

DEPARTMENT OF PLANNING

URBAN ASSESSMENTS

Action required: for determination: Development Application

File No:	9036940-1
Application Number:	DA 298-12-2004
Date of lodgement:	7 December 2004
On land comprising:	Lot 6 DP 557758, 309 Old Coast Road, Korora
Application made by:	Smith Maher & Associates P/L 12A Bellingin Road Coffs Harbour NSW 2450
Application made to:	Minister for Planning
Local government area:	Coffs Harbour City Council
State electorate:	Coffs Harbour; Andrew Raymond Gordon Fraser MP The views of the Member are not known.
Notification:	A notice was placed on the site. Council, relevant agencies and surrounding landowners were notified
Exhibition	Start: 16 February 2005; End: 1 March 2005
For the carrying out of:	Two (2) lot rural residential subdivision.
Estimated cost of works:	N/A
FTE Jobs created:	Nil
Type of development:	State Significant Development; Integrated Development
Was a public inquiry held?	No
Integrated approval bodies:	Rural Fire Service
Main Issues:	Refer to attached page
Compliance with the Act	The application has been considered with regard to the matters raised in section 79C of the Act. The application was notified in accordance with the Regulations and all submissions received in the period have been considered. The proposal is ecologically sustainable. On balance, it is considered that the proposed development is acceptable and that development consent be granted.

Recommendation

It is recommended that the 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) and 80A of the *Environmental Planning and Assessment Act, 1979* and clause 10(2) of State Environmental Planning Policy No.71 – Coastal Protection:

- (A) **grant consent subject to conditions** (Attachment A), and
- (B) authorise the Department to carry out post-determination notification.

Endorsed

Approved:

Robert Black
Director
Urban Assessments

Sam Haddad
Deputy Director-General
Office of Development
Assessments and Approvals

INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES

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FTE Jobs created:	Nil
Type of development:	State Significant Development; Integrated Development
Was a public inquiry held?	No.
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Main Issues:	Refer to attached page
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Recommendation

It is recommended that the Minister for Planning pursuant to section 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended) and clause 10(2) of State Environmental Planning Policy No.71 – Coastal Protection:

- (A) grant **consent subject to conditions** (Attachment A), and
- (B) authorise the Department to carry out post-determination notification.

Endorsed:

Approved:

Sam Haddad
Deputy Director-General
Office of Development
Assessments and Approvals

???
Minister assisting the Minister for Planning
(Planning Administration)



Planning Assessment Report

Development Application DA 298-12-2004

1 SUMMARY

The development application was lodged on 7 December 2004 in accordance with the *Environmental Planning and Assessment Act, 1978* (the Act) seeking consent for a two (2) lot rural residential subdivision of Lot 6 DP557758, No. 309 Old coast Road, Korora. A dwelling with on-site sewerage system will be constructed on the vacant lot in the future.

The proposal is considered to be significant coastal development given that it is located within the coastal zone and subdivision is proposed where effluent will be disposed of by means of a non-reticulated system as identified in Schedule 2 of SEPP 71. The Minister for Planning is the consent authority for the proposal under clause 10(2) of State Environmental Planning Policy No. 71 – Coastal Protection.

The proposal is also integrated development under s110B of the *Rural Fires Act 1997*.

The application was advertised in accordance with the Regulations. Surrounding residents, Coffs Harbour City Council and other relevant agencies were notified and given the opportunity to comment on the development.

This report assesses the environmental and planning issues associated with the proposed development and addresses issues raised in submissions. It is considered that potential impacts from the development can be managed subject to the recommended conditions of consent. It is therefore recommended that the Minister **grant consent subject to conditions**.

2 BACKGROUND

2.1 Site Context

The 2.053ha site fronts Old Coast Road, Korora, approximately 5 kilometres north of Coffs Harbour city centre. The site is Lot 6 DP557758. An existing dwelling house is located at the rear, and a dam at the centre, of the property. Access is gained via Old Coast Road.

