

**PLANNING & NATURAL SYSTEMS**

**ATTACHMENT A**

**DA-60/2014 - TWO LOT SUBDIVISION - THE  
LAKES WAY ELIZABETH BEACH**

**DEVELOPMENT CONTROL UNIT MEETING**

**10 MAY 2017**

**Subject: PES - DA 60/2014 - Subdivision - 6 The Lakes Way Elizabeth Beach**  
**Index: DA 60/2014 & PK 9383**  
**Author: Development Assessment Planner - Steve Andrews**  
**DCU Meeting: 25 February 2016**

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**DETAILS:**

Date Received: 23 August 2013 (original submission)  
Applicant: Dr J R Watts  
Owner: Dr J R Watts  
Land: Lot 214 DP22434, 6 The Lakes Way Elizabeth Beach  
Area: 1094m<sup>2</sup>  
Property Key: 9383  
Zoning: R2 Village Zone, GLLEP 2014

**SUMMARY OF REPORT:**

- Application considered by Development Control Unit (DCU) 29 January 2015 with resolution to defer for redesign
- Proposed two (2) lot residential subdivision
- Access issues
- Neighbour notification resulted in no submission
- General compliance with planning controls

**SUMMARY OF RECOMMENDATION:**

That the resolution of the DCU on 29 January 2015 be maintained.

**FINANCIAL/RESOURCE IMPLICATIONS:**

Cost of defending any appeal against Council's decision.

**POLICY IMPLICATIONS:**

Nil.

**LEGAL IMPLICATIONS:**

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court requiring legal representation.

**LIST OF ANNEXURES:**

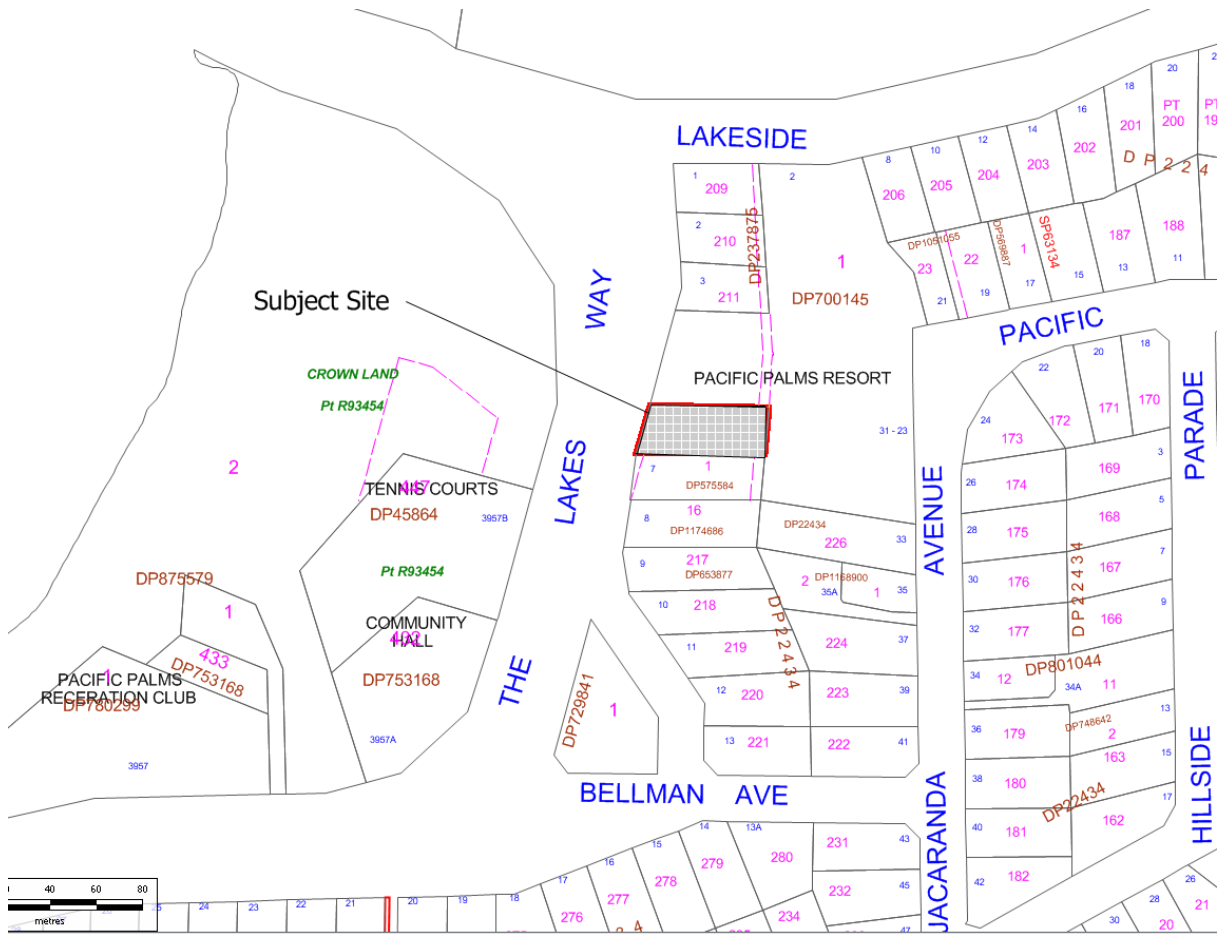
- A: Assessment report considered by DCU 29 January 2015
- B: Applicant / owner's submission in support of the application

**LIST OF ATTACHMENTS:**

Nil

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## SUBJECT SITE AND LOCALITY:



## BACKGROUND:

### 21 April 1950

The deposited plan was created for the subdivision of Elizabeth Beach, including the subject site. At the time of subdivision there were no Section 88B Instrument restrictions associated with the subject lot.

### 16 June 1971

A 3.66 metres wide right of carriageway was created at the rear of the subject site and on all lots to the north and connecting with Lakeside Crescent. The creation of the right of carriageway was a private agreement between the affected landowners at the time and Council had no involvement in its creation or endorsement of the memorandum of transfer. The right of carriageway exists on the land and is utilised by those properties that benefit from it.

### 16 August 2000

Council advised the owner that access to the subject site directly off The Lakes Way would be impractical and unsafe and that access to the site from Lakeside Crescent over the unmade road reserve bordering the eastern side of The Lakes Way should be investigated.

### 29 September 2000

Vehicular crossing approval was granted for the subject lot to be accessed from Lakeside Crescent via the unmade road reserve bordering the eastern side of The Lakes Way. This vehicular access did not proceed.

### 2010/2011

In conjunction with roadwork upgrading on The Lakes Way frontage, the existing gravel driveway that runs along the top of the road batter within The Lakes Way road reserve and provides physical access to the subject site and all lots to the south (total of seven lots) was widened. Included in those works was the conversion of the access to the site (approved 29 September 2000 - see above), to a cycleway. Those works were carried out given the subject site was undeveloped and access was upgraded to Bellman Avenue, to the south.

