Carmona Drive, South Forster relates to the subject site.

- (1) This clause applies to land at Carmona Drive, South Forster, being part of Lot 15, DP 713933, as shown edged heavy red and coloured red on the map marked "Great Lakes Local Environmental Plan 1996 (Amendment No 52)".
- (2) Despite clause 17 (5A), the Council may grant development consent to the subdivision of land to which this clause applies to create lots of any size if:
 - (a) the subdivision will be carried out under the Community Land Development Act 1989, and
 - (b) the total number of lots proposed to be created for the purpose of a dwelling house will not exceed 27, and
 - (c) the Council is satisfied that the lots referred to in paragraph (b) will be compatible with the existing subdivision pattern of the surrounding area.

The proposed subdivision will be carried out under the Community Land Development Act 1989. In accordance with Clause 34 of GLLEP 1996 the proposed development is permissible. Note. The proposed development is for a 29 lot subdivision. The 29 allotments include one (1) community title lot and one (1) lot that is to be dedicated to the Minister for Environment. The proposed community title subdivision will create 27 lots for the purpose of a dwelling house in accordance with Clause34(2)(c).

The whole of the land zoned 7(a1) is for the purpose of dedication to the Minister for Environment for probable incorporation into Booti Booti National Park. The dedication is subject to a Voluntary Planning Agreement. The land zoned 7(a1) to be subdivided from the allotment, reflects the current zone boundaries and though under 40ha, does not require concurrence of the Director General, under the provisions of

State Environmental Planning Policy No 1, as the subdivision will not result in a reduction in the land area of the 7(a1) zone.

Clause 8(3) of GLLEP 1996 requires that Council take into consideration the aims of the plan and be satisfied that the proposed development is consistent with at least one or more objectives of the zone.

The proposal is considered to be consistent with the aims of GLLEP 1996 and to meet the objectives of the zone as it will not create a demand for the uneconomic provision of services; will not, subject to compliance with DCP 59, detract from the scenic or rural character of the area, or detract from the ecological or conservation values of the area.

4.1.2 Draft Environmental Planning Instruments

The proposed development was lodged prior to exhibition of Draft Great Lakes Lodal Environmental Plan 2013 (Draft LEP 2012).

When Draft LEP 2012 is gazetted the subject site will be zoned Part R5 Large Lot Residential and E2 Environmental Conservation.

As the land that is subject to the community title subdivision is proposed to be zoned (R5) Large Lot Residential, being an equivalent zone, under the proposed planning control it is considered that the development proposed by this application is reasonable.

4.1.3 Development Control Plans

Development Control Plan No. 59 – Lot 15 DP 713933, Carmona Drive (DCP 59)

DCP 59 applies to the subject site and includes all the land shown on Figure 1, bound by a bold outline ('the site') to the DCP. DCP 59 applies to all development within the area to which the DCP applies. DCP 59 does not apply to the land to the east of the site within Booti Booti National Park, including the area know as "The Saddle" and land to be transferred to the Department of Environment and Climate Change and Water (DECCW) for addition to Booti Booti National Park.

DCP 59 aims to implement the planning, ecological, water cycle, aesthetic, environmental and development principles, strategies and controls proposed by the following documents:

- Local Environmental Study, Draft Local Environmental Plan, Desired Future Character and Design Guidelines Lot 15 DP 713933 Carmona Drive, South Forster, dated September 2007, prepared by Umwelt Environmental Consultants (Umwelt, 2007).
- Submission to Great Lakes Shire Council, Response to Public Exhibition of Draft Local Environmental Study, Lot 15 DP 713933 Carmona Drive, South Forster, Prepared by Chris Power Environmental Planning (CPEP, 2008).

Element 1.5 of DCP 59 provides for departures from the DCP where the applicant can demonstrate:

- That the nominated Development and Design Controls are unreasonable or unnecessary in the circumstances of the case; and

- How the proposed alternative solution or design approach will deliver an outcome that is consistent with the relevant Element Objectives and with the desired future character as described in Section 2.2.

The applicant has requested the following variations to the DCP:

Development Control 3.1 Community title subdivision.

"A Community Management Statement consistent with the requirements of Chapter 7 of DCP 59 will accompany any application for subdivision so as to ensure the ongoing management and maintenance of facilities."

A Community Management Statement (CMS) was lodged with the development application. The CMS is consistent with the requirements of Chapter 7 apart from Element 10 in relation to the 'keeping of animals'.

The CMS Part 4 Optional Matters suggests that the keeping of animals may occur with the proposed subdivision under certain condition/circumstances.

Council Officer Comment

National Park adjoins the northern, southern and eastern boundaries of the site. The restriction on the keeping of cats and dogs is well founded and was, in fact, a key recommendation of the Local Environmental Study for the land. The proponent's consultants actually supported the proposal at the time and advised that the restriction would be included in the CMS.

Whilst the measures proposed by the applicant may contribute to the management of pets, the success of the restriction is dependent on the vigilance of the community association and the willingness of the association to enforce the rules. This cannot be guaranteed and it is still likely that pets, especially cats, would roam thus exposing fauna to predation.

The requested departure is not supported.

Development Control 3.1 Community title subdivision.

"The subdivision design will define an area within the site, to be agreed with MidCoast Water, for future provision of a recycled water reservoir. That area may be excised and transferred to MidCoast Water."

Council Officer Comment

MidCoast Water has advised Council, that they are no longer pursuing a water reservoir site within the Carmona Drive subdivision. Accordingly, there is no requirement for the provision of a recycled reservoir to be defined on the subdivision plan.

Development Control 3.3 Subdivision design

"A building envelope must be designated for each lot within the proposed subdivision plan. The size and location of the building envelopes should be substantially in accordance with the principles illustrated in the

concept Masterplan, with a maximum building envelope of 800m² per lot. Any variance from these principles must be justified in relation to visual impacts, based on 3 Dimensional visual modeling techniques approved by Council. Building envelopes are to be located so that Level 2 or lower bush fire construction standards apply for the construction of most dwellings."

The proposed building envelope size and location have been slightly modified to those presented in the DCP Concept Master Plan. The modifications have occurred to ensure that the proposed buildings are outside of the Asset Protection Zones specified for the site. Element 3.14 of DCP 59 specifies that any variation to the building envelopes illustrated in the concept Master Plan will require visual modeling. Visual modeling was undertaken and provided with the development application.

Council Officer Comment

These minor modifications are considered acceptable. The subdivision layout is conceptually consistent with DCP 59 in relation to size and location of allotments and will have no greater environmental impact than the layout in the DCP.

Development Control 3.11 Pedestrian and Cycle Paths

"Pedestrian and cycle paths must be located and constructed in consultation with Council, generally in accordance with the principles illustrated in the concept Masterplan."

The concept master plan details a public cycle/pedestrian path that runs from the access to the site in a west east direction across the full length of the subject site. The masterplan also includes cycle/pedestrian paths in various other locations within the site.

The applicant has requested that this control be varied by requiring only the public cycle/pedestrian path that runs from the access to the site in a west east direction across the full length of the subject site and that there be no requirement to provide other cycle/pedestrian paths as detailed on the masterplan.

The applicant has noted that the location of the land is unlikely to generate a high level of pedestrian or cyclist usage and that the costs associated with constructing all the paths is unjustified.

Council Officer Comment

The applicant's comments in relation to there not being a high level of pedestrian or cyclist usage is not supported, as the intention is for the land to be accessible to the general public rather than the future residents. Notwithstanding this, the construction of the main path nominated on the DCP through the middle of the land is considered adequate. The plan detailing the proposed land ownership shows that the cycleway is to be public reserve with cycleway, which will be open for general public use.

Development Control 3.12 Public Reserves and Facilities

"Pedestrian and cycle paths, together with passive 'rest parks' must be constructed, generally consistent with the principles illustrated in the concept Masterplan, linking Carmona Drive to the eastern boundary of the site. They are to be owned by the community association but are to be open to the public and may be maintained by Council, with Council's agreement. Appropriate easements are to be created in favour of Council and the community over the pedestrian and cycle paths, together with the passive 'rest parks', alternatively, these areas may be dedicated to Council, with Council's agreement."

Council Officer Comment

The applicant has requested that the pedestrian and cycle path, together with the passive 'rest parks' be dedicated to Council. Council has discussed this option and requested the applicant to provide the terms of such dedication. The applicant has not provided Council with any terms, and as such Council proposes that the pedestrian and cycle paths and the passive rest parks, be owned and maintained by the Community Association. They are to be open to the public and the community management statement is to provide for public access including ongoing maintenance, by the Community Association.

Development Control Plan No. 31 – Subdivision (DCP31)

The Plan is recognised as a guideline to be used when designing subdivisions and preparing a development application. Furthermore, if Council is satisfied that sufficient justification has been provided with an application that the development meets the objectives, controls and design principles that relate to a particular standard in the document, then a departure from the numerical standards may be accepted.

The relevant aims and objectives of the DCP are:-

- Protect and enhance the environment;
- Protect the amenity of existing development by ensuring a high standard of design and construction in new subdivisions;
- Provide an appropriate level of amenity for existing residential areas;

The proposed subdivision complies with the relevant general requirements of DCP 31 with the exception of the following areas of non compliance:

- Clause 3.2 *"Staggering of allotments and extensive use of landscaping are encouraged to reduce adverse wind impact and achieve maximum exposure to cooling breezes in summer, and create streetscape variety and interest."*

The applicant advised that the siting of allotment has been carried out in accordance with the requirements of DCP 59 to minimize visual impacts.

Council Officer comment

The proposed subdivision layout is considered acceptable and the intent of the measure of DCP 31 is considered to be achieved, given the constraints of compliance with DCP 59 in terms of visual impacts.

- Clause 3.3 - Allotment dimensions

"Minimum site street-frontage width: 12.6m, except for battleaxe allotments"

The applicant has advised that some allotments are below the street frontage width due to an attempt to minimize street lengths and the rural residential nature of the site.

Council Officer comment

The allotments that do not comply with the 12.6m street frontage width are located at the end of cul-de-sacs. There are three allotments in this situation on the plan. The minimum allotment width of 12.6m is to avoid the possibility of a cluttered appearance of driveways and housing. The variation is considered acceptable given that the proposal is a community title subdivision and the allotments have areas of over 3000m². Adequate access to the allotments has been achieved.

- Clause 3.6 – Public Open Space
- *"Land for open space must have the following attributes:*
 - *It relates to other public open space or future open space with which it can be readily consolidated*
 - *It is generally flat*
 - *It is free of drainage functions if these conflict with its intended purpose*
 - *It is free from debris; and*
 - *It is provided with legal and practical access to road, electricity and reticulated water."*

Council Officer comment

The site is surrounded by National Park – the public open space provides a pedestrian and cycle link to the National Park at the eastern end of the site. This element of DCP 31 is considered to be satisfactorily addressed and the intent of the measure is considered to be achieved.

- Clause 5.5 Physical features

"Allotment Boundaries should not follow water courses."

The applicant advised that drainage lines and Dunns Creek are substantial features of the site and allotment boundaries do in some cases follow these. In most cases allotment boundaries do not follow these site features.

Council Officer comment:

Appropriate measures have been included in DCP 59 for the treatment of these features. See comments under DCP 59.

Concept Master Plan

DCP 59 concept master plan details a number of bridges for creek crossings. Bridges were considered preferable over culverts to facilitate crossing by fauna within the ecological corridors. The costs associated with constructing bridges over the minor drainage lines on site are considered excessive and would reduce the affordability of the residential lots for no benefit. Further, fauna friendly culverts which provide a dry ledge within the culvert for fauna to use for crossing are available. Culverts also provide suitable roosting habitat for microbats which would be of benefit to local threatened microbat species.

Council Officer comment:

Council's Senior Ecologist has considered this request and is satisfied that culverts can be built in a manner that facilitates native wildlife movements, provided that such culverts are of appropriate design and specification. Appropriate conditions in relation to culvert design, suitable for the conveyance of native wildlife through the landscape, have been included in the recommendation to this report.

4.1.4 Matters prescribed by the Regulations

NSW Coastal Policy 1997

The Coastal Policy applies to the coastal zone as defined in the Coastal Protection Act and is a 'prescribed matter' under Section 79C(1)(a)(iv) of the EP & A Act. The Coastal Policy contains a detailed range of objectives and strategic actions for coastal zone planning and management, although there are no specific provisions that would apply to the proposal. The development is considered to be consistent with the principles of the Policy for the following reasons:

- The proposed development will result in the conservation and ongoing management (via a Voluntary Planning Agreement) of 6.7ha of land, affording greater connectivity between areas of Booti Booti National Park.
- The proposed development will result in the re-establishment of a primary vegetation corridor at the eastern extent of the land, affording greater connectivity between areas of Booti Booti National Park.
- The proposed development takes into consideration the value of natural systems for the treatment of stormwater to reduce the impacts of the stormwater on the surrounding natural environment.
- The proposed development takes into consideration and appropriate treatment of an area where there may be an Aboriginal Potential Archaeological Deposit.

Coastal Design Guidelines for NSW

The NSW Coastal Design Guidelines compliments the Coastal Policy and SEPP 71 and is based on the principle of ecologically sustainable development. The Guidelines aim to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW. The Guidelines set out detailed 'Desired Future Character' statements for various categories of

settlement ranging from hamlets to cities. The proposal is considered to be consistent with the 'desired future character' guidelines for coastal towns as it accommodates growth predominantly within the towns boundaries without compromising ecosystem functions and biodiversity values.

Mid North Coast Regional Strategy

The proposed subdivision is considered to be consistent with the relevant aims and planning principles of the Mid North Coast Regional Strategy for the following reason:

- The subject site is described in the *Forster-Tuncurry Conservation & Development Strategy* (Great Lakes Council 2003) as being "*potentially suitable for a low-density development*" subject to the site's suitability and assessment of impact on environmental features within and adjoining the site. The site's suitability was assessed in the Local Environmental Study (Umwelt 2007) carried out for the rezoning of the land. The LES concluded that low-density development was considered to be consistent with the strategy and the site was rezoned for this use and a site specific DCP was prepared.

Section 94 Contributions

Forster District Section 94 contributions are applicable to the proposed community title subdivision.

4.1.5 The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality

Context and Setting

The proposed subdivision was subject to a Local Environmental Plan amendment and a site specific Development Control Plan.

The proposed development is considered satisfactory having regard to the site's context and location and compliance with the site specific DCP.

Site Design and Internal Layout

The design of the development is considered to relate positively with the environmental conditions and the site attributes. The layout of the subdivision is considered functional, providing future occupants with a reasonable level of residential amenity.

Views

The proposal will not create an unreasonable impact on views or outlooks.

Privacy Aural

Element 7 'Community Management Statement' (CMS) of DCP 59 No. 11 specifies the requirements for the management of night-time noise from the development and requires that measures to manage night time noise are included in the CMS. Part 4 Section 2 of the CMS discusses noise control. It is considered that the requirements of the CMS on landholders, not to exceed certain noise levels from their properties will provide aural privacy from the proposed subdivision site, to adjoining properties.

Visual Impact

The proposed subdivision is not considered to create an undesirable visual impact. The subdivision must be carried out in accordance with DCP No 59. DCP 59 requires that the subdivision design includes provision for planting, retention and maintenance in perpetuity of screen planting between the site and the existing rural residential development in Carmona Drive, and within and between the lots in the development. The screen planting is to be consistent with the Vegetation and Habitat Management Plan approved pursuant to element 5.1 of the DCP.

DCP 59 requires that the screen plantings be carried out during the subdivision stage, to ensure that future structures are screened by established plantings.

Access, Transport and Traffic

Access to the proposed development is from Carmona Drive which is bitumen seal with gravel shoulders. The application proposes extension of Carmona Drive as well as construction of internal road access to the proposed lots. The required road formation widths shall be 6metre bitumen seal with 1metre gravel shoulders in accordance with all previous rural residential subdivisions. It is noted that the preliminary civil plans indicate a 5.5metre wide formation with concrete edge strips. The strategy adopted by the applicant for the 5.5m wide formation is from Council's Design Specification for urban development with a lot yield of 30 lots maximum, despite preliminary meetings with the civil designers advising that a 6metre bitumen seal formation applies to rural residential development. Provided the formation width is increased to a 6 metre bitumen formation with concrete edge strips, there are no objections to removal of gravel shoulders.

The proposed roads shall form part of the community lot and will not be dedicated to Council.

Utilities

Water, sewer, electricity and telecommunications are available to the site.

Drainage

Stormwater runoff is to be directed to water quality treatment devices, then to natural waterways.

Soils

The site's topography spans a narrow valley between two coastal rises. DCP No 59 considers that the geotechnical investigations undertaken as part of the LES process are satisfactory for the rezoning and subdivision stages.

A condition has been included in the recommendation to this report requiring a classification of the soil type, by a qualified professional geotechnical engineer, to be submitted to the certifying authority.