The site is irregularly shaped. It has an overall slope of 20% but a gentler slope towards Old Coast Road. The site is substantially cleared of vegetation. Rural residential development surrounds the site.

A site context is at Attachment B.

3 THE PROPOSED DEVELOPMENT

The proposed development seeks consent for the subdivision of the property into two (2) lots, namely Proposed Lot 61, comprising 1ha of vacant rural residential land and Proposed Lot 62, comprising 1.053ha of rural residential land which contain an existing dwelling. Access to each lot will be gained from Old Coast Road. The existing dam transverse the 2 lots and the applicant proposed to create reciprocal easement for water supply.

The proposed development is at Attachment C

No dwelling is proposed although it is anticipated that Proposed Lot 61 will contain a dwelling in the future. It will have an on-site sewerage system as there is currently no reticulated effluent disposal for the site.

4 STATUTORY FRAMEWORK

4.1 Statement of permissibility

The site is zoned 1B – Rural Living under Coffs Harbour City LEP 2000. Clause 18(6) provides for a minimum lot size of 1ha in the zone.

4.2 Instrument of consent and other relevant planning instruments

The proposed development is defined in Part 1(3) of SEPP 71. As the proposal involves subdivision of land where effluent will be disposed of by means of a non-reticulated system, it is a specified coastal significant development listed under Schedule 2 of SEPP 71. The application, therefore, is State significant development under clause 10(1). Pursuant to clause 10(2), the Minister is the consent authority.

The environmental planning instruments and policies applicable to the land to which the development application relates are as follows:

- *SEPP 71 - Coastal Protection*
- *Coastal Protection Act 1979*
- *NSW Coastal Policy 1997*
- *North Coast Regional Environmental Plan*
- *SEPP 44 - Koala Habitat*
- *SEPP 55 – Remediation of Land*
- *Coffs Harbour City Local Environmental Plan 2000*
- *Coffs Harbour Subdivision Development Control Plan*
- *Korora Rural Residential Development Control Plan*

SEPP 71 – Coastal Protection

The proposed subdivision is located within the coastal zone as defined in Part 1 (3) of SEPP 71, and falls within Schedule 2 as it involves the subdivision of land which will require effluent to be disposed of by means of a non-reticulated system.

It is considered that the proposal is consistent with the aims and objectives of SEPP 71. The proposed subdivision site is not located along a coastal foreshore and therefore will not detrimentally affect public access, nor will it detrimentally impact on the visual amenity or scenic quality of the New South Wales coast. It is considered the proposed subdivision will be a suitable development for the area and will result in the creation of one additional lot, which will be appropriate for a future residential dwelling.

It is unlikely that the proposed development would have a detrimental impact on the environment. Measures have been taken to ensure that the future effluent disposal system will not cause harm to the quality of any existing environment. See Attachment D for detailed assessment.

Coastal Protection Act 1979

The proposed subdivision is consistent with the objectives of the Coastal Protection Act 1979. The proposal will not restrict public pedestrian access to coastal areas, and it will have minimal detrimental impact on the coastal environment.

NSW Coastal Policy 1997 and North Coast Regional Environmental Plan

The proposed development is consistent with the goals and objectives of the NSW Coastal Policy 1997 and North Coast Regional Environmental Plan. The proposal will not restrict public access to coastal areas, and it will have minimal detrimental impact on the coastal environment. The proposal will not detrimentally impact on the aesthetic qualities of the coastal zone. See Attachment D for detailed assessment.

SEPP 44 - Koala Habitat and Coffs Harbour City Koala Plan of Management

The aims of the SEPP include 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.

Pursuant to clause 6, the SEPP applies to all development in sites greater than 1ha. The mapping of the Council local government area under the Council's Koala Plan of Management indicates that the site does not contain any primary, secondary or tertiary koala habitat.

SEPP 55 – Remediation of Land

The aim of the SEPP is 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.