### 2013

Prior to the lodgement of the subject development application the owners of the land attended Council's Development Assessment Panel seeking opinion in respect of the proposed subdivision and access via the right of carriageway to Lakeside Crescent. Council officer's indicated that they would not be supportive of the access arrangement via the right of carriageway given the inherent lack of sight distance at the Lakeside road alignment. The owners were advised that a subdivision design that included an access handle to the proposed rear lot from the existing southern access from Bellman Avenue would be a more suitable alternative.

### 23 August 2013

The subject development application was submitted. In accordance with Section 91 of the *Environmental Planning and Assessment Act 1979* the application was referred on 30 August 2013 to the Rural Fire Service (RFS) for the issue of a Bush Fire Safety Authority, a prerequisite to issue of development consent. Since that referral the owner had been negotiating with the RFS who, on 9 January 2015, issued a conditional Bush Fire Safety Authority based on a performance assessment against the aims and objectives of *Planning for Bush Fire Protection 2006*, as the proposed subdivision was unable to meet the acceptable solutions or performance criteria with regard to access to/from the public road system.

### 29 January 2015

The DCU considered this application for a two (2) lot subdivision of the site and resolved:

*That consideration of DA 60/2014 for the two (2) lot residential subdivision of Lot 214 DP22434, 6 The Lakes Way, Elizabeth Beach be deferred **for 90 days** with the view to the applicant revising the proposed design to enable vehicular access to the proposed Lot 1 from the gravel track to the western end of the existing site that connects to Bellman Avenue, to the south. The design should include a widening of the proposed battle-axe handle, at its western end, to enable the parking of two (2) vehicles associated with the future occupants of Lot 1. In conjunction with the revised subdivision design a driveway gradient design compliant with Australian Standard AS 2890.1 should be submitted demonstrating that reasonable vehicular access can be achieved to parking for both proposed lots with access to/from Bellman Avenue in a forward direction.*

Annexed marked 'A' is a copy of the assessment report considered by the DCU at its meeting 29 January 2015.

The owner then advised that before investigating other design options he would approach the RMS authority with the view to the lowering of the speed limit in this section of Lakeside Crescent from 60kph to 50kph. The RMS authority advised the owner by email dated 17 November 2015 that the authority agrees with the speed limit reduction and appropriate signage will hopefully be erected prior to Christmas 2015. Council engineering/traffic officers have advised that the required 50kph signage has been erected.

### **APPLICANT'S SUBMISSION:**

Annexed marked 'B' is a copy of the applicant/owner's submission in support of the current application.

### **CONSIDERATION:**

Council is required to consider whether vehicular site access to/from Lakeside Crescent is safe and complies with sight distance requirements set by NSW Roads and Maritime Services (RMS) and the relevant Australian Standards (AS2890.1). Given that the RMS has lowered the frontage speed limit to 50kph, AS2890.1 Figure 3.2 indicates that the required minimum sight distance for domestic property access is 40 metres. The applicant/owner previously submitted in his Statement of Environmental Effects that a right turn into and out of the right of carriageway (ROC) via Lakeside Crescent was unsafe and that the customary means of entry and exit was by left turn only. Therefore, left turn in and out is the alternative manoeuvre. In this regard the applicant/owner submitted a surveyor's report dated 1 July 2014, indicating compliance with AS2890.1 with minimum sight distance of 41 metres for a left turn in and out manoeuvre. The surveyor was of the opinion that parking along the southern side of Lakeside Crescent should not be permitted for a distance of 40 metres east of the ROC given the visual obstruction caused by on-street parked vehicles. The surveyor has since carried out a site assessment and concludes that the minimum sight distance is 41.57 metres (Refer to Annexure 'B').

Vision to the east at the right of carriageway (ROC) intersection with Lakeside Crescent for vehicles exiting the ROC and for vehicles travelling west along Lakeside Crescent is regularly restricted by the on-street parking of vehicles (including cars, 4WD vehicles, boats and trailers) generally associated with the adjoining Pacific Palms Resort. The vehicles are parked between the ROC entry and the driveway entrance to the resort that is located on the crest of the hill. AS 2890.1 does not take into account parked vehicles in terms of the minimum required sight distances for domestic driveways and therefore "No Parking" signage should not be implemented for access to/from domestic driveways. If such a restriction were to be imposed for domestic driveways the outcome would significantly impact on on-street parking availability adjacent to driveways in all residential areas.

The road formation in this locality was widened to 2 lanes both ways by the Pacific Palms Resort, as a condition of consent when the resort was constructed, allowing for a thru traffic lane and a parking lane on the southern side of the road and a thru lane and turning lane into the resort driveway on the northern side.

## **CONCLUSION:**

Given the above information and the benefit of a site inspection by Council officers, access to/from the site utilising the ROC to Lakeside Crescent, is considered unsafe under good conditions of daylight and fine weather.

It is recommended that any subdivision of the lot retain access rights along the right of access to Bellman Avenue and that this become the primary access point for the development. This design outcome could be addressed by widening the proposed battle axe handle at its western end to accommodate two off-street parking spaces that would serve proposed rear lot 1 and with proposed lot 2, share access from Bellman Avenue.

Should Council support the proposed development a median Island should be constructed to the centre of the road to prevent agreed unsafe right turn in and out manoeuvres to/from the ROC at Lakeside Crescent.

The development has been assessed in accordance with Section 79C of the Environmental Planning and Assessment Act 1979 and is considered to be a reasonable development suitable for the site and in the context of the locality subject to the design being revised to permit vehicular access to proposed lot 1 from the existing sealed road that connects to Bellman Avenue.

Accordingly, consideration of the application should be again deferred with the view to the applicant revising the proposed subdivision design. Should the Council endorse this report's recommendation then the recommended re-design would require referral to the RFS for a revised Bush Fire Safety Authority.

**RECOMMENDATION:**

That consideration of DA 60/2014 for the two (2) lot residential subdivision of Lot 214 DP22434, 6 The Lakes Way, Elizabeth Beach be deferred for a further 60 days with the view to the applicant revising the proposed design to enable vehicular access to the proposed Lot 1 from the sealed road to the western end of the existing site that connects to Bellman Avenue, to the south. The design should include a widening of the proposed battle-axe handle, at its western end, to enable the parking of two (2) vehicles associated with the future occupants of Lot 1. In conjunction with the revised subdivision design a driveway gradient design compliant with Australian Standard AS 2890.1 should be submitted demonstrating that reasonable vehicular access can be achieved to parking for both proposed lots with access to/from Bellman Avenue in a forward direction.

