

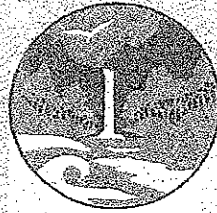
BELLINGEN SHIRE COUNCIL

FILE NO. 2006/AF-224

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Contact: Ms Melanie Green

Office hours: 8:30 am - 4:30 pm  
Monday to Friday



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**COPY**

**NOTICE OF DETERMINATION  
OF AN APPLICATION**

TO: Denis Atkinson Planning Pty Ltd  
P O Box 247  
BELLINGEN NSW 2454

*Chris Christianer - consultant*  
*Graham Knight*  
*DeGroot + Banson*  
*6652 1700*

This document relates /refers to the following Applications:

**Development Application No. 2006/DA-201**  
(Environmental Planning and Assessment Act, 1979 Section 80(1), 80(4) & 80(5))

For the following proposed development: - **Subdivision (to create 2 additional lots - staged)**

**Development Consent No. 2006/DA-201**

In accordance with Sections 80(1), 80(4) & 80(5) of the Environmental Planning and Assessment Act 1979, and

pursuant to Section 81(1)(a) of the Environmental Planning and Assessment Act, 1979 notice is hereby given of the determination by the consent authority of the above development application relating to the land described as follows:

**Lot 41 DP 773333 No. 20 Tibouchina Close, BELLINGEN NSW 2454**

The following components of the Development Application have been determined by -

**Granting of consent subject to the conditions specified in the Notice:**

**Subdivision (to create 2 additional lots - staged)**

This consent - was determined on: **4 May 2007**  
- operates from: **4 May 2007**  
- lapses on: **4 May 2012**

The conditions of consent are set out as follows and the reasons for imposition of the conditions are shown in brackets at the end of each condition:

## CONDITIONS OF DEVELOPMENT CONSENT

### PLANNING CONDITIONS

- (1) The development shall be carried out in accordance with the "approved plans" attached to this consent and as amended by the following conditions. The "approved plans" and other documents are endorsed with a Council stamp and authorised signature. A copy of this consent and approved plans are to be kept on site at all times while work is being undertaken.
  - Subdivision plan prepared by Reg Walters & Partners for the subdivision of Lot 41 DP 773333, Tibouchina Close Bellingen Ref 05117-01, Sheet 1, Revision 3 dated 2<sup>nd</sup> February 2007.
  - Driveway plan for the 3 lot subdivision of Lot 41 DP 773333 Tibouchina Close prepared by De Groot & Benson Pty Ltd dated may 2006 Drawing no. 06293-01.

[To ensure the legality of the development]
- (2) The site and surrounding areas are to be kept in a clean and tidy condition at all times. Waste paper must be stored in a closed receptacle. Any construction works involving the generation of noise which extends beyond the boundary of the premises shall be confined to 7.00 am to 5.00 pm Monday to Saturday.

[To minimise the impact of building works on the locality]
- (3) The development may be carried out in stages as provided for in this consent with more than one Subdivision Certificate being issued for the development, provided that such stages are provided in a logical and functional arrangement to the satisfaction of the Director of Environmental Health & Planning and Director of Engineering & Operations.

[To allow flexibility in establishing the development]
- (4) No work is to be undertaken within the road reserve without the consent of Council. This includes driveways, retaining walls, letterboxes, drains and the like.
- (5) The street number for proposed Lot 1 is 22 Tibouchina Close and the street number for proposed Lot 3 is 18 Tibouchina Close. These numbers must be displayed in a prominent location near the approved driveway accesses.

[To ensure prompt identification by emergency services and the general public]
- (6) Soil erosion control measures must be implemented for all earthworks on the site. These are to be in accordance with the attached brochure "Sediment and Erosion Control on Building Sites." These erosion control measures must be implemented immediately on the completion or temporary cessation of the earthworks and prior to commencement of building works to the satisfaction of the Director of Environmental Health and Planning.