Flora and Fauna

The application was referred to Council's Natural Systems Section who have concluded as follows:

The Development Application can be positively determined in respect to ecological issues. It is recommended that a number of conditions of consent be adopted. Amongst a range of conditions that are required, specific conditions are required to prohibit and exclude cats and dogs (other than Assistance Animals) and ensure that landscaping and revegetation works are appropriately scheduled and completed. Ecological conditions have been included in the recommendation to this report. A full copy of the ecological report is contained in Annexure "B" to this report.

Flooding and Climate Change

The development site is above the 1% flood height. The site is not affected by climate change.

Bushfire

The site is mapped as bushfire prone and the application was referred to the NSW Rural Fire Service in accordance with the provisions of Section 100B of the EP & A Act, 1979. The NSW Rural Fire Service have raised no objection to the proposal subject to the imposition of conditions that have been included in the recommendation to this report.

Water Quality

The application was referred to Council's Natural Systems Section a copy of the report is as follows: Conditions have been imposed for water quality and have been included in the recommendation to this report.

"Water Quality Objective

The proposed development is situated within the Pipers Bay sub catchment of Wallis Lake. The water quality objective that applies to the site (great Lakes Water Quality Improvement Plan, 2009 and WSD DCP 54) is the neutral or beneficial effect. That is minimum no increase in pollutants above background levels.

Proposed Water Quality Treatment

A modified Stormwater Management Concept (5/2/2008) has been prepared for the site as part of the rezoning proposal. This strategy recommends the following treatment train for the development to achieve the water quality objectives:

1. *Lot scale measures*
 - *Minimum 15KL rainwater tanks provided for each individual dwelling collecting all roof water for reuse in toilets, laundry, hot water and landscaping.*
 - *15 m2 of raingarden (bioretention) on each residential lot to manage overflow from rainwater tanks and runoff from other ground level paved surfaces.*
 - *Permeable paving utilised for internal access roads and private driveways.*
 - *Native vegetation landscaping of 30% for each residential lot.*
2. *Street Scale measures*
 - *Bioretention swales and basins in a number of road side locations.*
3. *Catchment scale measure*
 - *Rehabilitated minor watercourses with 10 m wide riparian buffer each side of the watercourse.*
 - *Riparian zone protection for Dunns Creek. The report considered that the riparian zone would be classified as category 3 requiring a minimum 10m vegetated riparian zone each side of the stream.*
 - *Constructed wetlands by modification of the western most dam to provide for a constructed wetland for 30% of the surface area.*

Water quality management issues

In assessing the development application and considering the sensitivity of the catchment, BMT WBM was engaged to undertake a peer review of the MUSIC model prepared by King and Campbell and the information contained in the Statement of Environmental Effects. The company engaged to peer review the applicants water quality report was the principal author of DCP 54 Water Sensitive Development and has undertaken peer review for other developments for Great Lakes Council and also the Department of Planning and Infrastructure for the Riverside development at Tea Gardens.

1. Inconsistency between DCP 59 and DCP 54.

DCP 59 for Lot 15 DP713933 Carmona Drive was adopted by Council on the 8th March 2011. Water Sensitive Development DCP 54 (WSD DCP 54) was adopted by Council in December 2011. There is an inconsistency

in relation to on-lot treatment. DCP 59 states that:

“A minimum area of 15m² of Rain Garden must be provided for each dwelling house on the site, and maintained in perpetuity. Rain gardens utilise vegetation and filter media to treat water, to reduce pollution loadings, to contribute to improvement of run-off quality and to reduce run-off volume”.

Concerns regarding the practicality of fragmentation of stormwater management over potentially many owners and the long term effectiveness and maintenance of treatment measures has resulted in DCP 54 stating that “On lot treatments (apart from rainwater tanks) are to be avoided due to uncertainty around long term maintenance of WSD on private property”.

The development involves the establishment of 26 new lots and therefore according to the Modified Stormwater Management Concept (5/2/2008) it will include 26 on lot raingardens to treat tank overflow and hardstand runoff. This means construction and ongoing maintenance of the raingardens will be devolved to 26 landowners. There are a range of deficiencies with this approach including; mechanism for ensuring the treatment facility is actually installed and installed to design standards, capacity and skills of each landowners to maintain and future compliance with maintenance standards distributed over 26 separate treatment measures. An advantage of fragmenting the responsibility of water quality management to each lot is that if a system fails the whole stormwater treatment is not compromised. However the substantial risks that fragmentation amongst multiple owners poses and the limited ability to ensure adherence to construction specifications and maintenance standards means street scale or community scale facilities are preferred. In addition several community scale raingardens are likely to result in savings for the developer and residents.

The requirement of DCP 59 to have a raingarden on each lot was considered an acceptable proposal during the rezoning process within the Stormwater Management Concept and then within DCP 59 as the subdivision was proposed as a community title subdivision, is rural residential with adequate space to site the raingarden on each lot and the scale was restricted to 26 new lots. Whilst lot scale raingardens would not be accepted with DCP 54, it is considered that DCP 59 would have precedence over DCP 54 given the accepted body of work undertaken in developing a stormwater quality solution as part of the Stormwater Management Concept (5/2/2008) provided it is implemented in full. In this regard it is a deficiency of the development application that the proponent has not provided details of the mechanism to ensure that on lot raingardens will be installed on each lot consistent with design standards. In addition the requirement for maintenance of raingardens has not received any mention within the Draft Community Management Statement. It is essential that adequate mechanisms are provided to ensure the

Modified Stormwater Management Concept is implemented in full as intended.

Recommended Outcome

Condition requiring preparation of a suitable legal mechanism for ensuring that each lot has a raingarden installed is consistent with current design standards.

The draft community Management Statement is to be amended to provide for the maintenance of each on-lot raingarden.

2. Water Sensitive Development Strategy

DCP 54 requires the preparation of a water sensitive design strategy. As discussed above a Modified Stormwater Management Concept was prepared in 2008. The 2008 Modified Stormwater Management Concept substantially provides much of the detail required for the WSDS with the exception MUSIC modeling, Cost implications and operation and maintenance plan. MUSIC modeling has since been provided as part of the SEE. This has been peer reviewed by BMT WBM. The preparation of a operation and maintenance plan is important to ensuring the expected water quality outcomes are achieved. A key issue as highlighted in issue 1 above is the need to ensure that the raingardens are installed and installed as per design specifications and that they are maintained by individual lot owners for the life of the development.

Recommended Outcome

Condition requiring preparation of an amended Water Sensitive Development Strategy to include operational and maintenance costs estimates and an operation and maintenance plan detailing requirements and mechanism to ensure proposed measures remain effective.

3. Deterioration of water quality in western most dam and scenario of net exporter of nutrients.

The Modified Stormwater Management Concept (5/2/2008) proposed a re-profiling and modification of the western most farm dam to provide a 30% of the surface area as a constructed wetland. This has not been included in the information submitted as part of the development application despite DCP 59 also calling it up as a requirement; "The most western dam within the site may be modified (approximately 30% of the surface area) to incorporate a constructed wetland as specified in the Stormwater Management Report Dated 05/02/08 prepared by BMT WBM, contained in CPEP (2008)". Council engaged BMT WBM to undertake a peer review of the MUSIC Model and stormwater quality treatment train. The peer reviewer advises that "when looking at the mean annual loads of the pond itself, MUSIC is predicting that it will be a net exporter of nutrients, so it's likely that the water quality in the dam will still deteriorate and be a

problem in the future, even without doing further modeling". The applicant has provided no details of the existing water quality conditions of this farm dam. A risk management approach taking into consideration the comments of the peer reviewer strongly suggests that there is not adequate justification for departure from the Modified Stormwater Management Concept (2008). In order to ensure the long term sustainability of the development, water quality management outcomes and avoid the likelihood of significant maintenance burden and liability on the future owners it is necessary to maintain the original recommendation to rehabilitate approximately 30% of the surface area of the most western farm dam to achieve nutrient management and avoid future deterioration of pond water quality.

The MUSIC modeling undertaken as part of the development application differs in terms of the input parameters used for modeling the pre existing pollutant export scenario when compared to that used by BMT WBM in the Modified Stormwater Management Concept (2008). BMT WBM used parameters consistent with the nutrient export expected from a rural grazing land use. That is the cleared areas of the site were simulated as a rural land use consistent with the current land use. The recent modeling by King and Campbell (2012) uses an agriculture simulation. This parameter in MUSIC assumes more intensive agriculture and ground disturbance through ploughing/cropping. It is most unlikely that the site is operating as an agricultural area and is more akin to a large rural residential land use including house and grazing cows. The input parameters for the MUSIC model were agreed during the water quality modeling work undertaken as part of the rezoning i.e the Modified Stormwater Management Concept. The end result is that MUSIC model provided by King and Campbell is considered to overstate the pre existing pollutant (N,P and TSS) generation from the site. If a rural residential or rural land use was simulated instead of agriculture as was the case with the 2008 modeling, then the treatment train proposed now would fail the water quality objective. The development application does not provide justification for an alternate simulation of the existing conditions. It should also be noted that other rezoning proposals for multiple sites in Forster, Tuncurry and Tea Gardens with a similar pre existing land use have simulated the site in MUSIC as a rural (grazing) land use not agriculture. Almost all of these models have been the subject of peer reviewed and no cases has an agriculture land use been considered as appropriate. It is considered essential that the western farm dam is rehabilitated to include a constructed wetland area as originally proposed so that the water quality objectives are achieved.

Recommended outcome

Consent condition requiring the implementation of the Modified Stormwater Management Concept in full including the modification of approximately 30% of the surface area of the western most dam to incorporate a constructed wetland."

Cumulative Impacts

The proposal, subject to the recommended conditions, is considered to be satisfactory having regard to the potential to create or contribute to undesirable cumulative impacts.

4.1.6 The Suitability of Site for the Development

The site has undergone a rezone to allow the type of subdivision proposed by this development application. The rezone included a comprehensive assessment of the site, which included an assessment of the suitability of the site, for the proposed development. The site is the subject of Development Control Plan No. 59 which aims to implement the planning, ecological, water cycle, aesthetic, environmental and development principles, strategies and controls.

The site is considered to be suitable for the development subject to the conditions included in this report.

4.1.7 Any Submissions Made in Accordance with the Act or Regulations

The application was notified to adjoining owners in accordance with Council's Policy and six (6) submissions were received. The submissions referred to the following issues:-

- The request to allow cats and dogs for owners.
- Not including the pedestrian and cycle pathways.
- Not having bridges over creeks.
- No water reservoir;.
- Postpone the only part of the cycleway it still has on the plan to Stage 4.
- Provision of street lighting to the subdivision.

Council Officer Comment:

- The request to allow cats and dogs for owners was a crucial element in the rezoning of the land and was included as a restriction on the land in DCP 59. The restriction on the keeping of cats and dogs is well founded and was a key recommendation of the Local Environmental Study for the land. The applicant's request to depart from this element of the DCP is not supported.
- It is acknowledged that the applicant has requested that the second cycle/pedestrian path as detailed on the DCP concept Master Plan, not be provided for the subdivision. It is proposed to provide one main cycle/pedestrian path through the subdivision that will connect with the National Park at the eastern end of the site. As discussed in this report, it is considered that the provision of one main cycle/pedestrian path, including public reserve, meets the intent of the DCP and is acceptable.
- Council's Senior Ecologist has considered this issue and is satisfied that culverts can be designed and built in a manner that facilitates native wildlife

movements, provided that such culverts are of appropriate design and specifications. Conditions of consent can be applied to ensure that any culverts designed and utilised in the subdivision are suitable for the conveyance of native wildlife through the landscape.

- The provision of a reservoir was a requirement of the local water authority (MidCoast Water). MidCoast Water have notified Council that they no longer require a water reservoir to be provided to the subdivision.
- The applicant has requested that the subdivision be Staged in four (4) stages out outlined in the report.

It is acknowledged that some of the elements of the proposed subdivision will not be provided until stage four (4) of the subdivision has been implemented. Stage one (1) of the subdivision will subdivide proposed Lot 27 (where the existing house is located) from the land to be dedicated to the Minister for the Environment and from the residue allotment that will form the remainder of the subdivision, including roads etc. This stage of the development, in terms of services and access, does not alter the current situation.

The applicant will supply all of the elements of the subdivision at Stage four (4) the stage that will complete the whole of the proposal. The applicant argues that it will be more efficient to undertake the provision of the cycleway, landscaping and public recreation areas at this stage. It is normal practice for a developer with a subdivision of this size to stage the release of the subdivision. Staging the release of the subdivision enables sales for each stage to aid in the financing of subsequent stages.

- The provision of street lighting is contained in Element 3.13.1 of DCP 59. The controls of element 3.13.1 require that a lighting plan must accompany any application for subdivision approval. The lighting plan must indicate the location of public lighting (including intensity) and be consistent with the approved lighting policy prepared pursuant to Element 3.13.2 'Lighting Design for Ecological Compatibility' and element 3.13.3 'Lighting Design for Rural Character'. A lighting plan, developed with input from an Environmental Scientist, was submitted with the development application addressing the criteria of the DCP.

4.1.8 The Public Interest

The subdivision has been designed generally in accordance with DCP 59. A key component of the proposed rezoning was the implementation of a development/conservation offset whereby the land was zoned 7(a1) Environmental Protection (about 6.7 ha) was to be revegetated and dedicated to the adjoining Booti Booti National Park. The dedication of the land has a positive public benefit.

The subdivision when finalised will provide public access via pedestrian cycleway and paths to the National Park. This access is not currently available.

The public interest has been considered throughout the assessment of this application and it is considered that the approval of this application is not against the public interest.

5.0 CONCLUSION

The application proposes a 29 lot community title subdivision. The proposal is consistent with the objectives of the 1(d1) zone and has been designed in accordance with the site specific DCP. The proposal includes the whole of the area zoned 7(a1) to be excised and transferred to the ownership of the NSW Office of Environment and Heritage for revegetation and gazettal, as an extension to Booti Booti National Park, including a period of ongoing management. The transfer is subject to a Voluntary Planning Agreement.

It is considered that the proposal results in a significant and positive net gain of conserved Littoral Rainforest in the locality through conservation and revegetation initiatives. The ecological impacts and risks of subdivision of the land has been examined through the rezoning process and specifically by Umwelt (2007). The subdivision layout that is proposed is not significantly different from that of the Concept Masterplan of DCP No. 59 and does not unreasonably worsen the ecological impacts and risks assessed within the Umwelt (2007) report. This report clearly considered the range of ecological impacts associated with rural residential development on the land and were satisfied that impacts were statutorily-appropriate and not significant or unreasonable.

The proposal is considered to be suitable for the site, the locality and maintains a reasonable relationship with neighbouring developments. Accordingly, the application is supported subject to conditions.

6.0 RECOMMENDATION

That the application for 29 Lot Community Title Subdivision at Lot 15 DP 713933, 70 Carmona Drive, Forster be approved subject to the following conditions:

GENERAL CONDITIONS

1. Development in accordance with approved plans

The development must be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan type/Supporting Document	Plan No. & version	Prepared by	Dated
Proposed land ownership details	5366E_Exhibits Revision A	King & Campbell Pty Ltd	10.10.2012
Road Access Plan	5366E_Exhibits Revision C	King & Campbell Pty Ltd	25.10.2012

Staging	5366E_Exhibits Revision A	King & Campbell Pty Ltd	01.02.2012
Landscaping Concept Plan	5366E_Exhibits	King & Campbell Pty Ltd	01.02.2012

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

Reason: Information and to ensure compliance.

2. Separate application required for demolition

A separate development application must be submitted to, and approved by, Council prior to the demolition of any existing structures, unless permitted as exempt development.

Reason: To ensure compliance with legislation.

3. Speed limits to be applied to the Internal Roads

A speed limit of not greater than 20km/h shall be maintained on all internal roads. Notices advertising the speed limit and wildlife crossing caution signs on internal roads are to be erected to the satisfaction of Great Lakes Council.

Reason: To protect and preserve hollow-bearing trees on the subject land.

4. Adjustment to utility services

All adjustments to existing utility services made necessary by the development are to be undertaken at no cost to Council.

Reason: To ensure utility services are remain in serviceable operation.

PRIOR TO THE ISSUE OF A SUBDIVISION CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the issue of any subdivision construction certificate

5. Engineering construction plans

Prior to the issue of a subdivision construction certificate, engineering construction plans and specifications must be submitted to and approved by the certifying authority. The plans must include details of the works listed in the table below in accordance with Council's current design and construction manuals and specifications. All works must include the adjustment and/or relocation of services as necessary to the requirements of the appropriate service authorities.