## **ANNEXURES:**

A: Assessment report considered by DCU 29 January 2015

**Subject:** PES - DA 60/2014 - Subdivision - 6 The Lakes Way, Elizabeth Beach  
**Index:** DA 60/2014 & PK9383  
**Author:** Development Assessment Planner - Steve Andrews  
**DCU Meeting:** 29 January 2015

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### **DETAILS:**

**Date Received:** 23 August 2013  
**Applicant:** Mr JB Watts  
**Owner:** Mr EJ & Mrs MM Watts  
**Land:** Lot 214 DP 22434, 6 The Lakes Way, Elizabeth Beach  
**Area:** 1094m<sup>2</sup>  
**Property Key:** PK 9383  
**Zoning:** 2(a) Low Density Residential, GLLEP 1996

### **SUMMARY OF REPORT:**

- Proposed two (2) lot residential subdivision
- Access issues
- Neighbour notification resulted in no submission
- General compliance with planning controls

### **SUMMARY OF RECOMMENDATION:**

That consideration of the application be deferred with the view to the applicant revising the proposed subdivision design.

### **FINANCIAL/RESOURCE IMPLICATIONS:**

Cost of defending any appeal against Council's decision.

### **POLICY IMPLICATIONS:**

Nil.

### **LEGAL IMPLICATIONS:**

A decision for approval subject to conditions or refusal may lead to an appeal to the Land and Environment Court requiring legal representation.

### **LIST OF ANNEXURES:**

A: Plan of proposed subdivision.

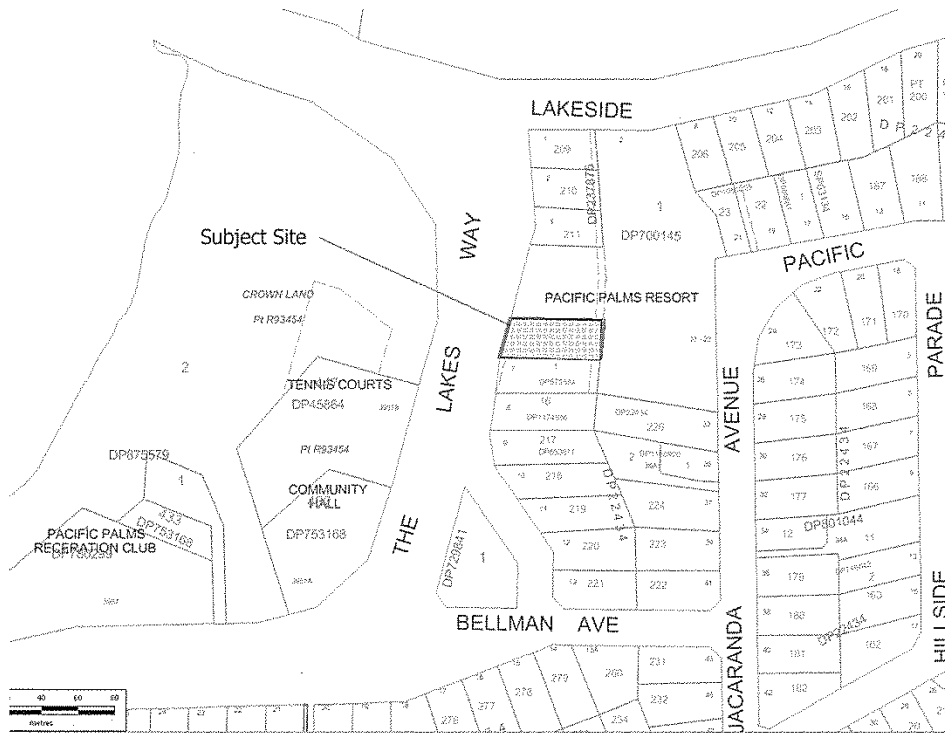


**LIST OF ATTACHMENTS:**

Nil.

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**SUBJECT SITE AND LOCALITY:**



**BACKGROUND:**

21 April 1950 - The deposited plan was created for the subdivision of Elizabeth Beach, including the subject site. At the time of subdivision there were no Section 88B Instrument restrictions associated with the subject lot.

16 June 1971 - A 3.66 metres wide right of carriageway was created at the rear of the subject site and on all lots to the north and connecting with Lakeside Crescent. The creation of the right of carriageway was a private agreement between the affected landowners at the time and Council had no involvement in its creation or endorsement of the memorandum of transfer. The right of carriageway exists on the land and is utilised by those properties who benefit from it.

16 August 2000 - Council advised the owner that access to the subject site directly off The Lakes Way would be impractical and unsafe and that access to the site from Lakeside Crescent over the unmade road reserve bordering the eastern side of The Lakes Way should be investigated.

29 September 2000 - Vehicular crossing approval was granted for the subject lot to be accessed from Lakeside Crescent via the unmade road reserve bordering the eastern side of The Lakes Way. This vehicular access did not proceed.

2010/2011 - In conjunction with roadwork upgrading on The Lakes Way frontage, the existing gravel driveway that runs along the top of the road batter within The Lakes Way road reserve and provides physical access to the subject site and all lots to the south (total of seven lots) was widened. Included in those works was the conversion of the access to the site (approved 29

September 2000 - see above), to a cycleway. Those works were carried out given the subject site was undeveloped and access was upgraded to Bellman Avenue, to the south.

2013 - Prior to the lodgement of the subject development application the owners of the land attended Council's Development Assessment Panel seeking opinion in respect of the proposed subdivision and access via the right of carriageway to Lakeside Crescent. Council officer's indicated that they would not be supportive of the access arrangement via the right of carriageway given the inherent lack of sight distance at the Lakeside road alignment. The owners were advised that a subdivision design that included an access handle to the proposed rear lot from the existing southern access from Bellman Avenue would be a more suitable alternative.

23 August 2013 - The subject development application was submitted. In accordance with Section 91 of the *Environmental Planning and Assessment Act 1979* the application was referred on 30 August 2013 to the Rural Fire Service (RFS) for the issue of a Bush Fire Safety Authority, a prerequisite to issue of development consent. Since that referral the owner has been negotiating with the RFS who have now (9 January 2015) issued a conditional Bush Fire Safety Authority based on a performance assessment against the aims and objectives of *Planning for Bush Fire Protection 2006*, as the proposed subdivision was unable to meet the acceptable solutions or performance criteria with regard to access to/from the public road system. Accordingly, the development application can be considered and determined by Council

#### **PROPOSAL:**

To subdivide the existing 1094m<sup>2</sup> undeveloped lot into two (2) lots with areas of 524m<sup>2</sup> (front western lot) and 570m<sup>2</sup> (rear eastern lot). The rear lot will have a 1.5 metre wide pedestrian and service access handle connecting to the access track from Bellman Avenue, that serves the site and all lots to the south. The application includes development concept details that show building envelopes and access arrangements for each of the proposed lots. Vehicular access to the front western lot will be from the existing access track that connects with Bellman Avenue. A loop road within the proposed lot will enable forward entry and exit. The proposed rear eastern lot will have vehicular access to/from the existing right of carriageway to the eastern end of the proposed lot that connects with Lakeside Crescent. The concept design indicates that access to/from the proposed lot will be in a forward direction.

