

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 90-4-2004

(FILE NO. S04/00852)

2 LOT SUBDIVISION

I, the Minister for Infrastructure and Planning, 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. Protect the coastal environment and amenity of the locality;
2. Ensure the subdivision of land is compatible with existing effluent systems and with existing and surrounding development; and
3. Create a high quality urban environment.

Craig Knowles MP
Minister for Infrastructure and Planning
Minister for Natural Resources

Sydney,

2004

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Diane Beamer MP
Minister for Juvenile Justice
Minister for Western Sydney
Minister Assisting the Minister for Infrastructure and Planning
(Planning Administration)

Sydney,

2004

SCHEDULE 1

PART A—TABLE

Application made by:	Gulaptis & Smith Pty Ltd PO Box 278 Maclean NSW 2463
Application made to:	Minister for Infrastructure and Planning
Development Application:	No. 90-4-2004
On land comprising:	Lot 14 DP 1056093 Ridgewood Drive Woombah NSW 2469
Local Government Area	Clarence Valley
For the carrying out of:	Development described in Condition A1, Part A, Schedule 2
Estimated Cost of Works	\$Nil
Type of development:	State Significant Development
S.119 Public inquiry held:	No
BCA building class:	
Approval Body / Bodies:	Rural Fire Service
Determination made on:	
Determination:	A 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 formal notification letter accompanying the Determination.
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 physically commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 90-4-2004

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

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

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 Clarence Valley Council's Section 94 Contribution Plan. The Clarence Valley Council's Section 94 Contribution Plan may be inspected at the following locations:

- 50 River Street, Maclean

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

PART C—DEFINITIONS

In this consent,

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

Applicant means Gulaptis & Smith Pty Ltd 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 Clarence Valley Council

DA No. 90-4-2004 means the development application and supporting documentation submitted by the applicant on 14 April 2004.

Department means the Department of Infrastructure, Planning and Natural Resources 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 Infrastructure and 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. 90-4-2004

PART A—ADMINISTRATIVE CONDITIONS

A1 Development Description

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

- Subdivision of Lot 14 into 2 rural residential lots with the following descriptions and areas:
 - Lot 18 – 6600 sq metres, and
 - Lot 19 – 6900 sq metres.

A2 Development in Accordance with Plans

The development shall be in accordance with development application number DA No. 90-4-2004 submitted by the applicant on 14 April 2004, and in accordance with the following:

Statement of Environmental Effects entitled Statement of Environmental Effects prepared by Gulaptis & Smith Pty Ltd dated May 2004			
Survey Drawings prepared by Gulaptis & Smith Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
Fig 7	--	Proposed Subdivision	March 2004

and as amended by following conditions:

A3 Inconsistency between documents

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

A4 Prescribed Conditions

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

There are no conditions in respect of this part.

PART C—PRIOR TO COMMENCEMENT OF WORKS

There are no conditions in respect of this part.

PART D—DURING CONSTRUCTION

There are no conditions in respect of this part.

PART E—PRIOR TO SUBDIVISION OR STRATA SUBDIVISION

Easements

E1 Services

Documentary easements for services, drainage, support and shelter, use of plant, equipment, repairs, maintenance, any restrictive covenants assessments or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*. Clarence Valley Council is to be nominated on any restriction as the sole party to vary, modify or extinguish a restriction.

E2 Easement

An approved access in accordance with Council's Development specification – Aus-Spec is to be provide to every lot (the pipe culvert may be deleted, depending on location).

1. Provision of a drainage easement of variable width over proposed Lot 18 for stormwater;
2. A restriction as to user benefiting Council is to be placed upon all lots requiring that any approved asset protection zones and fire trails be maintained as approved.