The applicant submitted a contamination report prepared by De Groot & Benson Consulting Engineers and Planners. The issue is addressed in section 5.4 of this report.

Coffs Harbour City Local Environmental Plan 2000

The subdivision as proposed is permissible under the provisions of the Coffs Harbour LEP 2000. The proposal is consistent with Rural 1B zoning requirements in that the proposal is compatible with the character and amenity of the rural living environment of the area, and the development could be adequately serviced. See Attachment D for detailed assessment.

Coffs Harbour Subdivision Development Control Plan 2000

The controls in the DCP seek to provide measures to protect and enhance the natural and built environment by ensuring that subdivision patterns relate to site conditions; ensuring that subdivisions do not detract from the desired future neighbourhood character of the locality; promoting the orderly development of land and ensuring that the development is adequately serviced.

The proposal does not contravene these objectives. The pattern of subdivision is in keeping with the character of development in the area. The vacant lot could be adequately serviced and comfortably accommodate a dwelling and associated amenities.

Korora Rural Residential Development Control Plan

The objectives of the DCP include the protection of the natural bushland, native habitats and koala populations, and water quality; and to minimise environmental risk hazard associated with flooding, acid sulphate soils, contamination, noise, odour, air emissions and bushfire hazard.

The mapping of the Council local government area under the Council's Koala Plan of Management indicates that the site does not contain any primary, secondary or tertiary koala habitat. The proposal is unlikely to impact on water quality as the vacant lot is sufficiently large to accommodate an effluent disposal system.

The proposal is unlikely to flood or contain acid sulphate soils due to the site's elevation. A contamination study was been undertaken. The issue is addressed under "SEPP 55 – Remediation of Land" and section 5.2.3 of this report. In respect of bushfire hazard, the issue is addressed in sections 4.4.1 and 5.2.1 of this report.

4.3 Public consultation

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

Notifications landowners/occupiers	Five (5) notification letters were sent to nearby property owners/occupiers.
Newspaper advertisements	No
Site notices	A notice of the proposal was posted on the site.
Exhibition dates	Start: 16 February 2005; End: 1 March 2005.
Exhibition venues	▪ Planning Information Centre, 20 Lee Street Sydney ▪ North Coast Regional Office, 49 Victoria Street, Grafton ▪ Coffs Harbour City Council, Administration Building, 2 Castle Street, Coffs Harbour

No public submission was received.

4.4 Referrals

4.4.1 Integrated Approval Bodies

The application is integrated development under Section 100B of the *Rural Fire Act 1997*. NSW Rural Fire Service issued a Bushfire Safety Authority and recommended general terms of approval for the development.

4.4.2 Council

The application was referred to Coffs Harbour City Council. The Council required for additional information relating to a vegetation management plan. The applicant submitted the information on 12 July 2005 which was referred to the Council. The Council has raised no issue of concern.

4.4.3 Department of Environment and Conservation (DEC)

The application was referred to DEC. The Department responded but offered no comment on the proposal.

4.4.4 Internal Consultations

DIPNR Grafton Office was consulted. The Office raised no issue of concern.

5 CONSIDERATION

5.1 The Environmental Planning & Assessment Act 1979

5.1.1 Section 79C

The application and the likely impacts of the proposed development have been considered in accordance with Section 79C of the Act (see Attachment D). Significant issues are discussed in section 5.2 of this report.

The subject site is considered suitable for the proposed development. On balance, the proposed development is ecologically sustainable and approval is in the public interest.

5.2 Issues

5.2.1 Bushfire Prone Land

The land is zoned bushfire prone under the Rural Fires Act 1997. Therefore, the application is integrated development under section 100B of the Rural Fires Act 1997. The RFS was notified of the proposal and a Bush Fire Safety Authority was issued with general terms of approval.

5.2.2 Effluent Disposal

The applicant submitted an on-site effluent disposal assessment prepared by De Groot & Benson Consulting Engineers and Planners. The assessment considered AS1547:1994 and 2000, Department of Health's On-site Wastewater Management Systems for Domestic Households and Coffs Harbour City Council's On-site Sewage Management Strategy.