#### **SITE DESCRIPTION:**

The undeveloped site is located to the eastern higher side of The Lakes Way, between the intersections with Lakeside Crescent and Bellman Avenue. The site is rectangular in shape and slopes up steeply from its front western boundary to the rear eastern boundary. The site contains a number of trees with a generally managed understorey. The site has vehicular access from Lakeside Crescent to the north via a right of carriageway over properties to the north and from Bellman Avenue to the south via a track over the unmade road reserve. The right of carriageway over the subject site and to the north also serves two (2) properties to the south

The property adjoining to the south is developed with a dwelling house. The adjoining undeveloped land to the north forms part of the land developed with the Pacific Palms Resort, to the east of the site.

#### **REPORT:**

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

**a) *The provisions of any environmental planning instrument; any proposed instrument that is or has been the subject of public consultation and which have been notified to the consent authority; any DCP; any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into***

***under section 93F; any matters prescribed by the regulations; any coastal zone management plan that apply to the development application on the subject land.***

***Great Lakes Local Environmental Plan 2014 (GLLEP 2014)***

The site is bushfire prone and in accordance with Section 79BA and 91 of the EPAA1979 and Section 100B of the Rural Fires Act 1997, the application is for Integrated Development and requires a Bush Fire Safety Authority to be issued by the Rural Fire Service (RFS). The application was referred to the RFS and they have issued a Bush Fire Safety Authority subject to conditions. Those conditions could be included in a favourable determination of this application. Should the Council endorse this report's recommendation then the recommended re-design would require referral to the RFS for a revised Bush Fire Safety Authority.

***Great Lakes Local Environmental Plan 1996 (GLLEP 1996)***

The application was submitted on 23 August 2013 and prior to the gazettal on 4 April 2014 of Great Lakes Local Environmental Plan 2014 (GLLEP 2014). GLLEP 2014 contains a savings provision (ref. clause 1.8A) that, where an application is lodged prior to the commencement of the Plan and the application has not been finally determined, the application must be determined as if the Plan had not commenced. Notwithstanding, Council should give weight to the provisions of GLLEP 2014, and the level of weight will depend on the imminence and certainty of the relevant provisions of the Plan. The provisions of GLLEP 2014 will be considered under the later heading Public Interest. Accordingly, the provisions of GLLEP 1996 (the relevant Environmental Plan at the time of lodgement of the subject development application) will be considered as follows.

The site is zoned 2(a) Low Density Residential Zone under GLLEP1996 within which subdivision is a permissible form of development with development consent (ref. clause 17). The relevant objectives of the zone are to enable residential development so that buildings within the zone will consist primarily of housing that generally does not exceed two storeys and has private gardens. The proposed subdivision is considered to be consistent with the emerging scale and nature of residential development in the locality and with the objectives of the zone.

Clause 10 of GLLEP 1996 relates to Council's Tree Preservation Order that applies to this locality. The proposed subdivision, as a result of the conditions of the RFS Bush Fire Safety Authority, will require the removal of three trees next to the 'clear turning area' as indicated on plan as well as other vegetation in order to comply with the RFS Inner Protection requirements. Further trees may require approval based on the final approved footprint of potential future development.

Clause 11 of GLLEP 1996 relates to landform modifications associated with a development. The proposed subdivision may involve limited excavation works to install services and issues of soil erosion, sedimentation and drainage impacts could be responsibly managed during execution of those works. Future residential development will include more significant earthworks that would be controlled through conditions of development consent for those works.

Clause 12 of GLLEP 1996 requires suitable water supply and facilities for the removal of sewage to be available to the site. The subject land has access for connection to reticulated water and sewerage. MidCoast Water has granted connection approval subject to conditions that could be included with a favourable determination of this application.

***State Environmental Planning Policy No. 71 - Coastal Protection (SEPP 71)***

The site is in the coastal zone but is not within a sensitive coastal location. The proposed subdivision is considered to be satisfactory having regard to the relevant aims and the matters for consideration as provided in SEPP 71. The proposed development does not detract from the environmental qualities of the coastal zone.

***Coastal Protection Act 1979***

The development is considered to be satisfactory having regard to the objects and special provisions of the Coastal Protection Act 1979. The proposed development does not detract from the environmental qualities of the coastal zone

#### ***NSW Coastal Policy 1997***

The development is considered to be satisfactory having regard to the goals and strategic actions of the Coastal Policy and in its context does not detract from the environmental qualities of the coastal zone.

#### ***Development Control Plan No. 31 - Subdivision***

The Plan is intended as a guideline to be used when designing and assessing proposed subdivision. The Plan applies to the proposed development that includes the subdivision of the existing 1094m<sup>2</sup> residential lot into two lots with areas of 524m<sup>2</sup> and 570m<sup>2</sup>. The Plan is an objective based document with a performance approach to allow flexibility to the numerical performance controls where strict compliance is considered unreasonable or unnecessary provided it can be demonstrated that the Plan's underlying objectives and design principles have been achieved.

The relevant aims and objectives of the Plan are as follows:

- Protect and enhance the environment  
**Comment:** The proposed subdivision does not significantly impact on the environment qualities of the locality.
- To ensure that development is carried out to a consistent standard  
**Comment:** The proposed subdivision is generally considered to be consistent with the emerging subdivision character of the locality. The issue of vehicular access to proposed lot 1 requires a revised design as will be considered in this report.
- Protect the amenity of existing development and locality  
**Comment:** The proposed subdivision does not create an unreasonable amenity relationship with neighbouring development and is not considered to detract from the general residential amenity of the locality.
- Facilitate diversity in housing choice  
**Comment:** The proposed subdivision enables small lot housing, a reasonable choice in a low density residential environment.
- Ensure utilities and road network capacity to sustain development  
**Comment:** The availability of existing utilities and the road network are considered adequate to support the proposed subdivision.
- Optimise use of existing infrastructure  
**Comment:** The proposed subdivision ensures optimisation of the existing infrastructure having regard to the zoning of the locality and the proximity to the existing commercial centre.
- Ensure environmental hazards are adequately addressed  
**Comment:** There are no environmental hazards that pose a significant threat to the proposed development. The hazard of bushfire has been addressed by the RFS with conditions that could be included in a favourable determination of this application.
- Encourage innovative design  
**Comment:** The proposed subdivision design will accommodate two suitably sized dwelling houses with reasonable standards of residential amenity that can be served by the existing vehicular access from Bellman Avenue. Such an outcome would require a revised design for vehicular access to proposed lot 1.

- Encourage energy efficiency

**Comment:** The proposed subdivision design ensures reasonable solar access for future residential development.

The Plan is structured to provide general requirements for subdivision and specific requirements for subdivision in urban and rural areas. The following table addresses the relevant numerical requirements for each section and identifies any non-compliance. The discussion that follows the table addresses the relevant provisions of the Plan.