E3 Section 94 Contributions

Prior to issue of a Subdivision Certificate, evidence of payment of S94 contributions will be submitted to the Department. The contributions will only be accepted at the rate applying at the date of payment. Council should be contacted prior to payment to confirm the required development rate as contribution for land may be adjusted in accordance with the latest annual valuations. The payment schedule is as follows;

Contribution Category		Amount
Open Space/Recreation Facilities Contribution Plan 1993	Passive	\$195.13
	Active	\$789.62
Community Amenities & Services Contribution Plan 1993	Regional	\$139.88
	Local	\$296.27
Photogrammetric Plan preparation of Rural Residential Areas 1993	Woombah	\$12.65

	Total	\$1 433.55
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The contributions as assessed will apply for 12 months from the date of this approval. Contributions not received by Council within 12 months of the date of this notice will be adjusted in accordance with the adopted Schedule of Fees and Charges current at the time of payment.

E4 Effluent Management

Any on-site sewage management system for proposed Lot 18 and 19 must comply with the recommendations of the Effluent Disposal Report (Amendment A) for Dolade Pty Ltd prepared by Michael Samms & Associates Pty Ltd dated 4 October 2004.

E5 Stormwater

All stormwater is to be collected within the property and discharged in accordance with Council's 'Engineering Specification for Development'.

E6 Erosion and Sediment Control

The control of erosion and the prevention of silt discharge into drainage systems, street drainage systems and waterways is to be in accordance with Council's Erosion and Sediment Control Development Control Plan.

E7 Geotechnical Report

Prior to the issue of a Subdivision certificate a report from a Geotechnical Engineer indicating the lot classification of each allotment in accordance with AS2870, is to be submitted to Council.

E8 Restriction as to user – domestic animals

Prior to the issue of a Subdivision certificate, a restriction-as-to-user is to be placed on all allotments requiring that all dogs, and other domestic animals hazardous to native ground moving animals including koalas, be contained within a secure compound not greater than 25% of the allotment area. Clarence Valley Council is to be nominated on any restriction as the sole party to vary, modify or extinguish a restriction.

E9 Restriction as to user – boundary fencing

Prior to the issue of a Subdivision certificate, a restriction-as-to-user is to be placed on all allotments requiring boundary fencing to be of the type which will allow free passage of native ground moving animals including koalas. Clarence Valley Council is to be nominated on any restriction as the sole party to vary, modify or extinguish a restriction.

E10 Restriction as to user – native trees

Prior to the issue of a Subdivision certificate, a restriction-as-to-user is to be placed on all allotments prohibiting the removal of any native trees over 4 metres in height, old growth trees containing hollows, trees with a diameter of 60cm or greater, or the native understorey without Council consent. Any clearing required for house construction or provision of Asset Protection Zones is to be in accordance with the requirements of NSW Rural Fire Service.

Clarence Valley Council is to be nominated on any restriction as the sole party to vary, modify or extinguish a restriction.

E11 Restriction as to user – koala food trees

Prior to the issue of a Subdivision certificate, a restrictions-as-to-user is to be placed over the site prohibiting the removal or damage of koala food tree species without Council approval. Clarence Valley Council is to be nominated on any restriction as the sole party to vary, modify or extinguish a restriction. The following trees are considered koala food tree species:

Botanical Name	Common Name
Eucalyptus tereticornis	Forest Red Gum
Eucalyptus microcorys	Tallow Wood
Eucalyptus robusta	Swamp Mahogany
Eucalyptus propinqua	Small-fruited Grey Gum
Corymbia intermedia	Pink Bloodwood
Botanical Name	Common Name
Lophostemon confertus	Brush Box
Eucalyptus biturbinata	Grey Gum
Eucalyptus saligna	Sydney Blue Gum
Eucalyptus acmenodites	White Mahogany
Eucalyptus seeana	Narrow leaved Spotted Gum
Eucalyptus maculata	Spotted Gum
Eucalyptus henryi	Large leaved Spotted Gum
Eucalyptus signata	Northern Scribbly Gum
Eucalyptus grandis	Flooded Gum

E12 Restriction as to user – APZ

Prior to the issue of a Subdivision certificate, a restriction as to user benefiting Council is to be placed upon all allotments requiring any approved asset protection zones and fire trails be maintained as approved. Clarence Valley Council is to be nominated on any restriction as the sole party to vary, modify or extinguish a restriction.

