

Enquiries to: Brad Lane
Contact Phone: 6568 0260
Our Ref: DA 2004/298

23 April 2018

Amos & McDonald Surveyors
PO Box 610
MACKSVILLE NSW 2447

**NOTICE TO APPLICANT DETERMINATION OF A
MODIFICATION OF DEVELOPMENT CONSENT**
(Issued under Section 4.55 of the Environmental Planning and Assessment Act 1979)

Development Application No: 2004/298
Applicant: Amos & McDonald Surveyors
Subject Land: Lot: 2 DP: 883504, 642 Wilson Road, Congarinni North
Development Proposal: Subdivision - Lge Lot Residential

DETERMINATION

Determination: Consent has been modified under Section 4.55 and conditions are as follows:
Made on: 23 April 2018
Consent to operate from: 16 February 2006
Consent to lapse, unless the development has commenced in accordance with the provisions of Section 4.53 of the Act: The development was physically commenced prior to the date that it would have otherwise lapsed.

REVIEW OF DETERMINATION

An applicant may request a review of this decision under Section 8.23 of the Environmental Planning and Assessment Act 1979. A request for a review must be made within 28 days after the date of the determination and accompanied with the prescribed fee.

RIGHT OF APPEAL

If you are dissatisfied with this decision in relation to the modification, Section 8.9 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.

DETAILS OF CONDITIONS

GENERAL CONDITIONS

- 1 The development shall be carried out generally in accordance with the application and the documents lodged with Council on 9 February 2004 and plan Nos DA 298A as amended in red, stamped and returned with this consent.

Reason: To ensure development proceeds in accordance with approved plans.

- 2 Subdivision works in accordance with this development consent, must not be commenced on-site until a Construction Certificate has been issued by the Principal Certifying Authority.

Reason: To satisfy the relevant statutory requirements.

Bushfire

- 3 Any future development application lodged for this subdivision under section 79BA of the EP& A Act will be subject to the requirements as set out in Planning for Bushfire Protection 2001.

- 4 Access is to comply with Section 4.3.2 Planning for Bushfire Protection 2001.

Reason: To ensure compliance with the Bushfire Safety Authority Issued by the Rural Fire Service for the development by the NSW Rural Fire Service pursuant to section 100B of the Rural Fires Act 1997.

On Site Sewage Management

- 5 Effluent disposal is to be in accordance with the report prepared for the development by Holmes and Holmes Pty Ltd for the development dated 12 December 2003, a copy of which is held by Nambucca Shire Council, or other report submitted to and approved by Nambucca Shire Council.

Note: Effluent will need to be pumped to the suitable disposal area above the building envelope as identified in red on approved plan DA 298A.

Reason: To ensure that the development complies with relevant legislation.

PRIOR TO RELEASE OF CONSTRUCTION CERTIFICATE

Landscape Plan

- 6 A plan of the landscape buffer being submitted to and approved by Council prior to the issue of the Construction Certificate. The landscape buffer (dense planting of native trees with maturity height in excess of 5 metres) is to be 20 metres wide and located within the lot boundary fronting the western boundary of Lot 21 as indicated on the approved development plan accompanying this report. The landscape buffer must be carried out in accordance with the approved landscape plan and be maintained in good condition.

Reason: To provide an appropriate means of mitigation to alleviate the dust nuisance from the adjacent road.

- 7 A separate application and consent under section 138 and 143 The Roads Act 1993 is required for any proposed construction work taking place **within** a Public Road Reserve (this includes

Amos & McDonald Surveyors
DA 2004/0298 — Subdivision - Lge Lot Residential

construction involving machinery working on the development **from** an adjacent Public Road Reserve). This consent is to be obtained prior to the release of the construction certificate.

A copy of the form is to be completed and returned to Council along with the application and inspection fee of \$88.