Required work	Specification of work
Full width road construction	Full width road and drainage construction for all proposed roads on the approved plan. Minimum pavement formation width 6m bitumen sealed with concrete edge strips. Provision of a temporary turning head for stages 2 & 3.
Footpath/cycleway construction	A 2.0 metre wide concrete footpath/cycleway for all proposed pathways identified on the approved plan. Such pathways/cycleways shall be able to be access by the public at all times.
Access handle	A 4 metre wide reinforced concrete driveway, together with all necessary services/service conduits within the access handle of proposed Lots 14 & 15 and 18 & 22.
Service conduits	Service conduits to each of the proposed new allotments laid in strict accordance with the service authorities' requirements.
Inter-allotment drainage	An inter-allotment drainage system to an approved drainage system for each of the proposed new lots where it is not possible to provide a gravity connection for stormwater runoff from future development on the lot to the street drainage.
Culverts required across drainage channels or streams	The culvert must be designed to ensure that peak flow rates for the 1% AEP storm event are not affected.
Access to stormwater structures	A bitumen vehicle access must provided to detention ponds, drainage discharge points, filter controls and wetland areas for access for maintenance purposes.
All weather fire trail surrounding the development and linking with Carmona Drive.	The access is to be in accordance with the NSW Rural Fire Service document Planning for Bushfire Protection 2006 4.1.3. (3)
Electricity	Electricity supply to service the development shall be placed underground and in accordance with Clause 3.13 Lighting Management of DCP 59.

Reason: To ensure works within are constructed to a suitable standard for public safety.

6. Details of the Culvert Structures proposed in the Development to be submitted to Great Lakes Council

Prior to the issuing of the first Subdivision Construction Certificate, the Registered Proprietor of the subject land shall engage a Civil Engineer and an Ecologist to provide to Great Lakes Council for review and approval, details and

specifications of the Culverts that are to be established in the development and the means with which native wildlife movements would be facilitated.

Reason: To ensure that the proposed culverts are of a size, configuration and design that facilitates the movement of native wildlife.

7. Water Quality

Prior to the issue of the first subdivision construction certificate the applicant revise the proposed water quality treatment train to include modification of the most western farm dam to a wetland of approximately 30% of the surface area of pond consistent with that modelled and proposed in the Modified Stormwater Management Concept (2008). Details of the constructed wetland are to be provided within a modified Vegetation and Habitat Management Plan to the satisfaction of Council and consistent with that proposed in the Modified Stormwater Management Concept (2008)

Reason: The most western farm dam will deteriorate and be a problem in the future creating long term undesirable maintenance burden for the Community Association and expectations on Council to assist. Based on mean annual loads of the pond itself, MUSIC is predicting that the dam will be a net exporter of nutrients. The available science does not support the exclusion of the constructed wetland from the original Stormwater Management Concept.

8. Water Quality

Engineering details of the stormwater treatment system (bio-retention, grassed swales, constructed wetland within the western most farm dam) required to achieve the Neutral or Beneficial Effect(NorBE) as proposed and modelled in the Modified Stormwater Management Concept (2008) for the development are to be submitted to Council and approved prior to the issue of the Subdivision Construction Certificate for stage 2 of the development. The bio-retention systems are to be designed consistent with the guidelines Water by Design (2006) Water Sensitive Urban Design - Technical Design Guidelines for South East Queensland.

Reason: To ensure designs are consistent with current practice and that water quality management systems functions as proposed.

9. Water Quality

All raingardens or bio-retention filters shall:

- a. have filter media of uniform sandy loam texture and be consistent with Adoption guidelines for stormwater bio-filtration systems, Facility for Advancing Water Bio- filtration, (Monash University, June 2009).
- b. have filter media placed with minimal compaction to achieve a consistent density throughout.

- c. be planted with *Carex appressa* and/or other native plant species that have confirmed performance characteristics in the removal of nitrogen and tolerance of a range of moisture conditions. These are to be planted at a minimum density of 10 living plants/ m².

Reason: To ensure bioretention systems are constructed and installed as per design standards and function as modelled.

10. Water Quality

All components of the stormwater quality treatment systems shall be maintained for the life of the development.

Reason: To ensure ongoing functioning of the stormwater system as per modelled and approved.

11. Water Quality

Prior to the issue of the subdivision construction certificate for stage 2 of the development, a Water Sensitive Development Strategy using the Modified Stormwater Management Concept but including an operational and maintenance plan and life cycle costing of stormwater management measures must be submitted to and approved by Council.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that achieves the required water quality objectives for the life of the development.

12. Water Quality

Prior to the issue of the subdivision construction certificate for stage 2 of the development, a final Community Management Statement will be submitted to Council for approval and shall contain details of accompanying legal measures to:

- a. Ensure that a 15m² raingarden is installed on each of the 26 residential allotments consistent with approved design criteria;
- b. Ensure that each on lot raingarden is maintained by the respective owner for the life of the development.

Reason: To ensure on each lot a raingarden is installed as per design and as modelled and is maintained for the life of the development by each respective owner.

13. Water Quality

Prior to the issue of the Subdivision Construction Certificate for stage 2 of the development, a Stormwater Drainage Plan shall be prepared indicating the location/layout and operation of the bio-retention systems within the streetscape.

Calculations are to be provided detailing that the streetscape bioretention systems will be sized to a minimum of 1.5% of the upstream impervious area.

Reason: To reduce the risk of clogging of the streetscape bioretention systems.

14. MidCoast Water approval

Prior to the issue of a subdivision construction certificate for **each stage**, a Certificate of Compliance from MidCoast Water, stating that satisfactory arrangements have been made and all payments finalised for the provision of water supply and sewerage to the development, must be submitted to the certifying authority.

Reason: To ensure suitable water and sewage disposal is provided to the development.

15. Erosion and sediment control plan

Prior to the issue of a subdivision construction certificate for **stages 2, 3 & 4**, an erosion and sediment control plan prepared by a suitably qualified person in accordance with *"The Blue Book – Managing Urban Stormwater (MUS): Soils and Construction"* (Landcom) must be submitted to and approved by the certifying authority. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices including catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins.

Reason: To protect the environment from the effects of erosion and sedimentation.

16. Traffic management plan

Prior to the issue of a subdivision construction certificate for **stages 2, 3 & 4**, a traffic management plan including measures to be employed to control traffic (inclusive of construction vehicles) during construction of the subdivision must be submitted to and approved by the certifying authority. The traffic control plan must be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, *Traffic Control at Work Sites Version 2*, and Australian Standard AS 1742.3: *Manual of uniform traffic control devices - Traffic control for works on roads*.

The plan must incorporate measures to ensure that motorists using the road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The traffic control plan must be prepared by an accredited person trained in the use of the current version of *RTA Traffic Control at Work Sites manual*.

The approved Construction traffic management plan must be implemented prior to the commencement of work.

Reason: To ensure public safety during the construction of the development.

17. Submission of the Vegetation and Habitat Management Plan for Review and Approval by Great Lakes Council

Prior to the issuing of the first Subdivision Construction Certificate, the Registered Proprietor of the subject land shall engage a qualified ecologist who shall submit to Great Lakes Council for review, an amended Vegetation and Habitat Management Plan (VHMP).

The VHMP shall only be finalised (and thus approved) at such time as Great Lakes Council has indicated in writing that the VHMP is satisfactory and acceptable.

The VHMP shall include additional details relating to matters as directed by Great Lakes Council, including a comprehensive breakdown of Vegetation and Habitat Management actions, timing (tied to approved development staging), responsibilities, indicative costing of all actions, key performance indicators and monitoring. The VHMP shall incorporate controls associated with regular review and adaptive management, subject to Council approval. The VHMP shall contain maps and plans and be written in a style that is clear, explicit and able to be practically implemented. It shall exclude subjective or unquantified statements and any ambiguity regarding timing and responsibility.

In respect to timing of the implementation of Vegetation and Habitat Management works, the VHMP shall clearly identify the staged undertaking of necessary works, including, but not limited to, fencing, facilitating natural regeneration, weed controls, feral animal controls and revegetation/ landscaping.

Reason: To ensure that the Vegetation and Habitat Management Plan is satisfactory and appropriate and able to be practically implemented to assist protect and conserve the natural environment.

18. Landscaping plan

Prior to the issuing of the first Subdivision Construction Certificate, the Registered Proprietor of the subject land shall engage a qualified landscape architect who shall submit to Great Lakes Council, for review, an amended Final Landscaping Plan. The Plan shall only be finalised (and thus approved) at such time as Great Lakes Council has indicated in writing that the Plan is satisfactory and acceptable. The Plan shall include additional details relating to matters as directed by Great Lakes Council, including a comprehensive breakdown of Landscaping actions, timing (tied to approved development staging), responsibilities, indicative costing of all actions, key performance indicators and monitoring. The Plan shall incorporate controls associated with regular review and adaptive management, subject to Council approval. The Plan shall contain maps and plans and be written in a style that is clear, explicit and able to be

practically implemented. It shall exclude subjective or unquantified statements and any ambiguity regarding timing and responsibility.

In respect to timing of the implementation of Landscaping works, the Plan shall clearly identify the staged undertaking of necessary works.

Specifically, the revised and amended Landscaping Plan shall delete reference to the use of Sweet Pittosporum (*Pittosporum undulatum*) and replace this species with a small tree/ tall shrub species approved by Great Lakes Council (such as Cheese Tree (*Glochidion ferdinandi*) or Tuckeroo (*Cupaniopsis anacardioides*)).

The Final Landscaping Plan shall also demonstrably include the following detail:

- a) The location of trees and stands of native vegetation identified for retention in the development application plans,
- b) The proposed location for planted shrubs and trees,
- c) The botanical names and pot supply sizes of shrubs and trees to be planted,
- d) The mature height of trees to be planted,
- e) The location of grassed and paved areas,
- f) The location of common tap(s) and/or irrigation system to ensure all landscape works can be adequately watered,
- g) The approved stormwater detention or bio-retention systems, and
- h) The street tree planting details and specifications.

Reason: To maintain environmental and streetscape amenity and to ensure that the Landscaping Plan is satisfactory and appropriate and able to be practically implemented to assist protect and conserve the natural environment

19. Survey and establishment of fencing around the bounds of the subject land (other than Lot 29)

Prior to the issuing of a Subdivision Construction Certificate for Development **Stage 2**, the Registered Proprietor of the subject land shall engage a Registered Surveyor to identify and mark the common boundary of the subject land and the Booti Booti National Park (other than Approved Lot 29). The Registered Proprietor shall engage a Fencing Contractor to establish a rural-style fence of hardwood posts, metal star pickets and four strands of plain wire along the surveyed common boundary of the subject land (other than Lot 29) and the Booti Booti National Park.

Reason: To demarcate and protect Booti Booti National Park from the development of the subject land.

20. Removal of Priority Invasive Weeds from land in Development Stages 2, 3 and 4

Prior to the issuing of a Subdivision Construction Certificate for each Development Stage, the Registered Proprietor of the land shall engage a Bushland Regenerator to eradicate all occurrences of the following weeds from all lands within and associated with each Development Stage. Priority environmental weeds are considered in these conditions to include: *Lantana camara* (Lantana), *Asparagus aethiopicus* (Asparagus Fern), *Delairea odorata* (Cape Ivy), *Ricinis communis* (Castor Oil Plant), *Senna pendula* (Senna), *Ligustrum sinense* (Small-leaved Privet), *Solanum mauritianum* (Wild Tobacco Bush), *Rubus fruticosus* (Blackberry), *Cinnamomum camphora* (Camphor Laurel) and other species as identified by Great Lakes Council.

Reason: To ensure that priority invasive weeds are controlled and eradicated from the subject land to protect the natural environment.

21. Bond required to guarantee against damage to public land

Prior to the issue of a subdivision construction certificate for **Stage 2**, a Damage Bond Application form together with payment of a bond in the amount of \$6,000 and a non-refundable administration fee of \$341.55 must be submitted to Council. The bond is payable for the purpose of funding repairs to any damage that may result to Council assets from activities/works associated with the construction of the development and to ensure compliance with Council standards and specifications.

A final inspection will be carried out by the responsible Council officer and the bond (minus any fees required for additional inspections) will be considered for refund:

- a) once all works, including landscaping, driveway construction, turfing, etc, have been completed, and
- b) following issue of a subdivision certificate.

The damage bond is reviewed periodically and therefore the fee and bond amount payable will be determined from Council's current fees and charges document at the time of lodgement of the damage bond.

Reason: Protection of public assets.

PRIOR TO THE COMMENCEMENT OF ANY WORK ASSOCIATED WITH THIS CONSENT

The following conditions must be satisfied prior to the commencement of any building construction or subdivision work.

22. Planning Agreement

The proponent is to enter into a Planning Agreement in accordance with the terms of the offer under S93I of the Environmental Planning and Assessment Act, 1979 dated 22 April 2012

Reason: To ensure compliance with the terms of offer under S93I of the Environmental Planning and Assessment Act, 1979

23. Identification and Approval of the Clearing of Native Vegetation and Habitat in Development Stages 2, 3 and 4.

Prior to the commencement of any works on or associated with each Development Stage:

- a) The Registered Proprietor shall engage a registered surveyor to mark on the land the accurate boundary of the footprint of the Approved Development on each Stage and any stands of native vegetation that are required to be cleared for this aspect of the development (if any).
- b) The marked native vegetation removal shall be strictly controlled and minimised.
- c) Once the marking program has been completed, the Registered Proprietor (or their agents) shall notify Great Lakes Council. Council's Senior Ecologist and/ or Tree Management Officer shall then inspect and assess the remnant native vegetation removal marking program. These Council Officers shall inspect the Registered Proprietors marking program and confirm that clearing activities have been minimised and controlled appropriately.

Construction works shall not commence for each Development Stage until such time as Council's Senior Ecologist or Tree Management Officer have approved of the applicable remnant native vegetation removal marking program in writing.

Reason: To minimise the impacts of the development on native vegetation.

24. Fencing of allotments from Community Land

Prior to the commencement of any works associated with each Development Stage (other than Stage 1), each allotment boundary where it adjoins community land will be fenced. Fencing shall be of a rural-style comprising hardwood posts, metal star pickets and four strands of plain wire.

Reason: To demarcate approved lots from the community land.

25. Potential Archaeological Deposit

Prior to the commencement of any works associated with the proposed subdivision, details of the Potential Archaeological Deposit identified in the Master Plan, including how the area will be protected from future development, must be submitted to Council.

Reason: To protect Aboriginal heritage.

26. Contamination report

Prior to the commencement of any works in the vicinity of the above ground diesel storage tank and chemical storage area, adjacent to the storage sheds in the middle of the site, identified in the preliminary contamination assessment prepared by Umwelt for the LES (2007), a detailed assessment and analysis, including methods of remediation must be submitted to the certifying authority.

Reason: To ensure that compliance with relevant standards.

27. Waste management plan

Prior to the commencement of work, a waste management plan prepared in accordance with the requirements of Council's Waste Management Policy must be submitted to and approved by the certifying authority.

Reason: To ensure adequate and appropriate management of waste and recycling.

28. Pollution prevention sign

Council's "PREVENT POLLUTION" sign must be erected and maintained in a prominent position at the frontage of the property so that it is clearly visible to the public for the duration of construction work.

Council's PREVENT POLLUTION sign can be purchased at Council's Customer Enquiry Counter at the Forster, Tea Gardens and Stroud administration buildings.

Reason: To increase industry and community awareness of developer's obligations to prevent pollution and to assist in ensuring compliance with the statutory provisions of the Protection of the Environment Operations Act 1997.

29. Erosion & sediment measures in accordance with approved plans

Prior to the commencement of work for **Stage 2**, erosion and sediment controls must be installed in accordance with the approved erosion and sediment control plan and must be maintained for the duration of the project.

Reason: To protect the environment from the effects of erosion and sedimentation.

30. Toilet facilities – sewerer/unsewered areas

Prior to the commencement of work, toilet facilities must be provided at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a standard flushing toilet connected to a public sewer or, if reticulated sewer is not provided to the site at the time of the subdivision construction, then each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

Reason: To maintain the public health and the natural environment.

CONDITIONS TO BE SATISFIED DURING DEVELOPMENT WORK

The following conditions must be complied with during any development work.

31. Construction of Culverts in a manner that facilitates native wildlife movements

The Registered Proprietor of the land shall establish the culverts required in each Development Stage in accordance with the design approved by Great Lakes Council pursuant to these conditions.

Reason: To ensure that the culverts in each Development Stage incorporate adequate fauna movement measures, as required.

32. Implementation of relevant actions as directed in the Approved Vegetation and Habitat Management Plan.

During construction works on and associated with each Development Stage, (other than Stage 1) the Registered Proprietor of the land shall implement all of the actions as identified in the Approved Vegetation and Habitat Management Plan that are relevant to each Development Stage.

Reason: To ensure that the actions in the Approved Vegetation and Habitat Management Plan are undertaken, as required.

33. Implementation of relevant actions as directed in the Landscaping Plan

During construction works on and associated with each Development Stage, the Registered Proprietor of the land shall implement all of the actions as identified in the Approved Landscaping Plan that are relevant to each Development Stage.

Reason: To ensure that the actions in the Approved Vegetation and Habitat Management Plan are undertaken, as required.

34. Protection of the Natural Environment during Site works

At all times, during the construction of approved and permitted services, utilities and facilities and any work on the subject land, direct and indirect harm to areas and individuals of native vegetation shall be strictly avoided and/ or minimised, at every possible opportunity.

Reason: To protect the natural environment and the habitats of native plants and animals

35. Washing down of machinery prior to their introduction to the Subject Land

In order to minimise the risk of plant pathogens and weed propagules, all site machinery introduced to the subject land for any purpose shall be adequately washed down prior to their introduction. Such machinery shall be demonstrably free of soil and vegetative material prior to their introduction to the subject land.