[To minimise soil erosion]

- (7) All roof and surface stormwater from the existing driveway and dwelling on proposed Lot 2 and from the existing mud brick shed on proposed Lot 1 is to be discharged to:
- the street gutter via an approved proprietary metal kerb adaptor, or
  - an inter-allotment drainage easement, or
  - on-site in such a manner that it does not affect adjoining properties and is directed away from any buildings.
- [To ensure adequate stormwater disposal]

- (8) Due to the increased demands on Council's services and facilities created by this development, a contribution must be lodged with Council towards the upgrading of Council's road system. Payment is to be made prior to issue of the relevant Subdivision Certificate.

The base rate per allotment is:	\$446.96
{i. Entire Council area	{ \$446.96 }
The contribution payable is for 2 lots	
<b>TOTAL</b>	<b>\$893.92</b>

NOTE: The abovementioned base rate is increased daily from 1st July 2006 to the date of payment by a CPI factor calculated on the basis of the Sydney All Groups percentage increase reported for the preceding September quarter. Where the period between the relevant 1st July base date and the date of payment exceeds one year, successive September quarter CPI increases will be applied to the base rate on a compound basis.

The amount payable on any specified day can be obtained from Council's cashier. The rate is determined under Council's Section 94 Roads Contributions Plan. The plan is available for inspection at Council's Administration Centre, Hyde Street, Bellingen during normal office hours.

[Contribution towards provision of services and facilities - Section 94 of the Environmental Planning & Assessment Act, 1979]

- (9) Due to the increased demands on Council's services and facilities created by this development, a contribution must be lodged with Council towards the establishment and/or improvement of public open space, community facilities and services. Payment is to be made prior to issue of the relevant Subdivision Certificate.

The base rate per allotment is:	\$1,489.89
{i. Entire Council area	{ \$ 742.22 }
{ii. Valley catchment	{ \$ 747.67 }
The contribution payable is for 2 lots	
<b>TOTAL</b>	<b>\$2,979.78</b>

NOTE: The abovementioned base rate is increased daily from 1st July 2006 to the date of payment by a CPI factor calculated on the basis of the Sydney All Groups percentage increase reported for the preceding September quarter. Where the period between the relevant 1st July base date and the date of payment exceeds one year, successive September quarter CPI increases will be applied to the base rate on a compound basis.

The amount payable on any specified day can be obtained from Council's cashier.

The rate is determined under Council's Community Services and Amenities Contributions Plan. The plan is available for inspection at Council's Administration Centre, Hyde Street, Bellingen during normal office hours.

[Contribution towards provision of services and facilities - Section 94 of the Environmental Planning & Assessment Act, 1979]

- (10) Due to the increased traffic created by this development which will place an increased demand on the Bellingen Bridge, a contribution must be lodged with Council towards the upgrading of the **Bellingen Bridge**. Payment is to be made *prior to issue of the relevant Subdivision Certificate*.

The base rate per allotment is: \$ 290.19

(South Bellingen catchment)

The contribution payable is for 2 lots

**TOTAL \$ 580.38**

NOTE: The abovementioned base rate is increased daily from 1st July 2006 to the date of payment by a CPI factor calculated on the basis of the Sydney All Groups percentage increase reported for the preceding September quarter. Where the period between the relevant 1st July base date and the date of payment exceeds one year, successive September quarter CPI increases will be applied to the base rate on a compound basis.

The amount payable on any specified day can be obtained from Council's cashier.

The rate is determined under Council's Bellingen Bridge Replacement Contributions Plan. The plan is available for inspection at Council's Administration Centre, Hyde Street, Bellingen during normal office hours.

[Contribution towards provision of services and facilities - Section 94 of the Environmental Planning & Assessment Act, 1979]

- (11) Pursuant to Section 306 Division 2 of Part 5 of the Water Management Act, 2000 the applicant, *prior to the issue of a Subdivision Certificate, must obtain a certificate of compliance*.