***Reason:** To ensure traffic safety and Council's infrastructure is protected.*

Vehicular Access

8 Location and construction of vehicular access to proposed Lot 21 in accordance with the following requirements:

- Common access to Wilson Road shall be provided at the location of the current access used by Lot 1 DP 883504.
- A plan of the proposed access detailing all works including any widening and additional rights of carriageway required shall be provided to Council for approval prior to the issue of a construction certificate.
- Works detailed on the approved plan shall be completed to Council's satisfaction prior to the release of a subdivision plan.
- Restriction on access to Wilson Road detailed as Item 5 in the 88B instrument for DP 883504 shall also apply to this subdivision

***Reason:** To ensure a satisfactory standard of traffic safety is achieved and to comply with the Bushfire Safety Authority issued by the NSW Rural Fire Service for the development pursuant to section 100B of the Rural Fires Act 1997.*

9 Effective erosion and sediment control measures must be installed within the boundaries of the site prior to and during construction and be maintained until the site has been efficiently rehabilitated, turfed or landscaped.

Should Council be the Principal Certifying Authority, details as to the method of complying with the above must be submitted prior to the release of the Construction Certificate. These measures may consist of sediment fences, hay bales and/or sandbags. Care should be taken in locating material stockpiles ie sand, soil, etc, and the number of vehicular movements should be restricted during inclement weather.

***Reason:** To ensure erosion and sediment control.*

PRIOR TO RELEASE OF SUBDIVISION CERTIFICATE

Developer Contributions

10 The applicant shall pay to Council the following contributions prior to the issue of the Subdivision Certificate. The contribution rates are those that apply at the date of issue of this consent. Rates are adjusted annually on 1 July. Contributions will only be accepted at the rate applying at the date of payment. Council's Environment & Community Planning Department should be contacted prior to payment to confirm the required development rate:

- a Pursuant to Council's Section 94 Contribution Plan for Public Reserves and Community Facilities for the Macksville Catchment, a contribution of \$1,909 (1 additional lot @ \$1,909 per lot);

Amos & McDonald Surveyors
DA 2004/0298 — Subdivision - Lge Lot Residential

- b Pursuant to Council's Section 94 Contribution Plan - Surf Life Saving Equipment, a contribution of \$73 (1 x additional lot @ \$73 per lot);
- c Pursuant to Council's Section 94 Contribution Plan - Rural Roads Needs Study, a contribution of \$4,300 towards the upgrading of Council's rural road network (1 x additional lot @ \$4,300 per lot).

Reason: *To ensure the development contributes towards the cost and provision of community facilities, public works, open space and recreation facilities in accordance with Sections 94 and 94a of the Environmental Planning and Assessment Act 1979 (as amended).*

Urban Subdivision

- 11 Submission of a Subdivision Certificate, Linen Plan and six (6) copies in the prescribed form, for the endorsement of the General Manager prior to the lodgement with the Land Titles Office.

Reason: *To enable separate land Titles to issue for the proposed lots.*

Utilities

- 12 A positive covenant is to be placed on the proposed lots under section 88B of the *Conveyancing Act 1919* which states that reticulated electricity is not connected to the land and that any extension of supply will be at the expense of the owner. Necessary easements for electricity purposes as required by the electricity supply authority to provide connection of the proposed lots to reticulated electricity must be provided to the satisfaction of Council.

Written evidence from a telecommunications carrier licenced under the *Telecommunications Act 1997* (Cth) confirming that satisfactory arrangements have been made for the provision of telecommunications throughout the subdivision shall be submitted to Council prior to the issue of a subdivision certificate.

Reason: *To ensure lots are adequately serviced.*

Title Restrictions

- 13 Pursuant to Section 88B of the *Conveyancing Act* easements and restrictions as to user shall be created to achieve the following purposes:
 - a Restriction on access to Wilson Road detailed as Item 5 in the 88B instrument for DP 883504 shall also apply to this subdivision;
 - b All requisite easements;
 - c All rights of carriageway.

Reason: *To ensure public utility services, access and restrictions are legalised over the land.*

- 14 Pursuant to Section 88B of the *Conveyancing Act 1919*, positive covenants shall be created to require the proprietors of proposed Lot 21 burdened to:
 - a Create and maintain a 50m buffer to the agricultural land on Lot 221 DP 611336 as indicated on approved Plan No DA 298A, and incorporating a 20m wide landscaped strip in accordance with the approved landscape plan.