Reason: To minimise risks associated with importation of weeds and plant diseases.

36. Actions associated with any removal of native trees and vegetation

During the physical removal of all trees and native vegetation to form any aspect of the approved development, the following shall be adopted at all times:

- Machinery operators shall inspect the crown, foliage and trunks of trees that require removal immediately prior to any felling to investigate the presence of koalas. If a koala is detected, the tree and no other surrounding trees shall be cleared until the animal has dispersed of its own free will from the area
- Removal of approved trees shall be conducted using directional felling away from trees that are to be retained
- Removal of approved trees shall be conducted in a manner that avoids the movement of heavy machinery in the root zones of trees that are to be retained on the land
- Any deliberate or accidental damage to trees that are to be not approved for removal shall be reported immediately to Council's Tree Management Officer. Remediation or repair actions identified by that officer shall be conducted to assist minimise the harm associated with any such damage

Reason: To control impacts of clearing of trees and native vegetation during all site works.

37. Protection of hollow-bearing trees

No hollow-bearing trees are to be removed or cleared for any aspect of the approved development, except where the removal of such trees is deemed, by Great Lakes Council, to be required for the purpose of the protection of life or property.

Reason: To protect and preserve hollow-bearing trees on the subject land.

38. Construction times

Construction and/or demolition works, including deliveries on or to the site must not unreasonably interfere with the amenity of the neighbourhood and must occur only in accordance with the following:

Monday to Friday, from 7 am to 6 pm.

Saturday, from 8 am to 1 pm.

No construction and/or demolition work, including deliveries are to take place on Sundays or Public Holidays.

Reason: To maintain amenity during construction of the development.

39. Construction dust suppression

All necessary works must be undertaken to control dust pollution from the site. These works must include, but are not limited to:

- a) restricting topsoil removal;
- b) regularly and lightly watering dust prone areas
- c) alter or cease construction work during periods of high wind;

Reason: To maintain amenity during construction of the development.

40. Maintenance of erosion and sediment control measures in accordance with approved plan

Erosion and sediment control measures must be maintained at all times in accordance with the approved erosion and sediment control plan until the site has been stabilised by permanent vegetation cover or hard surface.

Reason: To protect the environment from the effects of erosion and sedimentation.

41. Comply with Traffic Management Plan

The approved traffic management plan must be implemented prior to commencement of **Stage 2** works and maintained for the duration of the development works.

Reason: To ensure public safety during the construction of the development.

42. Aboriginal heritage

This consent does not authorise the harming of an Aboriginal object or place. Under the National Parks and Wildlife Act 1974, it is the responsibility of all

persons to ensure that harm does not occur to an Aboriginal object or place. If an Aboriginal object is found, whilst undertaking the development work, all work must stop and the NSW Office of Environment and Heritage notified. All directions of the Office of Environment and Heritage must be complied with at all times.

Reason: To protect Aboriginal heritage.

43. Compliance with Waste Management Plan

During demolition and/or construction of the development, waste disposal must be carried out in accordance with the approved waste management plan.

Reason: To ensure waste is minimised and recovered for recycling where possible.

44. Support for neighbouring buildings

If an excavation extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to this condition not applying.

Reason: Prescribed condition under the *Environmental Planning and Assessment Regulation 2000*.

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

The following conditions must be satisfied prior to the issue of a subdivision certificate

45. Submission of the Draft Community Management Statement for Review and Approval by Great Lakes Council

The Registered Proprietor of the subject land shall submit to Great Lakes Council for review, an amended Draft Community Management Statement and Neighborhood Statement.

The Community Management Statement shall only be finalised at such time as Great Lakes Council have indicated in writing that the Statement is satisfactory and acceptable.

The Statement shall include additional details relating to matters as directed by Great Lakes Council, including additional ecological protections and management provisions (such as, but not limited to, priority invasive weed controls on Lots and exclusion of planting of invasive flora species in any landscaping). The Statement shall incorporate controls associated with regular reviews and adaptation, subject to Council approval.

Specifically, Part 4, Section 1 shall be re-drafted to enforce the exclusion and proactive prohibition of dogs and cats (other than Assistance Animals as defined by the *Disability Discrimination Act 1992*) from the subject land at all times and under all circumstances.

Reason: To ensure that the management of the subdivision is consistent with the development consent and to ensure that the Community Management Statement is satisfactory and appropriate.

46. Plan of subdivision

An application for a subdivision certificate for **each stage** release must be made on the approved form and must be accompanied by the subdivision certificate fees, in accordance with Council's adopted schedule of fees and charges. Seven (7) copies of the plan of subdivision must be submitted with the application for a subdivision certificate. The location of all buildings and/or other permanent improvements including fences and internal access driveways/roads must be indicated on one copy of the plan.

Reason: To ensure adequate identification of boundaries and the location of structures.

47. Conservation and revegetation of Lot 29

Prior to the issue of a Subdivision Certificate for **Stage 1**, the Registered Proprietor of the subject land shall ensure that the commitments and responsibilities as set-out in the executed Planning Agreement as it pertains to the creation, dedication, other nominated physical works (including de-wiring existing fencing), new fencing, revegetation and restoration (including weed control) of Approved Lot 29 are satisfactorily completed to the satisfaction of Great Lakes Council and the NSW Office of Environment and Heritage.

Reason: To ensure that legal commitments relating to Approved Lot 29 are satisfactorily completed during the subdivision process.

48. Revegetation of "The Saddle" within Booti Booti National Park

Prior to the issue of a Subdivision Certificate for **Stage 1**, the Registered Proprietor of the subject land shall ensure that the commitments and responsibilities as set-out in the Planning Agreement executed on 22 April 2012, as it pertains to the revegetation and restoration (including weed control) of the area identified as "*The Saddle*" within Booti Booti National Park is satisfactorily

completed to the satisfaction of Great Lakes Council and the NSW Office of Environment and Heritage.

Reason: To ensure that legal commitments relating to revegetation and restoration of “The Saddle” in Booti Booti National Park are satisfactorily completed during the subdivision process.

49. Restrictions on the Use of Land to Protect the natural environment

Prior to the issue of a Subdivision Certificate for **Stage 1**, the Registered Proprietor of the land shall take all necessary steps to ensure restrictions on the use of land pursuant to the provisions of s88B of the *Conveyancing Act 1919* and public positive covenants pursuant to the provisions of s88E of the *Conveyancing Act 1919* to the following effect, are recorded in the Register kept under the *Real Property Act 1900*:

- a) No cats, dogs (other than Assistance Animals as defined by the Disability Discrimination Act 1992) or domestic or feral grazing stock (horses, cattle, goats, sheep, llamas, etc) are to be introduced, kept or released anywhere on the subject land at any time.
- b) No fencing consisting of smooth, mesh or picket metal styles, or barbed wire or any other solid fencing style (other than those permitted in the Community Management Statement approved for the land) are to be erected anywhere on the subject land, at any time.
- c) There shall be no recreational use of motorbikes or other motorised vehicles of any type anywhere within Approved Lot 29.

The land burdened by the restrictions on use above is Lot 15 DP713933 and all relevant lots created by this approved subdivision, with the exception of Approved Lot 29.

The Council of Great Lakes is the prescribed authority for the purposes of Division 4, Part 6 of the *Conveyancing Act 1919*, and is to have the benefit of the restrictions set-out above. A Draft of the Restrictions/ Public Positive Covenants shall be provided to Great Lakes Council for review and approval prior to any registration on the relevant title.

The Registered Proprietor of the land shall have registered by the Registrar-General a plan as a deposited plan showing those parts of the subject land (and the approved subdivided lots formed by this consent) identifying the areas affected by the restrictions on use such that on its registration, the restrictions on the use of land and public positive covenants set out in the condition above are entered on the appropriate title(s).

Reason: To ensure that appropriate permanent controls are placed over the land to protect the natural environment and native wildlife populations and lifecycles.

50. Street name application

Prior to the issue of a subdivision certificate for **stage 3**, a separate application for the naming of the new road must be submitted on Council's 'New Roads Name Application' form, together with payment of all associated fees. The street names must be approved by Council and shown on the plans submitted with the application for subdivision certificate.

Reason: To ensure adequate identification of new streets.

51. Plan of subdivision and Section 88B Instrument

An instrument created under Section 88B of the *Conveyancing Act 1919*, for **Stages 2, 3 & 4** must be submitted with the application for a subdivision certificate. The final plan of subdivision and accompanying Section 88B Instrument must provide for the items listed in the following table:

Item for inclusion in Plan of Subdivision and/or Section 88B Instrument	Details of Item
Dwelling envelope	Restrictions to limit the erection of dwellings to the nominated dwelling envelope..
Inter-allotment drainage easements	The creation of easements for drainage of water, with a minimum width of 1.5 metres, over all inter-allotment drainage pipelines and structures located within the proposed allotments. Stage 2.
Sewer easements	The creation of easements for drainage of sewage over all sewage pipelines and structures located within the proposed allotments in accordance with Council's policy.
Easement for electricity	The creation of any necessary easements for electricity purposes as required by the electricity supply authority.

Reason: To ensure the proper management of land.

52. Completion of works

Prior to the issue of a subdivision certificate for **each stage**, all roads, drainage and civil works, required by this development consent and associated construction certificate, must be completed. Works must include the restoration, replacement and/or reconstruction of any damage caused to surrounding public infrastructure, including damage to road pavements along any haulage routes used for the construction of the subdivision.

Reason: To ensure civil works are appropriately constructed.

53. Works-as-executed plans

Prior to the issue of a subdivision certificate for **each stage**, works-as-executed plans, certified by a suitably qualified engineer or a registered surveyor, must be submitted to Council. Where the design is carried out utilising computer aided design (CAD), all CAD computer files must be provided on compact disc (CD) with the final drawings. The CAD files must include all lot and road boundaries, lot numbers and easements. The data must be supplied in accordance with the requirements of Council's GIS Officer.

Reason: To provide Council with accurate records of civil works.

54. Electricity supply certificate

Prior to the issue of a subdivision certificate for **each stage**, a certificate of compliance from the electricity supply authority must be submitted to Council stating that satisfactory arrangements have been made for the provision of electricity supply throughout the subdivision.

Reason: To ensure that utility services have been provided to the newly created lots.

55. Telephone supply certificate

Prior to the issue of a subdivision certificate for **each stage**, a certificate of compliance from the telephone supply authority must be submitted to Council stating that satisfactory arrangements have been made for the provision of telephone supply throughout the subdivision.

Reason: To ensure that utility services have been provided to the newly created lots.

56. Water and sewer supply certificate

Prior to the issue of a subdivision certificate for **each stage**, a certificate of compliance from MidCoast Water must be submitted to Council stating that satisfactory arrangements have been made and all payments finalised for the provision of water supply and sewerage to the development.

Reason: To ensure that utility services have been provided to the newly created lots.

57. Street tree planting

Prior to the issue of a subdivision certificate **for stages 2, 3 & 4**, street tree planting must be installed in accordance with the approved landscape plan.

Reason: To maintain environmental and streetscape amenity

58. Haulage Levy

Prior to the issue of a subdivision certificate for **stages 2, 3 & 4**, details of the amount of fill that has been imported to the site or the material that has been excavated and removed from the site must be submitted to Council for the purpose of calculating the haulage levy. The haulage levy is required to be paid in accordance with the Great Lakes Wide Development Contributions Plan 2007, as may be updated from time to time. The haulage levy must be paid to Council prior to the issue of a subdivision certificate.

Reason: Maintenance and repair of public assets.

59. Geotechnical report - soil classification

Prior to the issue of a subdivision certificate for **stages 2, 3 & 4**, the classification of the soil type by a qualified professional geotechnical engineer, in accordance with the requirements of Australian Standard AS 2870: *Residential slabs and footings* must be submitted to the certifying authority.

Reason: To ensure that compliance with relevant standards.

60. Requirements for rest parks

Prior to the issue of the subdivision certificate for **stage 4**, the 'rest parks' must be provided with outdoor furniture, equipment and landscaping designed to Council's standards to facilitate their use as passive public parks. The outdoor eating area must be operated at all times in accordance with the following parameters:

Reason: To ensure compliance with Development Control Plan No. 59 to maintain public amenity.

61. Section 94 contributions

Prior to the issue of a subdivision certificate, a monetary contribution must be paid to Council in accordance with Section 94 of the *Environmental Planning and Assessment Act 1979*. 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:

No contributions required for Stage 1

Contributions payable under consent for Stage 2

Code	Contributions Plan	Facility	quantity	unit	rate	amount
GLW-04	Great Lakes Wide	Library Bookstock	24	persons	@ \$71.46 =	\$1,715.04

GLW-07	Great Lakes Wide	Headquarters Building	24	persons	@	\$214.83	=	\$5,155.92
GLW-05	Great Lakes Wide	s94 Admin	24	persons	@	\$68.40	=	\$1,641.60
FD04	Forster District	Major Roads Inner Zone	90	one way trips	@	\$520.48	=	\$46,843.20
FD03	Forster District	Aquatic Centre	24	persons	@	\$148.46	=	\$3,563.04
FD01	Forster District	Surf Life Saving	24	persons	@	\$75.23	=	\$1,805.52
FOS-01	Forster District	Open Space	24	persons	@	\$1,346.59	=	\$32,318.16
FD07	Forster District	Library Facility	24	persons	@	\$465.94	=	\$11,182.56
FD11	Forster District	Community Facilities	24	persons	@	\$508.60	=	\$12,206.40
Total								\$116,431.44

Contributions payable under consent for Stage 3

Code	Contributions Plan	Facility	quantity	unit		rate		amount
GLW-04	Great Lakes Wide	Library Bookstock	16.8	persons	@	\$71.46	=	\$1,200.53
GLW-07	Great Lakes Wide	Headquarters Building	16.8	persons	@	\$214.83	=	\$3,609.14
GLW-05	Great Lakes Wide	s94 Admin	16.8	persons	@	\$68.40	=	\$1,149.12
FD04	Forster District	Major Roads Inner Zone	63	one way trips	@	\$520.48	=	\$32,790.24
FD03	Forster District	Aquatic Centre	16.8	persons	@	\$148.46	=	\$2,494.13
FD01	Forster District	Surf Life Saving	16.8	persons	@	\$75.23	=	\$1,263.86
FOS-01	Forster District	Open Space	16.8	persons	@	\$1,346.59	=	\$22,622.71
FD07	Forster District	Library Facility	16.8	persons	@	\$465.94	=	\$7,827.79
FD11	Forster District	Community Facilities	16.8	persons	@	\$508.60	=	\$8,544.48
Total								\$81,502.00

Contributions payable under consent for Stage 4

Code	Contributions Plan	Facility	quantity	unit		rate		amount
GLW-04	Great Lakes Wide	Library Bookstock	14.4	persons	@	\$71.46	=	\$1,029.02

GLW-07	Great Lakes Wide	Headquarters Building	14.4	persons	@	\$214.83	=	\$3,093.55
GLW-05	Great Lakes Wide	s94 Admin	14.4	persons	@	\$68.40	=	\$984.96
FD04	Forster District	Major Roads Inner Zone	54	one way trips	@	\$520.48	=	\$28,105.92
FD03	Forster District	Aquatic Centre	14.4	persons	@	\$148.46	=	\$2,137.82
FD01	Forster District	Surf Life Saving	14.4	persons	@	\$75.23	=	\$1,083.31
FOS-01	Forster District	Open Space	14.4	persons	@	\$1,346.59	=	\$19,390.90
FD07	Forster District	Library Facility	14.4	persons	@	\$465.94	=	\$6,709.54
FD11	Forster District	Community Facilities	14.4	persons	@	\$508.60	=	\$7,323.84
Total								\$69,858.86

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 that time.

The Contributions Plan and the Standard Schedule for Section 94 Plans may be viewed on [Council's web site](#) or at Council's offices at Breese Parade, Forster.

Reason: Statutory requirement to be paid towards the provision or improvement of amenities and services.

ONGOING USE

The following conditions must be satisfied during the ongoing use of the development.

62. Implementation of relevant actions as directed in the Approved Vegetation and Habitat Management Plan

The Registered Proprietor of the land shall implement all of the actions as identified in the Approved Vegetation and Habitat Management Plan that are relevant to the ongoing use of the approved subdivision.

Reason: To ensure that the actions in the Approved Vegetation and Habitat Management Plan are undertaken, as required.

63. Implementation of relevant actions as directed in the Landscaping Plan

The Registered Proprietor of the land shall implement all of the actions as identified in the Approved Landscaping Plan that are relevant to the ongoing use of the approved subdivision.

Reason: To ensure that the actions in the Approved Vegetation and Habitat Management Plan are undertaken, as required.

OTHER AGENCY CONDITIONS

64. NSW Rural Fire Service requirements

The development must be carried out in compliance with the following conditions detailed in the bush fire safety authority, reference No. D12/0789 DA12041882944AB, dated 14 November 2012.