The certificate is to indicate that:

- i. Any required payment to the cost of works to augment the water supply system and sewer mains, pumping stations and treatment works have been lodged with Council.

**Water Supply Augmentation TOTAL \$ 5,578**

**Sewerage System TOTAL \$ 5,198**

- ii. Town water supply mains and services have been extended at no cost to Council, in accordance with the approved plans.

- iii. Sewerage mains have been extended at no cost to Council, in accordance with the approved plans. Any necessary relocation of Council's sewer main must be carried out at full cost to the developer.

*Charges will be updated according to CPI as at the 1 July yearly.*

[To provide adequate services, contribution towards services and facilities, Section 306 Division 2 of Part 5 of the Water Management Act, 2000]

- (12) Financial arrangements, to the satisfaction of Country Energy, are to be made for the provision of electricity services to each lot. Written confirmation from Country Energy is to be obtained prior to the issuing of a Subdivision Certificate.

Such services are to be installed underground. Arrangements are to be made for the future installation of street lighting, if required, to ensure that such lighting will be provided at no cost to Council.

[Provision of electricity supply]

- (13) Telephone services are to be provided to the satisfaction of Telstra. Written confirmation from Telstra is to be *prior to issuing of a Subdivision certificate*. Such services must be installed underground.

[Provision of communication services]

- (14) A vehicular access driveway must to be provided to serve proposed lots 1 2 and 3. The works are to be completed at no cost to Council and prior to the release of the Subdivision Certificate (unless other arrangements satisfactory to Council are made).

No engineering works are to be undertaken until a separate consent under the Roads Act 1993 obtained.

Note: The drawing "Proposed Driveway Lot 41 DP 773333 Tibouchina Close Bellingen No 06293-01" prepared by de Groot & Benson Pty Ltd is an acceptable design for this work providing the width of the individual accesses is reduced to 3.0m and the width at the street frontage is reduced to 3.5m.

[The likely impacts of the development in respect of safety, traffic, access, public interest and site attributes.]

- (15) Reticulated Water and Sewer services being provided to serve all lots with the works conforming with the standards and requirements set out in Council's "*Standard Conditions for Engineering Works Associated with Developments-1993*".

The works are to be completed at no cost to Council and prior to the release of the Subdivision Certificate (unless other arrangements satisfactory to Council are made).

No engineering works are to be undertaken until plans and specifications have been approved by Council and a separate consent under the Roads Act 1993 obtained (if required).

Note: Council policy specifies that "No urban subdivisions will be approved with on site sewerage pump station systems".

[The likely impacts of the development in respect of utilities, safety and public interest]

- (16) Mountable roll over kerb and gutter being provided for the full frontage of the current lot 41 linking up with the existing driveway/kerb segment of No 18 Tibouchina Close.

The works are to conform with the standards and requirements set out in Council's "*Standard Conditions for Engineering Works Associated with Developments-1993*".

The works are to be completed at no cost to Council and prior to the release of the Subdivision Certificate (unless other arrangements satisfactory to Council are made).

No engineering works are to be undertaken until plans and specifications have been approved by Council and a separate consent under the Roads Act 1993 obtained.

[The likely impacts of the development in respect of utilities, safety, traffic, public interest and security]

- (17) Any utility service installation to the property and which affects any road pavement must not be trenched. Such services, except drainage, must be laid using under road boring techniques and placed in durable traffic load supporting conduits with not less than 450 mm cover.

[The likely impacts of the development in respect of utilities, safety, traffic, public interest and security]

- (18) Council acceptance of 'works' required by the consent conditions requires that construction quality is assured by appropriate supervision of the works and independent certification. That must be generally consistent with sections 17 and 19 of Council's civil development policy code, "Standard Conditions for Engineering Works Associated With Developments". (That policy document may be viewed or purchased at the Council's office)

For acceptance the 'works' and associated activities must be such that unequivocal certification can be given, generally as follows:

"the (specified) civil construction (etc.) conforms with the approved design(s) and the intent and the precise specification included in the various conditions of this and the associated Roads Act consents."

