

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 298-12-2004

(FILE NO. 9036940-1)

TWO (2) LOT RURAL RESIDENTIAL SUBDIVISION

Lot 6 DP 557758, 309 Old Coast Road, Korora

I, Deputy-Director General, Office of Sustainable Development, Assessments and Approvals, as delegate for the Minister for Planning as described by the Instrument of Delegation dated 12 September 2005, and pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10(2) of State Environmental Planning Policy No 71 – Coastal Protection, determine the development application referred to in the attached Schedule 1, by granting consent to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To ensure development proceeds in accordance with approved plans;
- (2) To ensure development satisfies the relevant statutory requirements;
- (3) To ensure that measures are implemented to manage environmental and social impacts that may arise from the development;
- (4) To minimise the potential risks associated with bushfire hazards;
- (5) To ensure lots are adequately serviced; and
- (6) To ensure public utility services, access and restrictions are legalised over the land.

Sam Haddad
**Deputy-Director General
Sustainable Development
Assessments and Approvals**

Sydney,

2005

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

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???MP

**Minister Assisting the Minister for Planning
(Planning Administration)**

Sydney,

2005

SCHEDULE 1

PART A—TABLE

Application made by:	Smith Maher & Associates P/L 12A Bellingen Road Coffs Harbour NSW 2450
Application made to:	Minister for Planning
Development Application:	298-12-2004
On land comprising:	Lot 6 DP 557758, 309 Old Coast Road, Korora
For the carrying out of:	Two (2) Lot Rural Residential Subdivision
Estimated Cost of Works	No significant cost
Type of development:	State Significant Development Integrated Development
S.119 Public inquiry held:	No
BCA building class:	N/A
Approval Body / Bodies:	Rural Fire Service
Determination made on:	
Determination:	A development consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	This development consent commences on the date identified in the accompanying letter.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: ▪ a shorter period of time is specified by the Regulations or a condition in Schedule 2, or ▪ the development has substantially commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 298-12-2004***Responsibility for other approvals / agreements***

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

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid:

- (1) for a development application, within 12 months after the date on which the applicant received this notice, or

- (2) for a modification to the consent, within 3 months after the date on which the application received this notice.

Section 94 Conditions

This development consent contains a levy for development imposed under section 94 of the Act. The imposing of levies where imposed in accordance with Coffs Harbour City Shire Council's Section 94 Contributions Plan. This document may be inspected at the following location:

- Coffs Harbour City Council, 2 Castle Street, Coffs Harbour

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

PART C—DEFINITIONS

In this consent,

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

Applicant means Smith Maher & Associates P/L or any party acting upon this consent.

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

BCA means the Building Code of Australia.

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

Council means Coffs Harbour City Council.

DA No. 298-12-2004 means the development application and supporting documentation submitted by the applicant on 7 December 2004.

Department means the Department of Planning or its successors.

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

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

Minister means the Minister for Planning.

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

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

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

SCHEDULE 2

CONDITIONS OF CONSENT

DEVELOPMENT APPLICATION NO. 298-12-2004

PART A—ADMINISTRATIVE CONDITIONS

A1 *Development Description*

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

Two (2) Lot Rural Residential Subdivision of Lot 6 DP 557758, No. 309 Old Coast Road, Korora

A2 *Development in Accordance with Plans*

The development shall be in accordance with development application number 298-12-2004 submitted by the applicant on 7 December 2004, and in accordance with the following:

Statement of Environmental Effects entitled “Statement of Environmental Effects: Proposed 2 Lot Subdivision Lot 6, DP 557758, Old Coast Road, Korora” prepared by Smyth Maher & Associates Pty Ltd dated September 2004.			
Report on On-Site Disposal of Wastewater – Proposed Subdivision, Lot 6 DP 557758 Old Coast Road, Korora prepared by de Groot & Benson Consulting Engineers & Planners			
Soil Contamination Testing - Lot 6 DP 557758 Old Coast Road, Korora prepared by de Groot & Benson Consulting Engineers & Planners			
Drawing No.	Revision	Name of Plan	Date
Job No. 7227	-	Plan of Proposed Subdivision Plan of Lot 6, DP 557758, Old Coast Road, Korora prepared by Blair & Lanskey Registered Surveyors	7-5-2004

A3 *Application for Subdivision Certificate*

Prior to the lodgement of the plan of subdivision for registration under Division 3 of Part 23 of the Conveyancing Act 1919, a Subdivision Certificate is to be obtained in accordance with Section 109D (1)(d) of the Act.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

There are no conditions of consent relevant to this section.

PART C—PRIOR TO COMMENCEMENT OF WORKS

There are no conditions of consent relevant to this section.

PART D—DURING CONSTRUCTION

There are no conditions of consent relevant to this section.

PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE***E1 Registration of Easements***

Prior to the issue of a Subdivision Certificate, the applicant shall provide to the PCA evidence that any easements and restrictive covenants required by this consent, approvals, and other consent have been or will be registered on the certificates of title. Coffs Harbour City Council shall be nominated on the Restriction as to User as the sole party to vary, modify or extinguish the Section 88B Instrument.

E2 Monetary Contributions

Prior to the issue of a Subdivision Certificate, the applicant shall make payment to Council of the following contributions required pursuant to Council's Section 94 Contribution Plan:

(1) Amount of Contribution

Contribution Category	Amount \$
Regional Open Space	306.18
Local Open Space	3,473.06
Transport & Traffic	7,803.14
Urban Planning	746.09
Bushfire Protection	336.08
Beach Protection Works	80.50
Regional Libraries	207.74
Surf Rescue Equipment	64.52
Coffs Harbour Road Network	1,275.01
Co-ordination and Administration	253.93
TOTAL	14,546.25

(2) Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Coffs Harbour City Council.