1. The development proposal is to comply with the following subdivision layout plans:
 - 'Plan showing bush fire asset protection zones' prepared by King & Campbell Pty Ltd drawing number 5366E_Exhibits revision B dated 29 October 2012;
 - 'Road access plan' prepared by King & Campbell Pty Ltd drawing number 5366E_Exhibits revision C dated 25 October 2012;
 - 'Proposed land ownership details, incorporating location of Building Envelopes for lots 2 to 26, prepared by King & Campbell Pty Ltd drawing number 5366E_Exhibits revision A dated 10 October 2012.
2. The Community Management Statement shall include the following information:
 - Asset Protection zones on the Community Association Land and individual Community Titled lots shall be in accordance with the 'Plan showing bush fire asset protection zones' prepared by King & Campbell Pty Ltd drawing number 5366E_Exhibits revision B dated 29 October 2012.
 - The entirety of Community Title lots 2 to 26 shall be managed and maintained as an Asset Protection Zone.

APZs associated with the development shall be managed as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

3. At the issue of community title subdivision certificate and in perpetuity, the property around the existing dwelling on proposed lot 27, to a distance of 21 metres or to the property boundary, shall be maintained as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'

Asset Protection Zones

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:

4. A bush fire management plan is to be prepared that addresses the following requirements:
 - Contact person and contact details of the Community Association representative;
 - Schedule and description of works for the construction of asset protection zones and their continued maintenance on Community Association land.
 - A vehicle access plan showing public roads and fire trail access. The plan shall also include the location of passing bays and turning points on the fire trails.
 - A water supply location plan including location of fire hydrants and static water supplies (including water draughting points).

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

5. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area. To achieve this, the following conditions shall apply:

6. Public roads shall be constructed in accordance with the 'Road access plan' prepared by King & Campbell Pty Ltd drawing number 5366E_Exhibits revision C dated 25 October 2012.

Dead end roads shall incorporate a 12 metre outer radius turning circle and be clearly signposted as a dead end.

All public roads shall be clearly sign posted with the road name at every intersection.

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush

fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply:

7. Property access driveways shall be constructed in accordance with the 'Road access plan' prepared by King & Campbell Pty Ltd drawing number 5366E_Exhibits revision C dated 25 October 2012.
 - A minimum carriageway width of 4 metres for rural residential areas.
 - A minimum vertical clearance of 4 metres to any overhanging obstruction, including tree branches.
 - The crossfall is not to exceed 10 degrees.
 - Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.
 - Dead end access driveways shall be clearly signposted as a dead end.
 - All access driveways shall be clearly sign posted at the public road with the property number.

The intent of measures for fire trails is to provide suitable access for fire management purposes and maintenance of APZs. To achieve this, the following conditions shall apply:

8. Fire trails shall be constructed in accordance with the 'Road access plan' prepared by King & Campbell Pty Ltd drawing number 5366E_Exhibits revision C dated 25 October 2012.
 - A minimum carriageway width of 4 metres with an additional 1 metre wide strip on each side of the trail (clear of bushes and long grass) is provided.
 - The trail is a maximum grade of 15 degrees if sealed and not more than 10 degrees if unsealed.
 - A minimum vertical clearance of 4 metres to any overhanging obstructions, including tree branches is provided.
 - The crossfall of the trail is not more than 10 degrees.
 - Fire trails do not traverse a wetlands or other land potentially subject to periodic inundation (other than a flood or storm surge). Where fire trails cross drainage lines, a pipe or gravel causeway shall be constructed.
 - Dead end fire trails shall be clearly signposted as a dead end.
 - All fire trails shall be clearly sign posted with the trail name at every intersection.
 - If gates for fire trails are to be provided and locked, a 'Bush Fire Access Operations Plan' must be submitted and approved by the local RFS Fire Control Centre.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

9. The existing building on proposed Lot 27 is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

Details from an appropriately qualified person demonstrating compliance with these conditions, must be submitted to the certifying authority prior to the issue of the subdivision Certificate

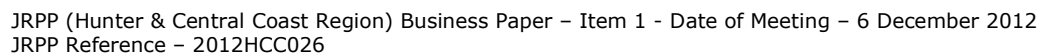
Reason: To ensure work is carried out in accordance with the determination and other statutory requirements.

65. Department of Primary Industries, Office of Water

Prior to the commencement of work, a controlled activities approval must be granted by the Department of Primary Industries, Office of Water.

Reason: To ensure work is carried out in accordance with the determination and other statutory requirements.

A: Plans of the proposed subdivision



B: Memo Council's Ecologist

Lot 15 DP713933 70 Carmona Drive, Forster

Proposed Rural Residential Subdivision



memo

TO Robyn Shelley (Senior Assessment Planner)
CC
FROM Mat Bell (Senior Ecologist)
DATE 16 November 2012
SUBJECT DA336/ 2012
SUBJECT LAND Lot 15 DP713933 70 Carmona Drive Forster

Introduction

Great Lakes Council has received a Development Application (DA336/ 2012) for the proposed establishment of a twenty-nine (29) lot subdivision of the subject land. The land has recently been rezoned for this purpose (Gazetted LEP Amendment 52) and a detailed and prescriptive Development Control Plan (DCP 59) has been adopted.

The DA and the supporting information have been referred to Council's Natural Systems Branch for comment. The intent of this response is to provide advice as to the appropriateness of this development proposal in an environmental context, consider all relevant environmental legislation and provide advice as to the determination of the DA, including conditions of consent, where required.

This environmental assessment report has been prepared on the basis of the content of the DA336/ 2012 file, and my knowledge of the subject land, which is, at least partly, based on various site inspections conducted for the previous rezoning and the current DA.

The Land and the Development Proposed

A summary of the relevant aspects of the DA and the land to which it applies has been provided:

Land zoning	The land has been recently rezoned via LEP Amendment 52 to partly 1(d1) Rural Residential and partly 7(a1) Environment Protection.
	The proposed rural residential subdivision of the subject land relates to that part of the land zoned 1(d1), with the area zoned 7(a1) to be excised and transferred to the ownership of the NSW Office of Environment and Heritage for revegetation and gazettal as an extension to Booti Booti National Park.
Land area	The subject land comprises some 27.7-hectares. The part of the subject land zoned 1(d1) comprises approximately 21.0-hectares, with the area zoned 7(a1) comprising approximately 6.7-hectares.

Description of the proposed development and discussion of possible ecological impacts	As discussed, the proposed development application follows a recent rezoning of the land under LEP Amendment 52 and the adoption of a prescriptive Development Control Plan (DCP59) for the subject land.	
	This proposal seeks to subdivide the land by community title to provide for twenty-seven (27) separate rural residential lots (proposed Lots 2 to 28), a community association lot (proposed Lot 1) and a conservation lot (proposed Lot 29 – the Eastern Corridor), which is to be restored and dedicated to the Office of Environment and Heritage as a National Park extension. The proposal is also associated with the provision of roads, services and utilities. Proposed rural residential lot sizes range from 3,302m ² to 5,584m ² , with the existing dwelling contained on a rural residential lot of 16,850m ² , with the community association lot comprising 98,704m ² and the conservation lot comprising 67,000m ² . The community association lot provides for open space, water courses, roads, cycleways, fire trails, community facilities, riparian corridors, local corridors and other water management facilities. One lot, proposed Lot 27, contains an existing dwelling. For each of the proposed rural residential allotments, a specified building envelope has been identified. Without exception, these nominated building envelopes are clear of remnant native vegetation on this subject land (and thus appear to be appropriately located).	
	The proposed subdivision is to be staged in four (4) stages and a Staging Plan has been provided. Stage 1 will involve the release of proposed Lot 27 (existing dwelling) and proposed Lot 29 (conservation lot for dedication to OEH). Stage 2 will involve construction of proposed Lots 2 – 12 and associated services. Stage 3 will involve proposed Lots 14 – 21 and associated services. Stage 4 will involve proposed Lots 13, 22 – 26 and 28, associated services, community works, landscaping and public recreation areas.	
	As mentioned, the rezoning of the land identified the preservation via dedication and restoration of a conservation lot, which will extend the Booti Booti National Park in an area known as the "Eastern Corridor". Furthermore, it is proposed that the development provide for the revegetation of an area of the existing Booti Booti National Park known as "The Saddle", which is currently unvegetated. These are considered to be positive ecological outcomes associated with the development proposal.	
Environmental Reporting provided	The proposed development has been designed to minimise or avoid ecological impacts, including impacts on existing native vegetation within the subject land. DCP59 envisaged the restoration of the conservation area as well as the riparian corridor and the local corridor. The subject land is bound on three sides by the existing Booti Booti National Park and by existing rural residential development on one side (to the east). A detailed analysis of the ecological impacts of the proposal is provided later in this report.	
	The rezoning of the subject land pursuant to LEP Amendment 52 was based on a detailed investigation of the biological environment (Umwelt 2007). The Statement of Environmental Effects (SEE), submitted with the Development Application (EMGA/ Mitchell McLennan 2012) considered ecological impacts, within its impact assessment. A discussion of the adequacy and appropriateness of the ecological assessment is provided in this report.	
Legislation that is potentially relevant	<i>s5A of the EP&A Act</i>	Applies
	<i>s79 of the EP&A Act</i>	Applies
	<i>Threatened Species Conservation Act 1995</i>	Applies
	<i>Environmental Protection and Biodiversity Conservation Act 1999</i>	Applies*
	<i>SEPP14</i>	None in relevant proximity
	<i>SEPP26</i>	None in relevant proximity
	<i>SEPP44</i>	Applies
	<i>Native Vegetation Act 2003</i>	Applies
	<i>National Parks and Wildlife Act 1974</i>	Applies
	<i>Marine Parks Act 2003</i>	None in relevant proximity
	<i>SEPP71</i>	Applies

* This is not integrated with Part 4 of the EP&A Act 1979

A Statement of Environmental Effects has been prepared and submitted with the DA (EMGA/ Mitchell McLennan 2012). Pertinently, with respect to ecological matters, it noted (in summary):

- "The formal provisions of SEPP26 do not apply to this site as it is not enclosed by or within 100m of the outer edge of the heavy black line on the maps held by the Department of Planning and Infrastructure (DP&I) in relation to the SEPP... No littoral rainforest, or vegetation within Booti Booti National Park, will be damaged or destroyed by the proposed subdivision" (pg. 7)
- "Umwelt found that no areas of potential Koala habitat occur within the site, due to a lack of mature eucalypt tree cover, and therefore this SEPP [SEPP44] does not apply" (pg. 8)
- "The proposed subdivision not only maintains the coastal and environmental character of the site but also aims to enhance habitat connectivity, through the implementation of a Vegetation and Habitat Management Plan (VHMP) and the rehabilitation of the Eastern Corridor and The Saddle" (pg. 9)
- "A draft Community Management Statement (CMS) has been prepared as part of the proposal and sets out the responsibilities of the Community Association to preserve the natural amenity of the site and its setting" (pg. 9)
- "The pattern of subdivision has been designed around waterways and habitat corridors, with regards to preservation of scenic value and habitat" (pg. 10)
- "An area of 98,704m² (9.87 ha) is provided as community land. The community land includes common property, open space, water courses, riparian buffers, roads, the proposed Council cycleway and a public recreation area. The intention would be for the public recreation area to be owned by the Community Association, but open to the public and maintained by Council, with Council's Agreement" (pg. 13)
- "The proposed building envelope size and location are also slightly modified to those presented in the DCP No. 59 Concept Master Plan. This is to ensure that the proposed buildings are outside the APZs specified for the site (pg. 13)
- "Existing riparian vegetation on the site provides habitat for native fauna; the proposal includes the creation of three wildlife corridors along Dunns Creek and the two major drainage lines, to link the northern and southern parts of Booti Booti National Park" (pg. 13)
- "DCP No. 59 specifies landscaping and rehabilitation requirements for the site which provides for a subdivision design which respects the site's ecology ... and facilitates provision of riparian corridors along Dunns Creek and between areas of Booti Booti National Park. Two habitat corridors will be provided and will be aligned north – south in order to connect the two sections of Booti Booti National Park (pg. 13)
- "The accompanying VHMP details: rehabilitation works to be undertaken on the site including weed control measures, screening planting on streetscapes and dwelling lots, staging and duration of works, management of vegetation for bushfire management purposes, ecologically sensitive lighting requirements, and Caring for Dunns Creek – Community Restoration Guide" (pg. 14)
- "DCP No. 59 requires that cats, dogs, livestock and cattle be prohibited due to the sensitive ecological nature of the site and its proximity to Booti Booti National Park... [however] under certain circumstances, the keeping of cats and dogs is proposed... The [proposed] requirements for keeping of dogs and cats have been incorporated in the CMS..." (pg. 14)
- "A number of bridges were proposed for creek crossings in the DCP No. 59 Concept Master Plan. Bridges were considered preferable over culverts to facilitate crossing by fauna within the ecological corridors. The costs associated with constructing bridges over the minor drainage lines on site were considered excessive ... Further, fauna friendly culverts which provide a dry ledge within the culvert for fauna to use the crossing are available. Culverts also provide suitable roosting habitat for microbats which would be of benefit to local threatened microbat species" (pg. 15)
- "[Bushfire] APZs, firetrails and garden vegetation are to be managed as described in the VHMP and in accordance with the CMS. The APZs are designed not to encroach upon Booti Booti National Park or habitat corridors" (pg. 16)

- "The existing residence on Lot 27 is approximately 2.5-metres from the property boundary... though the 2.5-metre boundary setback for Lot 27 will be managed as an APZ, no additional mitigation measures can be applied on the site... The nearest vegetation to Lot 27 is within Booti Booti National Park... NPWS should be made aware of the need to manage fuel levels in this location to provide adequate bush fire protection for the existing dwelling on Lot 27" (pg. 16)
- "Due to the sensitive ecological nature and rural residential character of the site, management of lighting to prevent adverse impacts is required. [A] lighting policy and plan is provided" (pg. 16). "Lighting will be directed downwards" (pg. C.8)
- "The proposed subdivision will involve a number of stormwater management measures to control run-off and water quality in Dunns Creek" (pg. 17)
- "The site currently holds little ecological value due to its being cleared and used for grazing. However, its strategic location adjoining Booti Booti National Park means that the revegetation accompanying the proposed subdivision will ensure the ecological values of the site and locality are substantially improved. The proposed subdivision is to be undertaken in conjunction with the transfer of a portion of the site (lot 29 – the Eastern Corridor) to OEH for potential incorporation within the national park and the revegetation of both the Eastern Corridor and a section of the National Park referred to as "The Saddle". This would provide a wider corridor between the northern and southern portions of the National Park... Corridors will also be established within the redeveloped portion of the site to allow fauna to move safely between areas of the National Park. Aquatic ecological benefits will also be provided under the proposed subdivision with the revegetation of the riparian ecological corridors and rehabilitation of watercourses including Dunns Creek. These works will provide additional habitat and improve the water quality to the benefit of aquatic species... The CMS also includes a requirement for the Community Association to prepare a Landholders Eco-Kit, which will be based on the Landscape Plan and VHMP.... Potential impacts on fauna species from lighting within the proposed subdivision will be minimised... With the proposed subdivision located on the edge of a National Park, it is important to ensure that the conservation value of the park is not negatively impacted by edge effects such as noise disturbance and weed invasion. These potential impacts will be managed as follows: lot boundaries will be setback from the National Park, the subdivision design, landscaping and rehabilitation and management will incorporate measures in accordance with the VHMP and APZs will not encroach upon Booti Booti National Park or habitat corridors" (pg. 21)

In addition, the SEE provides an assessment of the compliance of the proposal with DCP No. 59. With regards to ecological matters, it notes the following issues of non-compliance:

- The keeping of cats and dogs under certain circumstances is sought

A Vegetation and Habitat Management Plan was submitted with the SEE. It was prepared by Garry Worth, a qualified Ecologist.

Further, a Draft Community Management Statement has also been submitted with the SEE.