Controls	Proposed Subdivision	DCP 31	Complies
<b>General Requirements</b>			
Frontage	Proposed lot 1 - one frontage Proposed lot 2 - one frontage	one frontage only excl. corner lot	Yes Yes
<b>Controls for Residential Subdivision</b> (refer 'Allotment Dimensions' in text that follows)			
Lot size - greater than 450m <sup>2</sup>	Each proposed lot is sized to enable future residential development with compliant building footprint and POS in excess of 40m <sup>2</sup> with dimensions in excess 4.0m	capable of containing building dwelling footprint within 8x20m or 10x16m behind building line and POS 40m <sup>2</sup> with min. 4.0m dimension	Yes
Battle-axe Lot design	No shared driveway  Outlook provides enhanced amenity	Shared driveway  Outlook provides enhanced amenity	No Yes
Slope	13 degrees (approx.) (based on submitted plan)	> 9 degrees is not encouraged	No
Access corridor - width - constructed width - length	1.0 metre 1.0 metre 20.0 metres	4.0 metres (min) 3.0 metres (min) 40 metres (max)	No No Yes

#### Site Considerations

The proposed subdivision design has been developed mindful of the attributes and constraints of the site and having regard to the development potential for the site. Vehicular access via the right of carriageway to the proposed rear lot 1 from Lakeside Crescent is not desirable given the lack of sight distance at the junction of the right of carriageway and the road (refer to the heading below Access). This issue could be addressed by widening the proposed battle-axe handle and accessing the existing access track that connects to Bellman Avenue, to the south. This would enable a steep driveway up to the site proper. Alternatively the proposed battle axe handle could be increased in size at its western end to accommodate two off-street parking spaces that would serve lot 1 and with proposed lot 2, share access from Bellman Avenue. The latter option is considered to be the preferred outcome given the likely grades of a driveway from the first alternative and the unnecessary reduction in width of proposed lot 2 for its full depth. Other than the issue of vehicular access the proposed subdivision design is considered suitable for the site and having regard to the emerging character of the locality.

The slope of the site is slightly steeper than the maximum encouraged in the Plan (ie. 13 degrees in lieu of 9 degrees based on the plan submitted). The proposed development would not create any adverse implications for future residential development and the issue of vehicular access to proposed lot 1 could be reasonably achieved as discussed above and as recommended.

#### Site Hazards

There are no significant environmental hazards that pose a threat to the proposed development and any future residential development on either of the two proposed lots. The issue of bushfire has been addressed by the RFS in their recommended conditions that could be included in a favourable determination of the application. Should the Council endorse this report's recommendation then the recommended re-design would require referral to the RFS for a revised Bush Fire Safety Authority.

The proposed recommended development outcome for the site is not considered to have a significant environmental impact on the locality.

#### Access

The relevant objective of the Plan is to ensure safe and convenient access is available to each of the proposed lots. Proposed lot 1 has vehicular access north via a right of carriageway, to Lakeside Crescent. Australian Standard AS 2890.1 - Off-street Car Parking indicates that required sight distance at a domestic property access where the road has a speed limit of 60km/h is 55 metres. The available sight distance at this location is considerably less than the amount required in the Australian Standard and is estimated to be at 22.0 metres for vehicles turning left out of the right of carriageway and 15 metres for a vehicle travelling east on Lakeside Crescent. Council has obtained traffic and speed counts for this section of Lakeside Crescent that indicate the 85th percentile speed is 47.2kph however, recorded vehicle speeds exceeded the posted limit (ie. 60kph) with a maximum speed of 75kph. Average traffic volume was 988 vehicles per day. During the school vacation period traffic volumes increased to an average of 1753 vehicles per day with a maximum speed of 77kph. This information highlights the safety concerns raised by Council in respect of this access to Lakeside Crescent.

Given that the available sight distance at the right of carriageway intersection with Lakeside Crescent is significantly less than required, it is considered that this access point would have safety implications for vehicles at the location. The sight distances would also not comply with the requirements of the NSW Roads and Maritime Services. The applicant agrees that a right turn into and out of the right of carriageway is unsafe and the customary means of entry and exit is using left turn only (ref. Statement of Environmental Effects). In order to address the safety issue, it is recommended that any subdivision of the lot retain access rights along the right of access to Bellman Avenue and that this become the primary access point for the development (refer to the earlier heading Background that explains how the right of carriageway to Lakeside Crescent was created).

The recommended design outcome (based on the information submitted) can be readily achieved by increasing the battle-axe handle width to the proposed rear lot (to the specifications contained in the above table) so as to accommodate vehicular access from the existing gravel track that connects with Bellman Avenue, to the south. The applicant agrees that there are no safety issues with this access connection.

Accordingly, subject to the recommended design outcome, access would be consistent with the objective of the Plan.

#### Site Design and Landscaping

The proposed subdivision design ensures that a reasonable balance can be achieved between soft and hard visual features that contribute to the environmental qualities of the locality.

#### Services

The site has access to suitable urban services. MidCoast Water has indicated that suitable water and sewage services are available to the site. Electricity and telephone are readily available in this locality and easements for services are minimised in the recommended design. Accordingly, the proposed subdivision is consistent with the relevant objectives of the Plan concerning the availability of services.

#### Drainage

Any residential design outcome for the site can satisfactorily manage stormwater run-off so that stormwater is not directed to neighbouring properties and is managed on site to acceptable water quality standards, as specified in Council's Development Control Plan 54 - Water Sensitive Design.

#### Existing Development

The proposed subdivision enables the development of either lot with a building design that maintains a reasonable amenity relationship with existing neighbouring development.

#### Environmental Protection

The proposed development will not adversely impact on unique or sensitive environments. Future residential development would be required to manage stormwater to acceptable water quality standards and require suitable measures to address erosion and sediment control.

#### Allotment Orientation

The proposed subdivision design creates two suitably sized lots that reflect the subdivision character of the locality, ensures appropriate solar access and access to prevailing breezes and maintains a reasonable amenity relationship with the neighbouring development.

#### Allotment Dimensions

The proposed subdivision creates two allotments of similar areas with configurations that will enable future residential development well suited to people with differing housing needs.

The proposed design of the battle-axe handle to proposed lot 1 should be revised as discussed under the above heading Access.

#### ***Development Control Plan No. 39 - Pacific Palms***

The Plan is an objective based document with a performance approach to allow flexibility to the numerical performance controls where strict compliance is considered unreasonable or unnecessary provided it can be demonstrated that the Plan's underlying objectives have been achieved. The Plan applies to all development within the catchment and accordingly the Plan applies to the subject site and to the proposed development.

The proposed subdivision is generally considered to be consistent with the emerging residential character of the Pacific Palms locality, as expressed in the vision statement contained in Part 2 of the Plan (ie. To enable sustainable development that enhances the village character of each village and protects the natural setting of Pacific Palms).