Reason: *To ensure compliance with Council's Rural Buffers Development Control Plan.*

- b To construct any future on-site wastewater management system in accordance with the recommendations contained within the report submitted by Holmes and Holmes Pty Ltd

Amos & McDonald Surveyors
DA 2004/0298 — Subdivision - Lge Lot Residential

dated 12 December 2003 a copy of which is held by Nambucca Shire Council. Where alternative systems are proposed, detailed assessments in accordance with relevant Australian Standards are to be submitted to Council for consideration.

Reason: *To ensure adequate effluent disposal and bushfire protection is available for the land.*

- c To erect any habitable building in accordance with the requirements of the NSW Rural Fire Service Planning for Bushfire Protection Guidelines 2001

Reason: *To ensure future dwellings are constructed in accordance with the relevant bushfire guidelines*

- 15 Pursuant to Section 88B of the Conveyancing Act 1919, restrictions on the use of the land, shall be created to prohibit the proprietors of Lot 21 burdened from:

- a Removing any native trees within the 20m landscaped buffer to the western boundary of Lot 21 as indicated on the approved development plan, and the approved landscape plan, without the prior approval of Council.
- b Erecting any future dwelling-house on proposed lot 21 outside of the indicative dwelling envelope without a detailed site assessment being undertaken prior to development approval. In this regard, the indicative dwelling envelope is to be shown on the final plan of subdivision.

Reason: *To protect native vegetation and the environment and to ensure that future dwelling-houses are erected in suitable locations.*

TO BE COMPLIED WITH AT ALL TIMES

- 16 All erosion and sediment control measures/works, other pollution control and rehabilitation measures undertaken on the site shall conform to or exceed the specifications and standards contained in the current versions of:

- Managing Urban Stormwater, Soil and Construction Guidelines (Department of Housing 1998)
- Nambucca Shire Council Code of Practice for Erosion and Sediment Control Works

Reason: *To ensure that control of erosion, sedimentation, other forms of pollution and site rehabilitation, are carried out to an acceptable standard as recommended by State Government Authorities.*

Amenity

- 17 The development shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood, in respect of noise, vibration, smell, dust, waste water, waste products or otherwise.

Reason: *To prevent damage or nuisance to neighbours and adjoining property.*

ADVISORIES

Section 94 Contribution

The following provisions shall apply:

Amos & McDonald Surveyors
DA 2004/0298 — Subdivision - Lge Lot Residential

The said contribution will be indexed and adjusted annually as from the date the consent became effective, in accordance with the Consumer Price Index applicable to each year ending 30 June, commencing 1 July for the duration of the development consent and the said adjustment to the contribution shall take effect from and including July each year, commencing 30 June for the duration of the consent.

Utilities

The Telstra contact for new subdivisions is:

Email: nsw.estates@team.telstra.com
Postal: Telstra New Estates, Locked Bag 2040, Hamilton Mail Centre NSW 2303
Phone: 02 4924 9395 or Fax: 02 4929 6555

The Country Energy contact for new subdivisions are:

If the subdivision is for three or more lots:
Grant Palmer Co on (02) 4954 1323.

If it is for a two lot subdivision:
Downer Engineering on 1800 600 182.

Country Energy Services

Country Energy advise significant delays for infrastructure works to be carried out, are expected. Council suggests you contact Country Energy to discuss your proposal on the following number:

Craig McElroy
Project Manager - Streetlighting
Phone: 02 6589 8129
Fax: 02 6589 8283

OTHER APPROVALS

**The following Section 68 Approvals
have been issued with this consent:** NIL

Integrated Development: YES — Rural Fire Service

Signed on behalf of Consent Authority

Signature:

Name: Brad Lane
SENIOR TOWN PLANNER

Date: 23 April 2018

Consent Authority: Nambucca Shire Council