A specific Flora and Fauna Assessment has not been submitted with the Development Application. The DA relies on the statements on ecological impact assessment contained within the SEE as well as the findings and analyses within the Flora and Fauna Assessment prepared as part of LEP Amendment 52 (the rezoning of the subject land). Umwelt (2007) prepared a report entitled "Investigation of the Biological Environment of Lot 15 DP713933 Carmona Drive, South Forster." This investigation satisfied Council's standard requirements for rezoning investigations and involved detailed flora and fauna field surveys and analyses. The study also investigated parts of the adjacent Booti Booti National Park, in relevant proximity to the subject land. In summary, Umwelt (2007) found that:

- "Three primary vegetation communities were recorded within the subject site: Disturbed Myrtle Vegetation, Disturbed Paddock Community and Aquatic Vegetation

Community... The Disturbed Myrtle Community occurred patchily along drainage lines and [in some places] is dominated by the weed species, *Lantana*... Although in a disturbed state, this vegetation community supports elements which are consistent with Littoral Rainforest EEC" (pp. 3.1 – 3.2). "The remnants of the Littoral Rainforest which may be disturbed as a consequence of any future residential development of the subject site are all highly modified and therefore have a low conservation significance ranking. The total area of Littoral Rainforest EEC within any potential development area is estimated to be less than 0.2-hectares... the extent of the Littoral Rainforest EEC within the subject site [could] be increased in the long-term as a result of revegetation of the proposed Eastern Corridor. This would contribute approximately 6.45-hectares of Littoral Rainforest which would be contiguous with vegetation in Booti Booti National Park" (pg. 3.6)

- "No threatened flora species were recorded in the subject site or study area" (pg. 3.5)
- "Six threatened fauna species were recorded during the surveys... comprising masked owls, yellow-bellied sheath-tail-bat, eastern freetail-bat, little bentwing-bat, eastern bentwing-bat and large-footed myotis. Potential habitat was identified for 25 [threatened fauna species]" (pg. 4.7)
- "No areas of native vegetation are planned to be cleared within the subject site and, therefore, no assessment under the NV Act is required" (pg. 5.1)
- "No coastal wetlands identified by SEPP14 occur within the subject area. SEPP14 legislation, therefore, does not apply to the subject site" (pg. 5.1)
- "No SEPP26 mapped Littoral Rainforest areas occur within the subject site. This is despite the presence of littoral rainforest communities on the subject land. As such, no formal provisions of SEPP26 apply to the subject site" (pg. 5.2)
- "No areas of potential koala habitat occur within the subject site due to a lack of mature eucalypt tree cover present... No further assessment [of SEPP44] is required due to the absence of potential koala habitat within the subject site" (pg. 5.3)
- "The current study area is identified as a corridor in Key Habitats and Corridors Project for North-eastern NSW... The Forster/ Tuncurry Conservation and Development Strategy maps the entire subject site as a regional corridor including a local corridor running north-south between the two sides of Booti Booti National Park...[Actions are possible] to contribute to enhanced habitat quality and connectivity [within the context of development of the subject site] (pg. 6.4)
- "Currently, the subject site is highly disturbed and provides little habitat for native species. There are some relatively minor negative ecological impacts likely to result from low density residential development which would require careful management. There are also some potential positive ecological outcomes associated with the increased development. The subject site's position, surrounded by Booti Booti National Park, also requires sensitive consideration of ecological issues... Potential impacts of rural residential development within the subject site are: habitat loss [cleared paddocks only suitable for tolerant species], increase in maintenance of mown areas, increased weed species, introduction of domestic pets (the prohibition of cats and dogs on site is a requirement), increased numbers of domestic stock (regulate stock numbers), increased vehicle movements (appropriate speeds, warning signage), increased levels of noise and activity (night lighting minimised and directed away from Booti Booti National Park, amounts and types of lights regulated)" (pp. 8.1-8.3)
- "Ecological issues for Booti Booti National Park: provide sufficient landscaping to soften the appearance of buildings, night lighting should be kept to an absolute minimum and be directed away from Booti Booti National Park, Council may also wish to prohibit the use of floodlights, fencing should consist of plain wire and be rural in design, solid fencing such as Colourbond, paling and picket fences should not be permitted, no barbed wire fencing should be permitted, issues should be regulated in the community title management plan" (pg. 8.3)
- "Potential improvements in the ecological value of the subject site associated with the establishment of low density rural residential subdivision at the site include: increased habitat diversity, increased linkage between the northern and southern portions of Booti Booti National Park and access to water" (pp. 8.4-8.5)
- "The creation of a regional corridor along the eastern boundary of the subject site is recommended to increase the linkage between the southern and northern portions of

Booti Booti National Park... The proposed corridor should be fenced to prevent domestic stock entry and to discourage human access. A four strand plain wire rural fence is recommended along the western boundary of the proposed corridor. Any internal fence lines within the proposed corridors should be removed to facilitate wildlife movements... It is proposed that the Eastern Corridor should become part of the Booti Booti National Park" (pp. 10.1-10.3)

- *"To further enhance the value of the proposed corridor, it is recommended that the saddle area also be revegetated... DEC would support revegetation of the saddle area" (pg. 10.3)*
- *"It is recommended that a buffer zone on either side of Dunns Creek be fenced and managed for conservation of the creek and native riparian species which it supports. Removal of grazing stock should allow native drainage line species present in the seed bank to become re-established, however it is suggested that planting of native species is undertaken to assist the rehabilitation process" (pg. 10.3)*
- *"The habitat value of all four dams would be increased by the removal of grazing stock and the planting of emergent and bank side vegetation" (pg. 10.4)*
- *"Given the open and highly disturbed nature of the subject site, there would be relatively minor ecological impacts associated with any low density rural residential development" (pg. 11.1)*

Umwelt (2007) included a "Proposed Revegetation Plan for Eastern Corridor, Saddle Area and Riparian Areas" report.

The RFS, in their correspondence of the 14 November 2012, have identified the required bushfire protection measures for the proposed subdivision of the subject land.

Council's Manager – Strategic Planning has advised in his memo of the 29 June 2012, with respect to ecological matters:

The applicants have requested that the keeping of cats and dogs be permitted where:

- *An adequately enclosed run is installed on the lot,*
- *The animals are:*
 - *Kept at all times indoors or in an outdoor run;*
 - *In the case of dogs, kept on a leash at all times when not on the owners property;*
 - *Micro-chipped and registered with Council*

It is also proposed for the Community Management Statement to prescribe that the community association will have to approve the keeping of the animals and that the association has the right to order the removal of nuisance animals.

National Park currently adjoins the northern and southern boundaries and will adjoin National Park on the eastern boundary when the development offset area is dedicated to OEH. The restriction on the keeping cats and dogs, as set out in clause 5.1, is therefore well founded and was, in fact, a key recommendation of the Local Environmental Study for the land. The proponent's consultants actually supported the proposal at the time and advised that the restriction would be included in the Community management statement.

Whilst the proposed measures may contribute to the management of pets, the success of the restrictions is dependent on the vigilance of the community association and the willingness of the association to enforce the rules. This cannot be guaranteed and it is still likely that pets, especially cats, would roam thus exposing fauna to predation.

The requested departure is not supported.

The Proposed Fauna Culverts Instead of Bridges: This is matter for Council's Senior Ecologist to assess.

A number of objections have been received and are contained on the DA file (DA336/2012). In summary, the ecological objections raised the following matters:

- Object to the proposal to not build bridges over creeks as fauna corridors (as agreed in DCP No. 59). The bridges are critical to the protection of local native fauna
- There was agreement that there would be no lighting to maintain the rural feel of the area, but the application includes street lighting
- The deferment of streetscaping and landscaping to the last development stage is inappropriate
- The prohibition of cats and dogs must be enforced and cats and dogs should not be allowed within the development
- Natural streams and watercourses should not be modified or altered
- On proposed Lot 22, there is an area of importance for local butterfly populations
- There are no details as to the locations and impacts of powerlines and phone services

Assessment

This subdivision proposal follows the recent gazettal of the Great Lakes LEP Amendment 52, which was adopted to facilitate rural residential development on the subject land.

The rezoning documentation and decision-making clearly identified that development, if it was in keeping with the DCP No.59 (and the Concept Masterplan contained therein), would not result in significant or unreasonable ecological impacts. Further, the rezoning determined that there was ecological benefit associated with revegetation and enhanced connectivity associated with sensitive and well-planned development of the subject land.

The principal issues in this assessment are therefore:

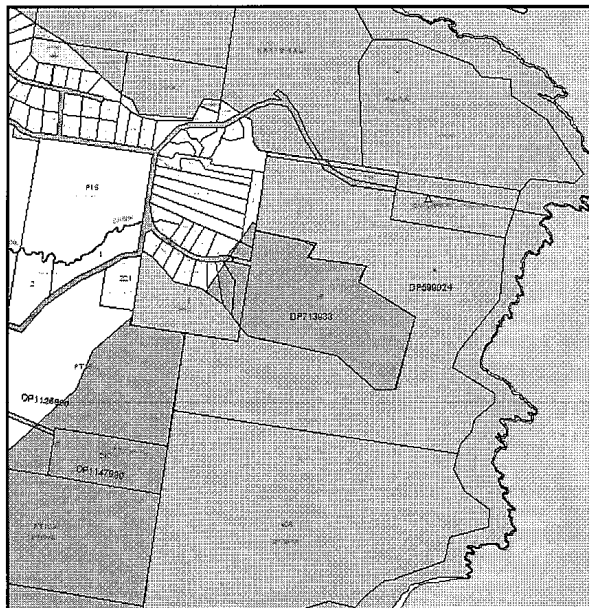
- To determine if the relevant statutory ecological requirements of the Part 4 process have been met; and
- To determine whether the proposed development complies with the outcomes of the rezoning process and DCP no. 59 or, if there are departures and non-compliances that are sought, do they result in a benign or acceptable ecological impact.

The resolution of these issues is the focus of this Assessment Report.

To assist this environmental assessment, a summary of the pertinent environmental values of the land is provided below:

Known Threatened Species	Six threatened fauna species were recorded on the land during the rezoning investigations: Masked Owl, Yellow-bellied Shearwater, Eastern Freetail-bat, Eastern Bentwing-bat, Little Bentwing-bat and Large-footed Myotis.
Potential Threatened Species	The subject land provides suitable habitats for a range of additional threatened flora and fauna species. Such species are identified and discussed in Umwelt (2007).
Endangered Ecological Communities	One listed EEC relates to the subject land. The Disturbed Myrtle Community, which occurs in minor, scattered parts of drainage lines on the subject land was identified by Umwelt (2007) to comprise the listed EEC of Littoral Rainforest. Littoral Rainforest is listed as an EEC on both the State and Commonwealth threatened species legislation. All occurrences of this community type on the subject land were deemed by Umwelt (2007) to be in low condition.
Endangered Populations	No listed Endangered Populations relate to the subject land.

High Conservation Value Vegetation	The subject land has been largely cleared of native vegetation communities and natural regeneration has been suppressed by grazing and other land use activities. While a vegetation type analogous with Littoral Rainforest has been identified on the subject land, the occurrences of this vegetation type were considered to be of low condition and low conservation value. The subject land is surrounded on three sides by Booti Booti National Park, which is a significant conservation area and habitat resource.
Key Regional Corridor (mapped)	The entire subject land has been mapped as part of a Key Regional Corridor (see map below)
Key Regional Habitat (mapped)	No part of the subject lands are mapped as Key Regional Habitat.
SEPP44 Potential Koala Habitat	SEPP44 applies to this application. Umwelt (2007) conducted investigations into the presence of Potential Koala Habitat as defined by SEPP44. Umwelt (2007) concluded that Potential Koala Habitat does not occur on the subject land.
SEPP44 Core Koala Habitat	No investigations of the presence of Core Koala Habitat as defined by SEPP44 were conducted because the land was not identified to comprise Potential Koala Habitat. There is no evidence of any sightings of Koalas from the subject land to indicate or suggest that Koala populations are transiently or consistently present.
SEPP14	No gazetted SEPP14 wetlands occur within relevant proximity of this site.
SEPP26	Some areas of SEPP14 wetlands do occur near to where Dunn's Creek eventually discharges into Wallis Lake. There is no mapped SEPP26 in relevant proximity to the subject land.
SEPP71	The closest gazetted area of SEPP26 is located approximately 300-metres up-slope and away from the subject land, within Booti Booti National Park in the vicinity of Cape Hawke Lookout.
Environmental protection zone	The land is mapped as being within the coastal zone.
Marine Park	The land is zoned partly as 1(d1) and partly as 7(a1) under GLLEP 1996. The proposed rural residential subdivision is confined to the area zoned 1(d1), with the environmentally protected area (7(a1)) proposed to be excised, restored and dedicated to the NSW Office of Environment and Heritage, as an extension to Booti Booti National Park.
National Park	Gazetted Marine Parks do not occur in relevant proximity to this subject land. The subject land is directly adjoined on three sides by the existing Booti Booti National Park.



As mentioned above, the ecological impacts and risks of rural residential subdivision of the land has been examined through the rezoning process and specifically by Umwelt (2007). I am content that the subdivision layout that is proposed is not significantly different from that of the Concept Masterplan of DCP No. 59 and does not unreasonably worsen those ecological impacts and risks assessed within the Umwelt (2007) report. Umwelt (2007), in their s8, clearly considered the range of ecological impacts associated with rural residential development on the land and were satisfied that impacts were statutorily-appropriate and not significant or unreasonable.

I am also content that generally there is conformance and compliance with the prescriptive DCP No. 59 that applies to this land and which was derived to address the ecological issues associated with proposed rural residential subdivision. However, the proposal does include several areas of non-compliance which relate to ecological matters. I have specifically considered these below:

1. The keeping of cats and dogs on the proposed Lots subject to certain conditions

The Applicant seeks within DA336/ 2012 to provide for the keeping of cats and dogs. This is in direct non-compliance with DCP No. 59, the exhibited material of LEP Amendment 52 and the ecological study that under-pinned the gazetted rezoning (Umwelt 2007). Council's Manager – Strategic Planning has expressed his written objection to the keeping of cats and dogs anywhere on the subject land. I concur with the view that cats and dogs (other than Assistance Animals as defined by the *Disability Discrimination Act 1992*). The subject land is located within an ecologically significant context, being bound on three sides by Booti Booti National Park and adjoining areas of significant Littoral Rainforest. Littoral Rainforest is an endangered ecological community, listed at both the State and Commonwealth level. As such, I am not convinced that dogs and cats (other than the aforementioned Assistance Animals) should be permitted on the land, under any circumstances of control or restriction. I am not satisfied that the tools or regulatory resources that are available now and in the future would successfully restrain and control dogs and cats in the manner proposed in the application and that dogs and cats, if permitted on the lots, would in fact cause unreasonable biodiversity-related impacts and impacts on the adjoining National Park. The sensitivity of the landscape, in my opinion, mandates that the outcomes of the rezoning process should be applied to the full extent and that cats and dogs, other than Assistance Animals, should be effectively precluded and prohibited from the subject land. This should be enforced in the Community Management Statement as well as by restrictions imposed by conditions applied to any consent.

2. The use of culverts instead of bridges for creek (local) corridor crossings

I am content that culverts can be designed in a manner that permits the movement of native wildlife in an equivalent manner to the movement opportunities facilitated by the construction of a bridge. This depends on successful and appropriate design, as well as the installation of appropriate features (refuge poles, dry floor areas, ground refuge, etc, appropriate sizing). As such, I am content that conditions can be applied to any consent to provide for the appropriate use of culverts instead of bridges over creek crossings within the proposed subdivision.

Further, I have considered each of the ecological objections to the development proposal from an assessment stand-point and I make the following commentary:

1. Object to the proposal to not build bridges over creeks as fauna corridors (as agreed in DCP No. 59). The bridges are critical to the protection of local native fauna

This issue is considered above. I am satisfied that culverts can be designed and built in a manner that facilitates native wildlife movements, provided that such culverts are of appropriate design and specifications. I am content that conditions of consent can be applied to ensure that any culverts designed and utilised in the subdivision are suitably for the conveyance of native wildlife through the landscape.

2. There was agreement that there would be no lighting to maintain the rural feel of the area, but the application includes street lighting

I have considered the proposed lighting scenario for the subdivision as set-out in the Appendix H of the SEE. The Lighting Policy has been developed with input from an Environmental Scientist. The proposed community lighting does not project flood or spot-lights to sensitive natural areas and landscapes. All street-lighting is projected downwards to the street and away from sensitive natural areas. I am content that the lighting proposed in this subdivision would not have a net negative ecological impact that is significant or unreasonable.

3. The deferment of streetscaping and landscaping to the last development stage is inappropriate

I concur with the objection that streetscaping and landscaping is not appropriately deferred until the final proposed development stage. It is only reasonable that landscaping and streetscaping be progressive, commencing at proposed Development Stage 2 and strategically timed. I am content that conditions of consent can be adopted to ensure that progressive and timely streetscaping and landscaping is achieved.

4. The prohibition of cats and dogs must be enforced and cats and dogs should not be allowed within the development

This matter is discussed above in this memo. I am strongly of the opinion that cats and dogs (other than Assistance Animals) should be prohibited and effectively and proactively excluded from the subject land at all times. This should be enforced by way of conditions of consent. This would preserve the findings of Umwelt (2007) and the outcomes of the rezoning process and DCP No. 59. Dogs and cats are unsuitable in this sensitive landscape and their control, if permitted anywhere on the subject land, would be very difficult, if not impossible. It is therefore important that cats and dogs (other than Assistance Animals) should be proactively excluded from the land at all times.

5. Natural streams and watercourses should not be modified or altered

I am not of the opinion that natural watercourses within the subject lands would be unreasonably altered or modified by this proposal. The subdivision is associated with the protection and restoration of the riparian corridors on the subject land.

6. On proposed Lot 22, there is an area of importance for local butterfly populations

The building envelope proposed for Lot 22 appears to be satisfactorily located away from remnant or regenerating habitat features. There does not appear to be significant statutory controls associated with this issue.

7. There are no details as to the locations and impacts of powerlines and phone services

It is envisaged that powerlines within the subdivision will be made to be underground via the consent process. This will avoid impacts on amenity and minimise impacts on the natural environment. It is logical that telecommunications cables would be established in utility corridors, with the underground powerlines. This issue can be adequately regulated and controlled through the consent process.