In accordance with Part 3 - Site Planning Controls for all Developments:-

- the relevant environmental hazard is bushfire. In that regard the Rural Fire Service supports the proposed development subject to conditions that could be included with a favourable determination of the application. Should the Council endorse this report's recommendation then the recommended re-design would require referral to the RFS for a revised Bush Fire Safety Authority.



- the proposed development does not adversely impact on the acknowledged broad habitat corridor that follows the coastline and includes the subject site.
- any residential design outcome for the site can satisfactorily manage stormwater run-off so that stormwater is not directed to neighbouring properties and is managed on site to acceptable water quality standards, as specified in Council's Development Control Plan 54 - Water Sensitive Design.

The compliance table below indicates the proposed development assessed against the relevant performance controls contained in Part 4 - Controls for Residential Development, of DCP 39. Following the table relevant performance controls are discussed and evaluated having regard to the underlying objectives of those controls.

Control	Proposed Development	DCP 39	Comply
Density	> 450m <sup>2</sup> /dwelling	Min. 450m <sup>2</sup> /dwelling	Yes
Lot Size	524m <sup>2</sup> & 550m <sup>2</sup>	450m <sup>2</sup> (min.)	Yes

#### Density & Lot Size

The objective of these controls is to maintain the existing low density amenity and coastal village character of the locality. The proposed development is considered to be generally consistent with the emerging residential subdivision character of the locality and with the relevant objectives of the DCP subject to the issue of access, that is discussed under the earlier heading *Development Control Plan No. 31 – Subdivision - Access*.

The proposed subdivision design will enable the future construction of residential development that is consistent with the relevant provisions of the Plan.

#### Car Parking and Access

The relevant objective of the Plan is to encourage safe and efficient movement of vehicles. In this regard proposed vehicular access to the proposed rear lot 1 is considered unsatisfactory for the reasons discussed previous under the heading *Development Control Plan No. 31 – Subdivision - Access*.

#### ***Erosion and Sediment Control Policy***

The aim of this policy is to minimise erosion and sedimentation in catchments, resulting from the disturbance of the soil surface associated with building works, changes in land use and urban development, the installation of services and road construction and maintenance. This is to ensure that potential pollutants are not directed to natural and artificial water bodies.

The construction works associated with the proposed development will be very limited and issues in respect of erosion and sediment control can be addressed by appropriate conditions of consent if the application is to be favourably determined.

#### ***b) 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 development is generally consistent with the emerging residential subdivision pattern in this coastal village subject to a re-design of the access to proposed lot 1.

### **Site Design**

The proposed subdivision creates two (2) lots suitable for residential development. Access to the proposed rear lot should be re-designed in accordance with this report's recommendation and as discussed under the earlier heading *Development Control Plan No. 31 – Subdivision - Access*.

### **Views**

The proposed development does not raise any concerns regarding loss of neighbouring views.

### **Privacy (Aural and Visual)**

The proposed development does not raise any concerns regarding loss of privacy.

### **Access and Traffic**

These issues were addressed earlier under the heading *Development Control Plan No. 31 – Subdivision - Access* and requires a revised design, as recommended.

### **Flora and Fauna**

The proposed development raises no significant ecological issues.

### **Section 94 Contributions**

The development generates a requirement for a Section 94 contribution given the proposed increase in potential residential density. This issue can be addressed by a condition if the application is favourably determined.

### **Cumulative Impacts**

The proposed development as recommended does not establish an undesirable precedent for further development in this locality. In fact it informs the owners of neighbouring properties of Council's preferred access outcome.

#### **c) The Suitability of the Site for the Development**

The topography and configuration of the site are suitable for the proposed development and likely future residential use. Environmental issues are limited and satisfactorily addressed in the proposed design and adequate utility services are available.

The site will be managed to limit the potential for spread of bushfire from neighbouring vegetated lands. The site is not susceptible to any other natural hazards to a significant extent.

Accordingly, the site is considered to be generally suitable for the proposed development subject to resolution of the vehicular access outcome for proposed lot 1, as recommended.

#### **d) Any Submissions Made in Accordance with the Act or Regulations**

The application was notified to neighbouring property owners in accordance with Council's Policy and no submissions were received.

#### **e) The Public Interest**

##### Great Lakes Local Environmental Plan 2014 (GLLEP 2014)

The subject development application was lodged before the gazettal of GLLEP 2014. GLLEP 2014 is therefore considered to be a matter of public interest for consideration in the determination of this development application, in accordance with Section 79C of the Environmental Planning and Assessment Act 1979. Accordingly, the relevant provisions of GLLEP 2014, will be discussed, as follows.

##### Part 1.2 -Aims of the Plan

The relevant aims of the Plan are to protect and enhance the environmental, scenic and landscaped assets of the area and to facilitate the orderly and sustainable economic development of land. The proposed development is considered to be generally consistent with these aims.

#### Part 2 - Land use table

The site is identified in the Plan as being within an R2 Low Density Residential Zone. The proposal is a permissible form of development in the zone with development consent (ref. clause 2.6). The relevant objective of the zone is to provide for housing needs of the community within a low density residential environment. The proposed subdivision is considered to be contextually appropriate having regard to the emerging scale and nature of residential development in this locality and is therefore considered to be consistent with the relevant objective subject to the re-design, as recommended.

#### Part 4 - Principal development standards

This Part identifies various numerical development standards for proposed development. The relevant development standards are:

4.1 - Minimum Subdivision Lot Sizes - The relevant objectives of the standard are to control the density of subdivision in accordance with the character of the location, site constraints and available services, facilities and infrastructure and to ensure lots are of a sufficient size and shape to accommodate future development permissible in the zone. The minimum lot size in the proposed draft R2 zone will be 450m<sup>2</sup>. The proposed subdivision creates two (2) lots with areas of 524m<sup>2</sup> and 570m<sup>2</sup> enabling the development of a suitably sized and positioned dwelling house on each of the proposed lots. The proposed subdivision is considered to be consistent with the lot size objectives and compliant with the numerical provisions subject to the re-design, as recommended.

#### Part 5 - Miscellaneous provisions

5.5 - Development within the coastal zone - The relevant objectives of the clause are to provide for the protection of the coastal environment through promoting the principles of ecologically sustainable development and to implement the principles of the NSW Coastal Policy (discussed earlier in this report under the heading NSW Coastal Policy 1997). The proposed subdivision is considered to be generally consistent with the above objectives having regard to the matters listed for consideration under clause 5.5.

#### Part 7 - Additional local provisions

7.1 Acid sulfate soils - The objective of the clause is to ensure that development does not disturb, expose or drain acid sulphate soils and cause environmental damage. The Acid Sulphate Soils Planning Map identifies the site as class 5 land. The requirements of the Class 5 category apply to works within 500 metres of Classes 1,2,3 or 4 that would lower the water table in those classes below 1 metre Australian Height Datum. The site is within 500 metres of an adjoining classes 1, 2 and 3 however as there is no proposed building work it is unlikely that there will be any impact on the water table in the adjoining classes. Similarly, future residential development is unlikely to give rise to potential acid sulphate concerns.