Evidence of payment to Coffs Harbour City Council shall be submitted to the issuing authority prior to the issue of a Subdivision Certificate.

(3) Indexing

The applicant should check with Council prior to making payment, to obtain any updated Section 94 Contributions at the time of payment.

The Section 94 Contribution Plan is available for inspection at Council's Office, Administration Building, 2 Castle Street, Coffs Harbour.

E3 NorthPower

Prior to issue of a Subdivision Certificate the applicant shall provide to Council written confirmation from NorthPower stating that satisfactory arrangements have been made for the supply of electricity for the subdivision.

E4 Telstra

Prior to issue of a Subdivision Certificate the applicant shall provide to Council written confirmation from Telstra that arrangements have been made for telecommunication cabling to all lots, to ensure that the interests and responsibilities of Telstra, Council and future owners with regard to timely supply of telecommunication cabling are satisfied. The applicant shall contact:

REED Telstra – NSW New Estates Construction Research

e-mail telstra@conres.com.au

PO Box Locked Bag 755, Chatswood West NSW 2076

Telephone Free Call 1800 180 118 or Sydney 9935-5410

Fax 1300 550 286

Internet www.telstra@rcd.com.au

E5 A Restriction as to User be Created for Proposed Building Area

The proposed building area shall be shown on the Subdivision Certificate. A restriction as to user shall be created under the Section 88B Instrument of the Conveyancing Act 1919 which requires Council's consent for any variation of the building area. The restriction as to user shall be shown by notation on the property title and on the Subdivision Certificate.

E6 Vegetation Management:

(a) **Prior to the issue of a Subdivision Certificate**, and prior to commencement of any works on the site, a detailed Vegetation Management Plan (VMP) is to be submitted to, and approved by Council.

The detailed VMP shall be prepared by persons with professional qualifications and/or knowledge and experience in bush regeneration/stream rehabilitation practices and who are members of the Australian Association of Bush Regenerators (AABR).

The VMP shall:

- (i) accord with the conceptual VMP lodged with the Development Application;
- (ii) include a locality plan at basin scale identifying the property;
- (iii) include a colour aerial photo of the property from Council's May 2004 aerial run;
- (iv) include a site plan showing zonings, proposed subdivision, contours, creeks, drainage lines, proposed dwelling locations with APZ's, access roads, fire trails;

- (v) identify and map all native vegetation, including abundance codes and outline the methodology of removal and ongoing management of all noxious weeds, detailing the Initial and Follow up Maintenance works required;
- (vi) identify and map all noxious and environmental weeds as listed on Councils web site, including abundance codes and outline the methodology of removal and ongoing management of all listed environmental weeds, detailing the Initial and Follow up Maintenance works required;
- (vii) detail buffer plantings 20m either side of defined creeks and flow lines (blue lines on CMA 1:25,000 topographic maps), including long sections, cross sections, local provenance plant species, densities, zonation of plantings, quantities;
- (viii) include stream rehabilitation requirements of the Department of Infrastructure, Planning and Natural Resources. Part 3A Permit required for any works within 40m metres of watercourses (blue lines on CMA 1:25,000 topographic maps);
- (ix) detail proposed property boundary buffer areas (to buffer screen proposed dwellings/properties from each other, including species, densities, quantities;
- (x) address treatment and management of steep lands (if applicable) and detail treatment of banana production lands ;
- (xi) include costing in table format of initial works required;
- (xii) include costing in table format of the required follow up maintenance works required for riparian rehabilitation minimum 5 years and property boundary buffers minimum 1 year;
- (xiii) include information regarding the timing of the works.

(b) The Initial Works (other than Follow up Maintenance works) prescribed in the approved VMP must be completed on each rural residential lot to be created on registration of a plan of subdivision in accordance with the VMP and certified in writing to Council's satisfaction by the AABR consultant who prepared the VMP, **prior to the issue of the Subdivision Certificate** for that Plan of Subdivision.

(c) The registered proprietor of the land the subject of the rural residential subdivision must enter into positive covenants with Council to maintain the works effected on each proposed rural residential lot in accordance with the VMP as it affects that lot. The positive covenants shall be in, or to the effect of covenants approved by Council from time to time and be created pursuant to s. 88E of the Conveyancing Act 1919, generally in accordance with the attached draft covenant " A", and must be registered on the title to each such lot. Registration must be effected in conjunction with registration of the plan of subdivision.

PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

There are no conditions of consent relevant to this section.

PART G—POST OCCUPATION

There are no conditions of consent relevant to this section.

PART H – OTHER CONDITIONS

H1 Sewage Management Report

A sewage management report shall be prepared for the approval of Coffs Harbour City Council to demonstrate that proposed Lot 61 has the capacity to support an effluent disposal system should a dwelling proposed for the lot has 5 or more bedrooms.

PART I—GENERAL TERMS

NSW Rural Fire Service

I1 Asset Protection

Access shall comply with Section 4.3.2 Planning for Bushfire Protection 2001.

I2 Section 79BA

Any future development application lodged for this subdivision under Section 79BA of the Environmental Planning and Assessment Act 1979 shall be subject to the requirements as set out in Planning for Bushfire Protection 2001.

ADVISORY NOTES***AN1 Details Required prior to Issue of Subdivision Certificate***

The applicant shall submit to the satisfaction of the issuing authority or the council documentary evidence that the property has been developed in accordance with plans approved by Development Application No. 298-12-2004 and of compliance with the conditions of that consent.

AN2 Bushfire Protection

The NSW Rural Fire Service has issued a Bush Fire Safety Authority pursuant to Section 100B of the Rural Fires Act 1997. The Bush Fire Safety Authority, dated 24 March 2005, is subject to the conditions outlined within Part H of this Notice of Determination.