Therefore, none of the objections, in my opinion, raise such serious ecological issues that the DA cannot be positively determined. Conditions of consent are required to preclude and prohibit cats and dogs from the land (other than Assistance Animals) and to ensure that culverts over drainage channels are designed in a manner that permits the reasonable movement of native fauna.

It must be recognised, in this assessment, that the parts of the subject land to be subdivided and developed for the purpose of the community title subdivision are mainly devoid of native vegetation and have a long history of clearing, suppression of natural regeneration and grazing. The proposal is associated with significant ecological benefits through the revegetation of a currently cleared part of the current Booti Booti National Park (*"The Saddle"*) as well as the revegetation and dedication of a 6.7-hectare area of private freehold land (the *"Eastern Corridor"*) to the National Park, which will recruit significant Littoral Rainforest in the area and enhance wildlife populations and connectivity. Further, the subdivision provides for internal corridors and the restoration of riparian zones. These ecological outcomes were recognised and clearly identified in the LEP Amendment 52 gazettal, which has facilitated and indeed guided this proposed development.

Consequently, this environmental assessment report has considered the pertinent statutory questions and which are discussed below:

- It cannot be reasonably argued that the proposed development would result in the clearing of native vegetation, filling, draining or the construction of a levee on any area of gazetted SEPP14 coastal wetlands. As such, there are no gazetted SEPP14 coastal wetlands in relevant proximity to the development site and none of the assessment provisions of SEPP14 apply.

There are SEPP14 wetlands in and proximal to Wallis Lake, near to the discharge of Dunn's Creek, downstream of the subject land. The integrity of these gazetted SEPP14 wetlands would be protected by the adoption of effective water quality controls on the subject lands and which will be achieved through the consent process.

- There are no gazetted SEPP26 littoral rainforests in relevant proximity to the development site. The nearest gazetted SEPP26 littoral rainforest is some 300-metres upslope and away from the subject land in Booti Booti National

Park, near the Cape Hawke Lookout. As such, no further provisions of SEPP26 Littoral Rainforests apply to the subject land or the development proposal.

There is modified Littoral Rainforest on parts of the riparian zones of the subject land, but these are not gazetted on SEPP26 and are of demonstrably low condition and integrity. Such areas will be generally protected within the development layout and enhanced by riparian restoration efforts (Umwelt 2007). Littoral Rainforest in the locality will be enhanced by the development via the targeted recruitment and conservation of areas of the "*Eastern Corridor*" and "*The Saddle*".

- With regards to Part 2, clause 6, SEPP44 applies to the land and to this DA. The subject land was pertinently investigated by Umwelt (2007), which determined that Schedule 2 Koala food tree species do not occur in sufficient density to satisfy the definition of potential Koala habitat as defined by SEPP44. Therefore, potential Koala habitat does not occur on the subject land and no further investigations of core Koala habitat pursuant to SEPP44 were required.

Further, despite targeted investigations conducted by Umwelt (2007), no evidence of the presence of Koalas has been reported on the subject land. Core Koala Habitat as defined by SEPP44 does definitively not occur. A Koala Plan of Management prepared pursuant to SEPP44 is therefore not required for this DA.

- The proposal would not affect gazetted Marine Parks in any direct or indirect manner. No provisions of the *Marine Parks Act 2003* apply to the proposed development.
- I have considered the listed matters of national environmental significance and the EPBC Act 1999, which includes world heritage properties, national heritage places, the commonwealth marine environment, nuclear actions, Ramsar wetlands, nationally threatened species and communities and international migratory species. It is my opinion that this proposal to establish the subdivision would not impact significantly on any listed matters of national environmental significance. The proposal is not a nuclear action and the land is not on or in the vicinity of any Ramsar wetland, world heritage property, national heritage place or commonwealth marine environment. The proposal would not affect any habitats in a manner that would negatively impact migratory bird species or significantly affect the habitat or lifecycles of nationally-listed threatened species.

Coastal Vine Thickets and Littoral Rainforest is a listed endangered ecological community on the Commonwealth EPBC Act 1999. There are minor stands of low condition and modified Littoral Rainforest on the area of the proposed subdivision. These stands would be retained and enhanced within the community land as part of riparian and local corridors and no areas of Littoral Rainforest would be removed or harmed as a consequence of the proposal. Further, over 7-hectares of Littoral Rainforest would be revegetated as a direct consequence of this proposal through the restoration of "*The Saddle*" and the "*Eastern Corridor*" and there would be significant conservation of Littoral Rainforest through the proposed dedication of the "*Eastern Corridor*" to National Parks. As such, through the proposed dedication, conservation and restoration of Littoral Rainforest on this subject

land and in the adjacent Booti Booti National Park it is clearly evident that there would not be any unreasonable negative impact, but there would in fact be a significant net positive effect on Littoral Rainforest in the locality and sub-region as a consequence of this development proposal.

While the Grey-headed Flying-fox is likely to occur on the development site, any such use would be occasional and transient and the species would not rely locally on the resources of the development site. The development is likely to recruit and enhance Grey-headed Flying-fox habitat in the future through the revegetation of littoral rainforest at "The Saddle", the "Eastern Corridor" and in riparian areas of the community land.

There is no evidence that any other nationally-listed threatened species would be unreasonably or significantly impacted by the development proposal.

Umwelt (2007) had considered the issues of the Commonwealth EPBC Act 1999 and had considered that the proposed rural residential subdivision of the land was not likely to impact on any matters of national environmental significance.

I concur with the opinion of Umwelt (2007) and determine that the proposal does not significantly affect matters of national environmental significance. Referral to the Commonwealth Government is not required pursuant to the EPBC Act 1999.

- With regards to s5A of the EP&A Act 1979, the subject land is known to support the activities of six (6) threatened fauna species (as well as providing potential habitat for additional listed threatened species) and provides habitat for one (1) listed endangered ecological community (Littoral Rainforest). Umwelt (2007) considered the issues associated with s5A of the EP&A Act 1979 within the rural residential development of the land. Umwelt (2007 – s8.1) concluded that impacts on threatened biodiversity as a consequence of the development proposal were not likely to be significant and a Species Impact Statement would not be required.

I have also considered the issue of s5A of the EP&A Act 1979, and the pertinent question relates to whether the development would cause a loss of threatened biodiversity populations in the locality and represent an unreasonable and significant loss of habitat or threat to threatened species, population and community lifecycles. I have thus considered the relevant guidelines. I am of the same opinion as Umwelt (2007) that the development (provided cats and dogs are excluded) would not be associated with a significant impact on threatened biodiversity.

While Littoral Rainforest does occur on the subject land within the area of the proposed subdivision, such stands are of low condition, are fragmented and degraded and are to be retained in riparian and local corridors within the community association land. As mentioned above, the proposal results in a significant and positive net gain of conserved Littoral Rainforest in the locality through conservation and revegetation initiatives. There would not be a significant depletion of Littoral Rainforest in the locality such that this ecological community is at risk of local extinction.

All of the six threatened fauna species, namely Masked Owl, Yellow-bellied Sheath-tail-bat, Eastern Freetail-bat, Eastern Bentwing-bat, Little Bentwing-bat

and Large-footed Myotis are all species with large home or foraging ranges and are capable of feeding in and near modified landscapes. The Bentwing-bats and Large-footed Myotis are likely to roost locally in sea-cliffs or other enclosed structures and utilise the subject land for feeding purposes. The Large-footed Myotis would preferentially utilise the creek-lines and dams of the site. The Bentwing-bats are both capable of foraging in cleared and open areas. These three species are likely to utilise the subject land for foraging purposes in the future within the sub-divided and developed landscape. Significant impacts are not predicted. The Yellow-bellied Sheathtail-bat and Eastern Freetail-bat utilise tree hollows for roosting and have wide foraging ranges, which often incorporate modified and open landscapes. No hollow-trees will be harmed or affected by the proposed development and foraging is likely within the sub-divided and developed landscape. Finally, the Masked Owl was called in to the subject land from the adjoining forested landscape. This species occupies territories that are in excess of 500-hectares and are not likely to be impacted by the development that is proposed. No roosting hollows would be impacted and foraging is likely to occur in the post developed landscape, especially in the absence of dogs and cats. None of the threatened species recorded on the subject land would be impacted by loss of prey resources and the preclusion of cats and dogs would assist maintain native wildlife prey populations for the Masked Owl. Therefore, the known threatened fauna species of the subject land are not likely to be significantly impacted by the proposed development. This is the same conclusion as was drawn by Umwelt (2007).

Finally, there is the opportunity to deploy a range of conditions of any consent that would assist implement the habitat conservation and restoration initiatives that are proposed, enhance the timing of such initiatives, preclude dogs and cats from the land (other than Assistance Animals) and further mitigate or compensate any direct or secondary impacts on threatened biodiversity and its habitat as a consequence of the proposal. As mentioned, there is a significant net positive benefit of this proposal in regards to local habitat and conservation outcomes, particularly for Littoral Rainforest and native wildlife populations and movement. In that manner, I am of the opinion that this proposal would not cause the significant harm or loss of habitat to any local populations of threatened biodiversity. It is my opinion that the DA can be determined in the absence of an SIS, provided that suitable conditions are adopted.

- With regard to s79C of the EP&A Act I have considered and am satisfied that the possible range of environmental risks and threats referred to within s79C associated with the registration and formation of this proposed subdivision can be avoided or be adequately managed through conditions of consent. As such, the DA can be determined with respect to s79C of the EP&A Act.

The development layout avoids the stands of high conservation value vegetation (modified Littoral Rainforest) within the subject land and achieves a significant net gain in Littoral Rainforest through revegetation and conservation efforts.

Furthermore, I am satisfied that the proposal would not impact, diminish or hamper local, sub-regional or regional wildlife corridor movements. The mapped Key Regional Corridor over the subject land comprises essentially cleared and grazed land. Whilst this development establishes a rural residential subdivision in this area, it preserves relatively small local corridors,

but is associated with a 6.7-hectare extension to the conservation area of Booti Booti National Park, and which is to be proactively revegetated with endemic Littoral Rainforest vegetation. Therefore, I am of the opinion that wildlife movements in the locality would be preserved, if not enhanced, by the development that is proposed.

As such, the development does not appear to be burdened or constrained by s79C of the EP&A Act 1979, as it relates to ecological matters.

- The proposal would not result in any significant impacts on any threatened aquatic species pursuant to the *Fisheries Management Act 1994*. No threatened aquatic species or their habitats occur on land directly or indirectly affected by the proposed subdivision.
- With regards to the provisions of the *National Parks and Wildlife Act 1974*, the subject lands are bound on three sides by Booti Booti National Park. The rezoning process has considered the appropriateness of rural residential development in the context of the management and protection of the surrounding National Park. With certain protective safeguards (such as the exclusion of non-assistance dogs and cats, fencing, revegetation and the dedication of an area of land), it was conclusively demonstrated that the subdivision would not cause significant or unreasonable impacts on the National Park, or its long-term management (Umwelt 2007). As such, the National Parks and Wildlife Act 1974 does not preclude this development proposal. A Planning Agreement has been executed to give effect to certain actions of dedication and revegetation of land associated with the subject developments interaction with the surrounding National Park.
- The land is within the SEPP71 coastal zone and the provisions of SEPP71 do apply. The key ecological provisions of SEPP71 are set out in Part 2, Clause 8 of SEPP71 ("*Matters for consideration*"). In particular, the following matters need to be considered:

Part 2, Clause 8:

- (g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995 and plants (within the meaning of that Act), and their habitats,*
- (h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 2003) and marine vegetation (within the meaning of that Part), and their habitats*
- (i) existing wildlife corridors and the impact of development on these corridors,*
- (p) only in cases in which a development application in relation to proposed development is determined:*
- (i) the cumulative impacts of the proposed development on the environment*

I have demonstrated above that this proposal would not have unreasonable or significant impacts on threatened plants or animals listed on the Threatened Species Conservation Act 1995 or the Fisheries Management Act 2003. Further, I have demonstrated that the proposed development would not cause significant or unreasonable impact on local, sub-regional or regional wildlife corridors or the movements of plants and animals. Umwelt (2007) shared this conclusion in their assessment of rural residential development on the land within LEP Amendment 52 and its associated studies. The proposal does not cause unreasonable cumulative impacts to the natural environment. There is a positive, net gain of Littoral Rainforest

and a significant addition to the habitats of the Booti Booti National Park associated with the development proposal.

Therefore, I am satisfied that the development proposal is consistent with and does not conflict with Part 2, Clause 8 ecological matters set out in SEPP71.

- The land that is to be subdivided and developed for the purpose of the community title subdivision is zoned 1(d1) under the GLLEP 1996. There are no pertinent ecological objectives of this zone that need to be considered in this assessment. The land has been recently rezoned in LEP Amendment 59 and is subject to the prescriptive DCP No. 59. The part of the subject land that is zoned 7(a1) will be subdivided, restored and transferred to the ownership and management of the Office of Environment and Heritage as an extension to Booti Booti National Park. As such, the proposal adequately and proactively manages and conserves the land that is zoned for Environmental Protection purposes.
- With the land zoned 1(d1) under GLLEP 1996, the provisions of the *Native Vegetation Act 2003* do apply to the land. The proposed subdivision is not expected to result in harm or clearing to vegetation that would meet the definition of remnant native vegetation under the NV Act 2003. As such, dual consent does not appear to be required for any aspect of this development proposal under the NV Act 2003.

Therefore, there appears to be no statutory constraint to the positive determination of the Development Application from an ecological perspective. Conditions of consent are required to manage and minimise pertinent ecological risks and potential threats and to ensure that ecological commitments are achieved in a timely and appropriate manner.

Recommendation

The Natural Systems Branch advises that this DA can be positively determined in respect to ecological issues. It is recommended that a number of conditions of consent be adopted. Amongst a range of conditions that are required, specific conditions are required to prohibit and exclude cats and dogs (other than Assistance Animals) and ensure that landscaping and revegetation works are appropriately scheduled and completed. Ecological conditions are set-out below:

Ecological Conditions of Consent

Conditions required as part of Development Stage 1

1. Conservation and revegetation of Approved Lot 29

The Registered Proprietor of the subject land shall ensure that the commitments and responsibilities as set-out in the executed Planning Agreement as it pertains to the creation, dedication, other nominated physical works (including de-wiring existing fencing), new fencing, revegetation and restoration (including weed control) of Approved Lot 29 are satisfactorily completed to the satisfaction of Great Lakes Council and the NSW Office of Environment and Heritage.

Reason: To ensure that legal commitments relating to Approved Lot 29 are satisfactorily completed during the subdivision process.

2. Revegetation of “*The Saddle*” within Booti Booti National Park

The Registered Proprietor of the subject land shall ensure that the commitments and responsibilities as set-out in the executed Planning Agreement (ref...) as it pertains to the revegetation and restoration (including weed control) of the area identified as “*The Saddle*” within Booti Booti National Park is satisfactorily completed to the satisfaction of Great Lakes Council and the NSW Office of Environment and Heritage.

Reason: To ensure that legal commitments relating to revegetation and restoration of “*The Saddle*” in Booti Booti National Park are satisfactorily completed during the subdivision process.

3. Restrictions on the Use of Land to protect the natural environment

The Registered Proprietor of the land shall take all necessary steps to ensure restrictions on the use of land pursuant to the provisions of s88B of the *Conveyancing Act 1919* and public positive covenants pursuant to the provisions of s88E of the *Conveyancing Act 1919* to the following effect, are recorded in the Register kept under the *Real Property Act 1900*:

- (1) No cats, dogs (other than Assistance Animals as defined by the Disability Discrimination Act 1992) or domestic or feral grazing stock (horses, cattle, goats, sheep, llamas, etc) are to be introduced, kept or released anywhere on the subject land at any time.
- (2) No fencing consisting of smooth, mesh or picket metal styles, or barbed wire or any other solid fencing style (other than those permitted in the Community Management Statement approved for the land) are to be erected anywhere on the subject land, at any time.
- (3) There shall be no recreational use of motorbikes or other motorised vehicles of any type anywhere within Approved Lot 29.

The land burdened by the restrictions on use above is Lot 15 DP713933 and all relevant lots created by this approved subdivision, with the exception of Approved Lot 29.

The Council of Great Lakes is the prescribed authority for the purposes of Division 4, Part 6 of the *Conveyancing Act 1919*, and is to have the benefit of the restrictions set-out above. A Draft of the Restrictions/ Public Positive Covenants shall be provided to Great Lakes Council for review and approval prior to any registration on the relevant title.

The Registered Proprietor of the land shall have registered by the Registrar-General a plan as a deposited plan showing those parts of the subject land (and the approved subdivided lots formed by this consent) identifying the areas affected by the restrictions on use such that on its registration, the restrictions on the use of land and public positive covenants set out in the condition above are entered on the appropriate title(s).

Reason: To ensure that appropriate permanent controls are placed over the land to protect the natural environment and native wildlife populations and lifecycles.

Conditions required prior to the issuing of the first Subdivision Certificate for any part of Development Stage 2

4. Submission of the Draft Community Management Statement for Review and Approval by Great Lakes Council

The Registered Proprietor of the subject land shall submit to Great Lakes Council for review, an amended Draft Community Management Statement.