7.2 - Earthworks - The objective of this provision is to ensure that earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses and features of the surrounding land. The proposed subdivision may involve limited excavation works to install services and issues of soil erosion, sedimentation and drainage impacts could be responsibly managed during execution of those works. Future residential development will include more significant earthworks that would be controlled through conditions of development consent for those works. Accordingly, the proposed development will be consistent with the objective of this clause.

7.3 - Essential services - This clause requires that development consent must not be granted to development unless the Council is satisfied that essential services (ie. water, electricity, sewage,

stormwater drainage and road access) are available or that adequate arrangements have been made to make them available. The proposed development has access to all relevant necessary services subject to the conditions that could be included with a favourable determination of this application.

Other than the issue of access to the proposed rear lot, there are no adverse matters relevant to the public interest in relation to the proposed development. The proposal, subject to the recommended re-design, will not detract from the character of the existing streetscape or the general locality, nor will it undermine any of the social or economic values of the site or surrounding area. The proposal (subject to the issue of access) is considered to be consistent with the objectives of the relevant zone and will not have an unreasonable impact upon neighbouring properties.

Accordingly, support of the proposed development would not be contrary to the public interest.

#### **CONCLUSION:**

The development has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979* and is considered to be a reasonable development suitable for the site and in the context of the locality subject to the design being revised to permit vehicular access to proposed lot 1 from the existing gravel track that connects to Bellman Avenue.

Accordingly, consideration of the application should be deferred with the view to the applicant revising the proposed subdivision design. Should the Council endorse this report's recommendation then the recommended re-design would require referral to the RFS for a revised Bush Fire Safety Authority.

#### **RECOMMENDATION:**

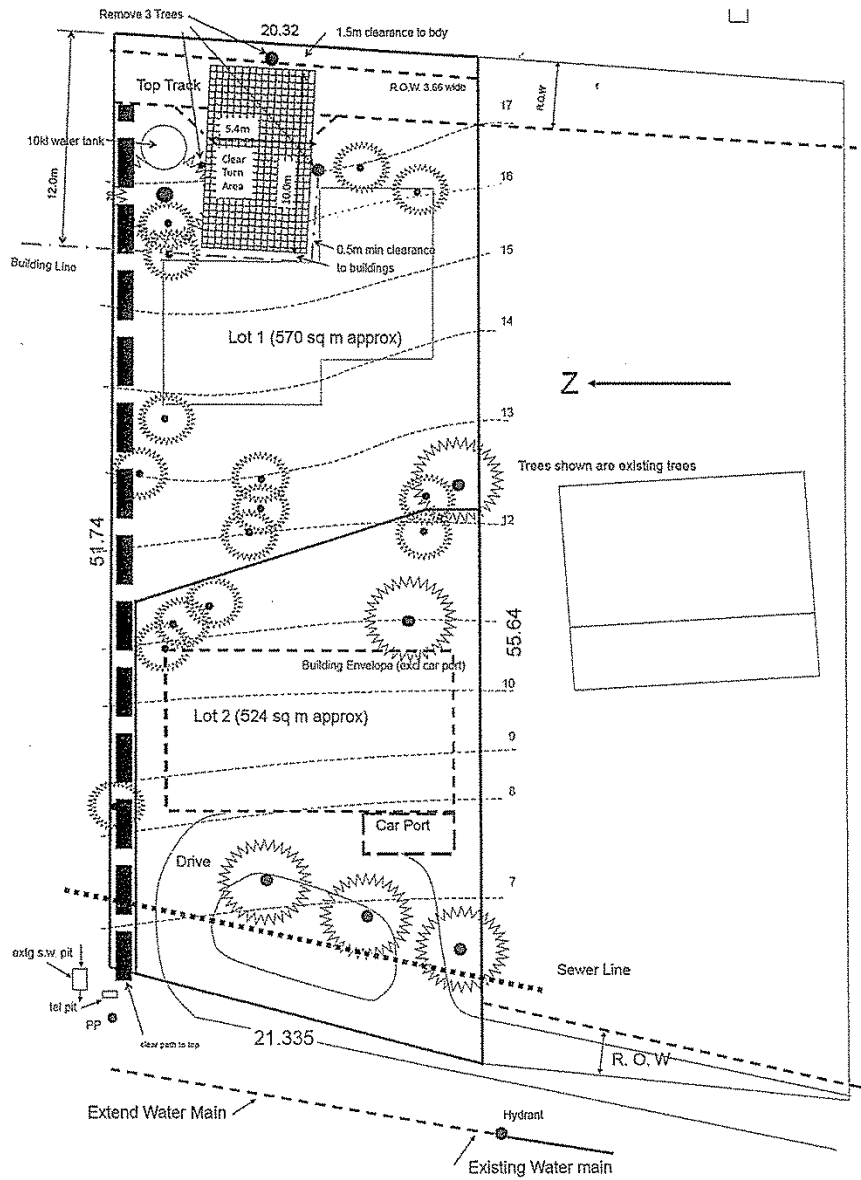
It is recommended that consideration of DA 60/2014 for the two (2) lot residential subdivision of Lot 214 DP22434, 6 The Lakes Way Elizabeth Beach be deferred with the view to the applicant revising the proposed design to enable vehicular access to the proposed lot 1 from the gravel track to the western end of the existing site that connects to Bellman Avenue, to the south. The design should include a widening of the proposed battle-axe handle, at its western end, to enable the parking of two (2) vehicles associated with the future occupants of lot 1. In conjunction with the revised subdivision design a driveway gradient design compliant with Australian Standard AS 2890.1 should be submitted demonstrating that reasonable vehicular access can be achieved to parking for both proposed lots with access to/from Bellman Avenue in a forward direction.

**ANNEXURES:**

A: Plan of proposed subdivision.

(130268) Great Lakes Council

26 August 2014



PROPOSED SUBDIVISION OF 6 THE LAKES WAY ELIZABETH BEACH Scale 1:250

FIGURE 1 (Source: Client, Not to Scale)

B: Applicant / Owner's submission in support of the application

13th January 2016  
Dr John R Watts  
15 Milone Court  
Werribee Vic 3030

The General Manager  
Great Lakes Council  
P O Box 450  
Forster NSW 2428

Dear Sir

**DA 60/2014 Subdivision of 6 The Lakes Way Elizabeth Beach**

The Development Control Committee considered this proposed subdivision on the 29th January 2015.

The only negative issue arising was that of safety at the junction of the Right of Carriageway, which serves the top of the property, and Lakeside Crescent. This is because the sight distance between an entering vehicle and an approaching vehicle is less than the 55 metres required by the Australian Standard for a 60km/h speed limit. The author of the business paper suggests that in order to avoid using this junction both lots should be accessed from the bottom track, which is in the Lakes Way road reserve.