The report identifies the sites condition and limitations and provides an assessment of the proposed system against site feature criteria. The report indicates that although the site does contain limitations, on-site disposal system can still be installed and operated without significant detrimental impact on the existing environment.

The report provides details in regard to location and types of system and these have been incorporated in the recommended conditions of consent.

This report was also forwarded to Coffs Harbour City Council, who advised that the method of disposal outlined in the report is considered suitable for the proposed subdivision. The Council cautioned that a 5 bedroom dwelling may not be viable on Lot 61 given the size of land available for effluent disposal. An appropriate condition is recommended that a sewage management report be prepared should a dwelling proposed on Lot 61 has 5 or more bedrooms.

5.2.3 Contamination

The applicant submitted a contamination report prepared by De Groot & Benson Consulting Engineers and Planners. Testing of samples was carried out in the proposed building area for Lot 61. The consultant found that there is some contamination of arsenic and lead but the contaminations are within the Department of Environment and Conservation requirements of 100mg/kg for arsenic and 300mg/kg for

lead. A condition is recommended that the Council's consent is required should there be a variation in the building area.

5.2.4 Flora and Fauna

Council requested a concept Vegetation Management Plan (VMP) be prepared. Council has recommended a restriction as to user pursuant to Section 88B of the Conveyancing Act 1919 which ensures that the subject land is managed in accordance with a detailed VMP which is required to be prepared prior to release of the Subdivision Certificate.

5.2.5 Section 94 Contributions

Coffs Harbour City Council has advised that the proposal attracts a Section 94 Contributions. A condition of consent has been imposed requiring the applicant to pay the required contributions to Council prior to the issue of a Subdivision Certificate.

5.2.6 Summary

Generally, the proposal is consistent with the provision of the relevant planning controls and is not inconsistent with the surrounding environment. The development can be adequately serviced and accessed. It is considered that the land is suitable for the proposed development.

6 CONCLUSION

The proposed two (2) lot subdivision complies with the provisions of all statutory controls and planning instruments which relate to the site. Coffs Harbour City Council has raised no objection to the proposal. The proposal is classed as integrated development under the EP&A Act 1979, with the Rural Fire Service. The RFS have assessed the proposal and granted a Bush Fire Safety Authority.

The proposal is considered to be consistent with the surrounding properties along Old Coast Road, being rural residential lots within the coastal zone. It is not considered that the application will result in any unreasonable impacts on the amenity of the coastal zone, existing utilities, foreshore access or on coastal processes.

The proposal does not seek approval for any building works. Any future development will require the development consent of the Council.

Following this assessment, it is concluded that the proposed development is acceptable, subject to compliance with the recommended conditions of consent. It is recommended that the Minister grant consent to the proposal subject to conditions.

7 RECOMMENDATION

It is recommended that the Minister for Planning pursuant to section 80 (1) and 80A of the *Environmental Planning and Assessment Act, 1979* (as amended) and clause 10(2) of State Environmental Planning Policy No.71 – Coastal Protection:

- (A) **grant consent subject to conditions** (Attachment A), and
- (B) authorise the Department to carry out post-determination notification.

For Ministerial Approval

Prepared:

Endorsed by

Eng-Joo Ong
Senior Planner, Urban Assessments

David Mutton
Team Leader, Urban Assessments

Robert Black
Director, Urban Assessments

7 Addendum to Planning Report

Section 8 Recommendation has been amended to reflect the Instrument of Delegation dated 12 September 2005.

Recommendation

It is recommended that the 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) of the *Environmental Planning and Assessment Act, 1979* and clause 122 (2) of the *Environmental Planning and Assessment Regulations, 2000*:

- (A) **approve** the application subject to conditions (tagged “A”), and
- (B) authorise the Department to carry out notification of determination of the application to modify the consent.

Pradesh Ramiah
Acting Team Leader, Urban Assessments