The Community Management Statement shall only be finalised at such time as Great Lakes Council have indicated in writing that the Statement is satisfactory and acceptable. The Statement shall include additional details relating to matters as directed by Great Lakes Council, including additional ecological protections and management provisions (such as, but not limited to, priority invasive weed controls on Lots and exclusion of planting of invasive flora species in any landscaping). The Statement shall incorporate controls associated with regular reviews and adaptation, subject to Council approval.

Specifically, Part 4, Section 1 shall be re-drafted to enforce the exclusion and proactive prohibition of dogs and cats (other than Assistance Animals as defined by the *Disability Discrimination Act 1992*) from the subject land at all times and under all circumstances.

Reason: To ensure that the Community Management Statement is satisfactory and appropriate.

5. Submission of the Vegetation and Habitat Management Plan for Review and Approval by Great Lakes Council

The Registered Proprietor of the subject land shall engage a qualified ecologist who shall submit to Great Lakes Council for review, an amended Vegetation and Habitat Management Plan (VHMP). The VHMP shall only be finalised (and thus approved) at such time as Great Lakes Council has indicated in writing that the Plan is satisfactory and acceptable. The Plan shall include additional details relating to matters as directed by Great Lakes Council, including a comprehensive breakdown of Vegetation and Habitat Management actions, timing (tied to approved development staging), responsibilities, indicative costing of all actions, key performance indicators and monitoring. The Plan shall incorporate controls associated with regular review and adaptive management, subject to Council approval. The Plan shall contain maps and plans and be written in a style that is clear, explicit and able to be practically implemented. It shall exclude subjective or unquantified statements and any ambiguity regarding timing and responsibility.

In respect to timing of the implementation of Vegetation and Habitat Management works, the Plan shall clearly identify the staged undertaking of necessary works, including, but not limited to, fencing, facilitating natural regeneration, weed controls, feral animal controls and revegetation/ landscaping.

Reason: To ensure that the Vegetation and Habitat Management Plan is satisfactory and appropriate and able to be practically implemented to assist protect and conserve the natural environment.

6. Submission of the Landscaping Plan for Review and Approval by Great Lakes Council

The Registered Proprietor of the subject land shall engage a qualified landscape architect who shall submit to Great Lakes Council for review, an amended Final Landscaping Plan. The Plan shall only be finalised (and thus approved) at such time as Great Lakes Council has indicated in writing that the Plan is satisfactory and acceptable. The Plan shall include additional details relating to matters as directed by Great Lakes Council, including a comprehensive breakdown of Landscaping actions, timing (tied to approved development staging), responsibilities, indicative costing of all actions, key performance indicators and monitoring. The Plan shall incorporate controls associated with regular review and adaptive management, subject to Council approval. The Plan shall contain maps and plans and be written in a style that is clear, explicit and able to be practically implemented. It shall exclude subjective or unquantified statements and any ambiguity regarding timing and responsibility.

In respect to timing of the implementation of Landscaping works, the Plan shall clearly identify the staged undertaking of necessary works.

Specifically, the revised and amended Landscaping Plan shall delete reference to the use of Sweet Pittosporum (*Pittosporum undulatum*) and replace this species with a small tree/ tall shrub species approved by Great Lakes Council (such as Cheese Tree (*Glochidion ferdinandi*) or Tuckeroo (*Cupaniopsis anacardioides*)).

Reason: To ensure that the Landscaping Plan is satisfactory and appropriate and able to be practically implemented to assist protect and conserve the natural environment.

7. Survey and establishment of fencing around the bounds of the subject land (other than Lot 29)

The Registered Proprietor of the subject land shall engage a Registered Surveyor to identify and mark the common boundary of the subject land and the Booti Booti National Park (other than Approved Lot 29). The Registered Proprietor shall engage a Fencing Contractor to establish a rural-style fence of hardwood posts, metal star pickets and four strands of plain wire along the surveyed common boundary of the subject land (other than Lot 29) and the Booti Booti National Park.

Reason: To demarcate and protect Booti Booti National Park from the development of the subject land.

Conditions required as part of the construction of Approved Development Stage 2

8. Survey and establishment of a fence along the northern bounds of Lots 2 – 7 and western bounds of Lot 2

Within 3-months of the issuing of the first Construction Certificate for any works associated with Development Stage 2, the Registered Proprietor of the subject land shall establish a rural-style fence of hardwood posts, metal star pickets and four strands of plain wire along the surveyed (by a registered surveyor) northern bounds of the Lots 2 – 7 and the western bounds of Lot 2.

Reason: To demarcate approved lots from the community land that is to be protected and regenerated that lies to the north of approved lots 2 – 7 and to the west of approved Lot 2.

9. Identification and Approval of the Clearing of Native Vegetation and Habitat in Development Stage 2

Prior to the commencement of any works on or associated with Development Stage 2:

- a) The Registered Proprietor shall engage a registered surveyor to mark on the land the accurate boundary of the footprint of the Approved Development on Stage 2 and any stands of native vegetation that are required to be cleared for this aspect of the development (if any).
- b) The marked native vegetation removal shall be strictly controlled and minimised.
- c) Once the marking program has been completed, the Registered Proprietor (or their agents) shall notify Great Lakes Council. Council's Senior Ecologist and/ or Tree Management Officer shall then inspect and assess the remnant native vegetation removal marking program. These Council Officers shall inspect the Registered Proprietors marking program and confirm that clearing activities have been minimised and controlled appropriately.

Construction works shall not commence for Development Stage 2 until such time as Council's Senior Ecologist or Tree Management Officer have approved of the applicable remnant native vegetation removal marking program in writing.

Reason: To minimise the impacts of the development on native vegetation.

10. Implementation of relevant actions as directed in the Approved Vegetation and Habitat Management Plan

The Registered Proprietor of the land shall implement all of the actions as identified in the Approved Vegetation and Habitat Management Plan that are relevant to Development Stage 2.

Reason: To ensure that the actions in the Approved Vegetation and Habitat Management Plan are undertaken, as required.

11. Implementation of relevant actions as directed in the Landscaping Plan

The Registered Proprietor of the land shall implement all of the actions as identified in the Approved Landscaping Plan that are relevant to Development Stage 2.

Reason: To ensure that the actions in the Approved Landscaping Plan are undertaken, as required.

12. Removal of Priority Invasive Weeds from land in Development Stage 2

The Registered Proprietor of the land shall engage a Bushland Regenerator to eradicate all occurrences of the following weeds from all lands within and associated with Development Stage 2. Priority environmental weeds are considered in these conditions to include: *Lantana camara* (Lantana), *Asparagus aethiopicus* (Asparagus Fern), *Delairea odorata* (Cape Ivy), *Ricinus communis* (Castor Oil Plant), *Senna pendula* (Senna), *Ligustrum sinense* (Small-leaved Privet), *Solanum mauritianum* (Wild Tobacco Bush), *Rubus fruticosus* (Blackberry), *Cinnamomum camphora* (Camphor Laurel) and other species as identified by Great Lakes Council.

Reason: To ensure that priority invasive weeds are controlled and eradicated from the subject land to protect the natural environment.

Conditions required prior to the issuing of the first Subdivision Certificate for any part of Development Stage 3

13. Details of the Culvert Structures proposed in this Stage of the Development to be submitted to Great Lakes Council

The Registered Proprietor of the subject land shall engage a Civil Engineer and an Ecologist to provide to Great Lakes Council for review and approval specifications and details of the Culverts that are to be established on Development Stages 3 and 4 and the means with which native wildlife movements would be facilitated and encouraged.

Reason: To ensure that the proposed culverts within the subject land are of a size, configuration and design that facilitates the movement of native wildlife.

Conditions required as part of the construction of Approved Development Stage 3

14. Survey and establishment of fencing around lots to protect the riparian and local corridors of the community association lot

Within 3-months of the issuing of the first Construction Certificate for any works associated with Development Stage 3, the Registered Proprietor of the subject land shall establish a rural-style fence of hardwood posts, metal star pickets and four strands of plain wire along the surveyed (by a registered surveyor) bounds of Lots 14 to 21 so as to identify and protect the local/ riparian corridors within this development stage.

Reason: To demarcate and protect the local/ riparian corridors relevant to this Development Stage.

15. Identification and Approval of the Clearing of Native Vegetation and Habitat in Development Stage 3

Prior to the commencement of any works on or associated with Development Stage 3:

- d) The Registered Proprietor shall engage a registered surveyor to mark on the land the accurate boundary of the footprint of the Approved Development on Stage 3 and any stands of native vegetation that are required to be cleared for this aspect of the development (if any).
- e) The marked native vegetation removal shall be strictly controlled and minimised.
- f) Once the marking program has been completed, the Registered Proprietor (or their agents) shall notify Great Lakes Council. Council's Senior Ecologist and/ or Tree Management Officer shall then inspect and assess the remnant native vegetation removal marking program. These Council Officers shall inspect the Registered Proprietors marking program and confirm that clearing activities have been minimised and controlled appropriately.

Construction works shall not commence for Development Stage 3 until such time as Council's Senior Ecologist or Tree Management Officer have approved of the applicable remnant native vegetation removal marking program in writing.

Reason: To minimise the impacts of the development on native vegetation.

16. Implementation of relevant actions as directed in the Approved Vegetation and Habitat Management Plan

The Registered Proprietor of the land shall implement all of the actions as identified in the Approved Vegetation and Habitat Management Plan that are relevant to Development Stage 3.

Reason: To ensure that the actions in the Approved Vegetation and Habitat Management Plan are undertaken, as required.

17. Implementation of relevant actions as directed in the Landscaping Plan

The Registered Proprietor of the land shall implement all of the actions as identified in the Approved Landscaping Plan that are relevant to Development Stage 3.

Reason: To ensure that the actions in the Approved Landscaping Plan are undertaken, as required.

18. Removal of Priority Invasive Weeds from land in Development Stage 3

The Registered Proprietor of the land shall engage a Bushland Regenerator to eradicate all occurrences of the following weeds from all lands within and associated with Development Stage 3. Priority environmental weeds are considered in these conditions to include: *Lantana camara* (Lantana), *Asparagus*

aethiopicus (Asparagus Fern), *Delairea odorata* (Cape Ivy), *Ricinus communis* (Castor Oil Plant), *Senna pendula* (Senna), *Ligustrum sinense* (Small-leaved Privet), *Solanum mauritianum* (Wild Tobacco Bush), *Rubus fruticosus* (Blackberry), *Cinnamomum camphora* (Camphor Laurel) and other species as identified by Great Lakes Council.

Reason: To ensure that priority invasive weeds are controlled and eradicated from the subject land to protect the natural environment.

19. Construction of Culverts in a manner that facilitates native wildlife movements

The Registered Proprietor of the land shall establish the culverts required in Development Stage 3 in accordance with the approved design.

Reason: To ensure that the culverts in Development Stage 3 incorporate adequate fauna movement measures, as required.

Conditions required as part of the construction of Approved Development Stage 4

20. Survey and establishment of fencing around lots to protect the riparian and local corridors of the community association lot

Within 3-months of the issuing of the first Construction Certificate for any works associated with Development Stage 3, the Registered Proprietor of the subject land shall establish a rural-style fence of hardwood posts, metal star pickets and four strands of plain wire along the surveyed (by a registered surveyor) bounds of Lots 13, 22 – 26 and 28 so as to identify and protect the local/ riparian corridors within this development stage.

Reason: To demarcate and protect the local/ riparian corridors relevant to this Development Stage.

21. Identification and Approval of the Clearing of Native Vegetation and Habitat in Development Stage 4

Prior to the commencement of any works on or associated with Development Stage 4:

- g) The Registered Proprietor shall engage a registered surveyor to mark on the land the accurate boundary of the footprint of the Approved Development on Stage 4 and any stands of native vegetation that are required to be cleared for this aspect of the development (if any).
- h) The marked native vegetation removal shall be strictly controlled and minimised.
- i) Once the marking program has been completed, the Registered Proprietor (or their agents) shall notify Great Lakes Council. Council's Senior Ecologist and/ or Tree Management Officer shall then inspect and assess the remnant native vegetation removal marking program. These Council Officers shall inspect the Registered Proprietors marking program and confirm that clearing activities have been minimised and controlled appropriately.

Construction works shall not commence for Development Stage 4 until such time as Council's Senior Ecologist or Tree Management Officer have approved of the applicable remnant native vegetation removal marking program in writing.

Reason: To minimise the impacts of the development on native vegetation.

22. Implementation of relevant actions as directed in the Approved Vegetation and Habitat Management Plan

The Registered Proprietor of the land shall implement all of the actions as identified in the Approved Vegetation and Habitat Management Plan that are relevant to Development Stage 4.

Reason: To ensure that the actions in the Approved Vegetation and Habitat Management Plan are undertaken, as required.

23. Implementation of relevant actions as directed in the Landscaping Plan

The Registered Proprietor of the land shall implement all of the actions as identified in the Approved Landscaping Plan that are relevant to Development Stage 4.

Reason: To ensure that the actions in the Approved Landscaping Plan are undertaken, as required.

24. Removal of Priority Invasive Weeds from land in Development Stage 4

The Registered Proprietor of the land shall engage a Bushland Regenerator to eradicate all occurrences of the following weeds from all lands within and associated with Development Stage 4. Priority environmental weeds are considered in these conditions to include: *Lantana camara* (Lantana), *Asparagus aethiopicus* (Asparagus Fern), *Delairea odorata* (Cape Ivy), *Ricinus communis* (Castor Oil Plant), *Senna pendula* (Senna), *Ligustrum sinense* (Small-leaved Privet), *Solanum mauritianum* (Wild Tobacco Bush), *Rubus fruticosus* (Blackberry), *Cinnamomum camphora* (Camphor Laurel) and other species as identified by Great Lakes Council.

Reason: To ensure that priority invasive weeds are controlled and eradicated from the subject land to protect the natural environment.

25. Construction of Culverts in a manner that facilitates native wildlife movements

The Registered Proprietor of the land shall establish the culverts required in Development Stage 4 in accordance with the approved design.

Reason: To ensure that the culverts in Development Stage 4 incorporate adequate fauna movement measures, as required.

General Conditions

26. Implementation of relevant actions as directed in the Approved Vegetation and Habitat Management Plan

The Registered Proprietor of the land shall implement all of the actions as identified in the Approved Vegetation and Habitat Management Plan as are required for the life of the development. This would include, but not be limited to, the maintenance of planting, the control of priority invasive weeds, the maintenance of replanted areas, etc.

Reason: To ensure that the actions in the Approved Vegetation and Habitat Management Plan are undertaken, as required.

27. Implementation of relevant actions as directed in the Landscaping Plan

The Registered Proprietor of the land shall implement all of the actions as identified in the Approved Landscaping Plan that are required for the life of the development, including the maintenance of landscaping and the replacement of lost or damaged stock.

Reason: To ensure that the actions in the Approved Landscaping Plan are undertaken, as required.

28. Protection of the Natural Environment during Site Works

At all times, during the construction of approved and permitted services, utilities and facilities and any work on the subject land, direct and indirect harm to areas and individuals of native vegetation shall be strictly avoided and/ or minimised, at every possible opportunity.

Reason: To protect the natural environment and the habitats of native plants and animals

29. Washing down of machinery prior to their introduction to the Subject Land

In order to minimise the risk of plant pathogens and weed propagules, all site machinery introduced to the subject land for any purpose shall be adequately washed down prior to their introduction. Such machinery shall be demonstrably free of soil and vegetative material prior to their introduction to the subject land.

Reason: To minimise risks associated with importation of weeds and plant diseases.

30. Actions associated with any removal of native trees and vegetation

During the physical removal of all trees and native vegetation to form any aspect of the approved development, the following shall be adopted at all times:

- Machinery operators shall inspect the crown, foliage and trunks of trees that require removal immediately prior to any felling to investigate the presence of koalas. If a koala is detected, the tree and no other surrounding trees shall be cleared until the animal has dispersed of its own free will from the area

- Removal of approved trees shall be conducted using directional felling away from trees that are to be retained
- Removal of approved trees shall be conducted in a manner that avoids the movement of heavy machinery in the root zones of trees that are to be retained on the land
- Any deliberate or accidental damage to trees that are to be not approved for removal shall be reported immediately to Council's Tree Management Officer. Remediation or repair actions identified by that officer shall be conducted to assist minimise the harm associated with any such damage

Reason: To control impacts of clearing of trees and native vegetation during all site works.

31. Protection of hollow-bearing trees

No hollow-bearing trees are to be removed or cleared for any aspect of the approved development, except where the removal of such trees is deemed, by Great Lakes Council, to be required for the purpose of the protection of life or property.

Reason: To protect and preserve hollow-bearing trees on the subject land.

32. Speed limits to be applied to the Internal Road

A speed limit of not greater than 20km/h shall be maintained on all internal roads. Notices advertising the speed limit and wildlife crossing caution signs on internal roads are to be erected to the satisfaction of Great Lakes Council.

Reason: To protect and preserve hollow-bearing trees on the subject land.