The paper suggests that because of the steepness of the site vehicular access to the top lot would not be preferred, instead the "design should include a widening of the proposed battle-axe handle, at its western end, to enable the parking of two (2) vehicles associated with the future occupants of lot 1."

This means the house on lot 1 (top lot) would have a floor level about 10 metres higher than its parking space.

I do not regard this as a satisfactory arrangement.

There are already four houses served by the Right of Carriageway, all entering and exiting Lakeside Crescent with no known accidents in the 30 or 40 years the houses have been there. Council in that time appears never to have seen the need to install any warning signs. Actual speeds from Council's traffic surveys show that 85 per cent of vehicles travel at less than 47km/h. This 85<sup>th</sup> percentile is normally used in fixing speed limits. Still, even though the low actual speeds do explain the lack of accidents, the Australian Standard requires sight distance to be commensurate with the "posted speed limit".

I should be noted that even if I built parking spaces at the bottom of the property, as suggested by the paper, I would still have a legal right to use the Right of Carriageway from Lakeside Crescent to access the property.

Following a submission that I made to Roads and Maritime Services, the RMS has reduced the speed limit on Lakeside Crescent. It is now 50km/h, which better reflects the low actual speeds and it has already been signposted. A speed limit of 50 km/h requires a sight distance of 40 metres for access to the Right of Carriageway according to the Australian standard. A surveyor has measured the actual sight distance at 41.6 metres therefore the Right of Carriageway now meets the Australian standard.

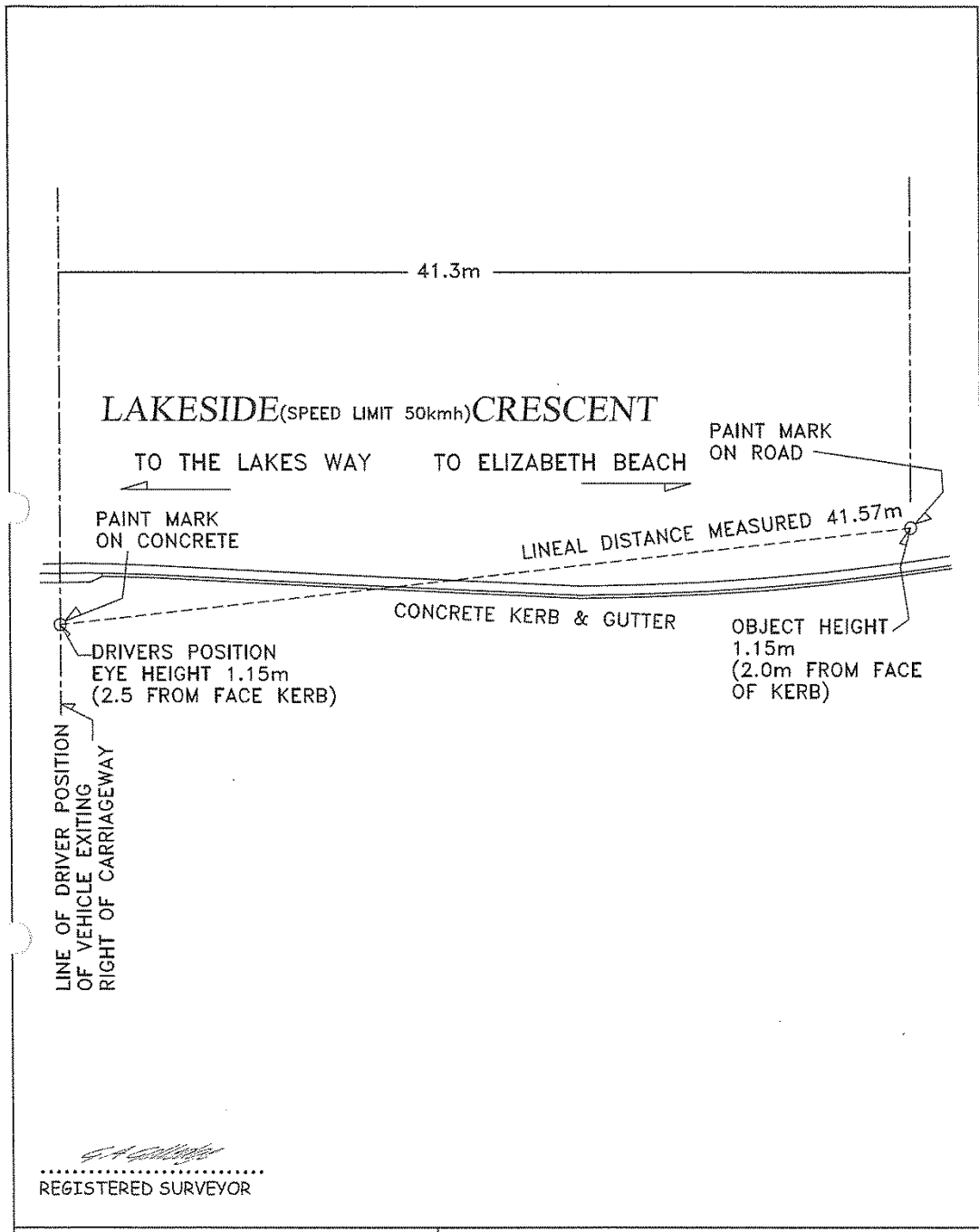
We are now, therefore, at a point where there is no sustainable ground for considering the junction at Lakeside Crescent as unsafe. One would think that the council would feel relieved at this state of affairs, brought about by the speed limit change, and would now be happy to approve the proposal. The Rural Fire Service are also happy with the proposal because it provides a turning area for a cat7 fire-fighting vehicle where none exists in the Right of Way at present.


The business paper considered all aspects of the proposal, apart from the sight distance, to be satisfactory.

In view of all the above I ask that Council now approve the proposal as submitted; attached for your information is the surveyor's report on sight distance.

Yours sincerely

Dr John R. Watts



CLIENT DR. J. WATTS		DESCRIPTION PLAN SHOWING SIGHT DISTANCES FROM RIGHT OF CARRIAGEWAY WITHIN LOTS 209 TO 212, DP 237875 & LOTS 213 & 214, DP 22434 AT LAKESIDE CRESCENT, ELIZABETH BEACH						
RENNIE GOLLEDGE PTY LTD <small>ABN : 55 002 622 317</small> CADASTRAL, ENGINEERING & MINING SURVEYORS ENGINEERING DESIGN CONSULTANTS 6 PEPRICO PLACE, BOOMERANG BEACH, NSW 2428 PH 0408 685 839      EMAIL : glsurvey@bigpond.net.au			FILE 14/1770	DATE 13/1/2016	DATUM	RATIO 1:250(A4)	DRAWN PE	SHEET GL1770