E13 Electricity Reticulation

The extension and provision of overhead or underground electricity main reticulation is required to service all proposed lots in the subdivision.

E14 Telephone Services

Telephone services are to be installed overhead.

E15 Subdivision Certificate Details

An application to Council for a Subdivision Certificate under Part 4A of the Act shall include revised subdivision plans indicating the following;

- dimensions;
- areas;
- relevant surveying details;

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- exterior boundary dimensions;
 - all proposed easements and widths of these easements.

PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

There are no conditions in respect of this part.

PART G—POST OCCUPATION

There are no conditions in respect of this part.

PART H—GENERAL TERMS

Rural Fire Service

The NSW Rural Fire Service did not require any specific conditions.

ADVISORY NOTES

AN1 Bush Fire Protection

The NSW Rural Fire Service has advised in their letter dated 6 September 2004 in relation to the proposal that a Bush Fire Safety Authority as required under section 100B of the Rural Fires Act 1997 is deemed to have been granted subject to any future development application lodged for this subdivision being subject to the requirements as set out in Planning for Bushfire Protection 2001 and the consultation provisions of Section 79BA of the Environmental Planning and Assessment Act 1979.

WATER

AN2 North Coast Water

An application shall be made to North Coast Water for a Certificate under Division 2, Part 3 of the Water Supply Authorities Act, 1987. The Certificate shall be submitted to the PCA prior to the release of the linen plan.

AN3 Construction of Water Works

The construction of water works is a condition of consent for the subject development. All water works to serve the development are to be in accordance with the specification of the Director of Technical Services, Council.

AN4 Existing and projected works

A payment to North Coast Water will be required towards the cost of existing and projected works which will be of a benefit to the Development. The contribution shall be made at the time specified by the Director of Technical Services.

AN5 Requirements of Public Authorities for Connection to Services

The applicant shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

AN6 Application under Part 4A of the Act

An application under Part 4A of the Act shall be submitted to the consent authority or the council along with a plan of subdivision prepared by a registered surveyor, for certification prior to the issue of the Subdivision Certificate.

AN7 Other Details Required prior to Issue of Subdivision Certificate

The applicant shall submit to the satisfaction of the consent authority or the council, the following information, prior to the issue of the Subdivision Certificate:

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- (1) Documentary evidence of the payment of the open space/ community facility/ transport and access contribution(s),
 - (2) Documentary evidence that the property has been developed in accordance with plans approved by Development Application No. 90-4-2004 and of compliance (or a Compliance Certificate) with the conditions of that consent.

AN8 Stormwater drainage works or effluent systems

A construction certificate for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work
- (2) management of waste

as defined by Section 68 of the Local Government Act, 1993 will not be issued until prior separate approval to do so has been granted by Council under Section 68 of that Act. Applications for these works must be submitted on Council's standard Section 68 application form accompanied by the required attachments and the prescribed fees.

AN9 Protection of Trees – On-site Trees

All trees on the site that are not approved for removal are to be suitably protected by way of tree guards, barriers or other measures as necessary are to be provided to protect root system, trunk and branches, during construction.

AN10 Excavation – Aboriginal Relics

Should any Aboriginal relics be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the National Parks and Wildlife Service shall be informed in accordance with Section 91 of the *National Parks and Wildlife Act, 1974*.

AN11 Excavation – Historical Relics

Should any historical relics be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the Heritage Council of NSW shall be informed in accordance with Section 146 of the *Heritage Act, 1977*.

AN12 Compliance with Conditions

The applicant will be required to submit, documentary evidence that the property has been developed in accordance with plans approved by Development Application No. 90-4-2004 and of compliance (or a Compliance Certificate) with the conditions of that consent, prior to the issuing of Strata Plan of Subdivision.