**Note:**

- Certification must schedule the conditions relevant to the certification.
- The objective of any (private) certification is primarily to ensure implementation of the Council's intentions as expressed in the consent conditions while secondarily also allowing for maximum private involvement.
- Certification must be unequivocal as to consent condition compliance or otherwise. For example, "Consistent with" does not mean "not inconsistent with", unless specifically otherwise provided for in a specific condition of consent.
- Expressions in the nature of an (non-Council) certification opinion that works/installations etc are considered, "suitable for their intended purpose", rather than in strict compliance with the consent expression, are not acceptable as 'certification' of compliance.

[The likely impacts of the development in respect of traffic, utilities, safety, drainage, the public interest and security]

**OTHER APPROVALS:** This consent also includes approval for the following:

Nil

**ADVISORY NOTES:**

**SUBDIVISION CERTIFICATE**

An application for a subdivision certificate must be submitted in accordance with Section 109C of the Environmental Planning and Assessment Act, 1979 accompanied by;

- (a) Original plan of subdivision prepared by a qualified surveyor and 7 copies of the original plan.
- (b) Relevant development consent or complying development certificate.
- (c) Detailed subdivision engineering plans endorsed with a construction certificate (where applicable).

- (d) For a deferred commencement consent evidence that the application has satisfied the consent authority on all matters which is must be satisfied of before the consent can operate.
- (e) A certificate of compliance from the relevant water supply authority (where applicable).
- (f) If a subdivision is the subject of an order of the Land & Environment Court under Section 40 of the *Land & Environment Court Act 1979* evidence that required drainage easements have been acquired by the relevant council.
- (g) For subdivision involving subdivision works evidence that:
  - The work has been completed, or
  - Agreement reached with the relevant consent authority regarding payment of the cost of the work or as to the time for carrying out the work, or
  - Security given to the consent authority with respect to the completion of the work

#### TELSTRA SERVICES - SUBDIVISIONS

Telstra's Forecasting & Area Planning unit has developed a website facility to provide advice to developers and automatically generate correspondence to satisfy Council conditions of consent <https://development.telstrasmartcommunity.com/>

#### SUBDIVISION CONSTRUCTION CERTIFICATE

A Subdivision Construction Certificate must be obtained prior to the commencement of any works proceeding. This may be obtained from Council or any other Accredited Certifier.

Subdivision works cannot commence until Council has been notified of the appointment of the Principal Certifying Authority and Council has been given two days notice of the commencement of the work.

#### LAPSING OF CONSENT

To ascertain the extent to which the consent is liable to lapse refer to Section 95 of the Environmental Planning and Assessment Act, 1979.

Section 95 of the Environmental Planning and Assessment Act generally provides that development consent shall lapse after five (5) years from the date of consent, unless building work, engineering or construction work relating to this development is commenced on the land.

#### PENALTIES

Failure to comply with conditions of development consent may lead to an on the spot fine being issued pursuant to section 127A of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 125 of the Environmental Planning & Assessment Act 1979.

#### RIGHT OF APPEAL

If you are dissatisfied with this decision section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice. *Section 97 of the Environmental Planning and Assessment Act 1979 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.*

#### REVIEW DETERMINATION

Pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979 if you are unhappy with the determination of your application you may request Council to review its decision. Such a request must be made within one (1) year after the date of determination. You will need to provide reasons why the determination should be reviewed.

#### ARE YOU DISSATISFIED WITH CONDITIONS OF CONSENT

If you are unhappy with conditions of consent, discuss your concerns with the officer who dealt with your application. You may submit an application to Council to **modify** the consent under Section 96 of the Environmental Planning & Assessment Act, 1979.

**Notice of Determination - File No. 2006/AF-224**

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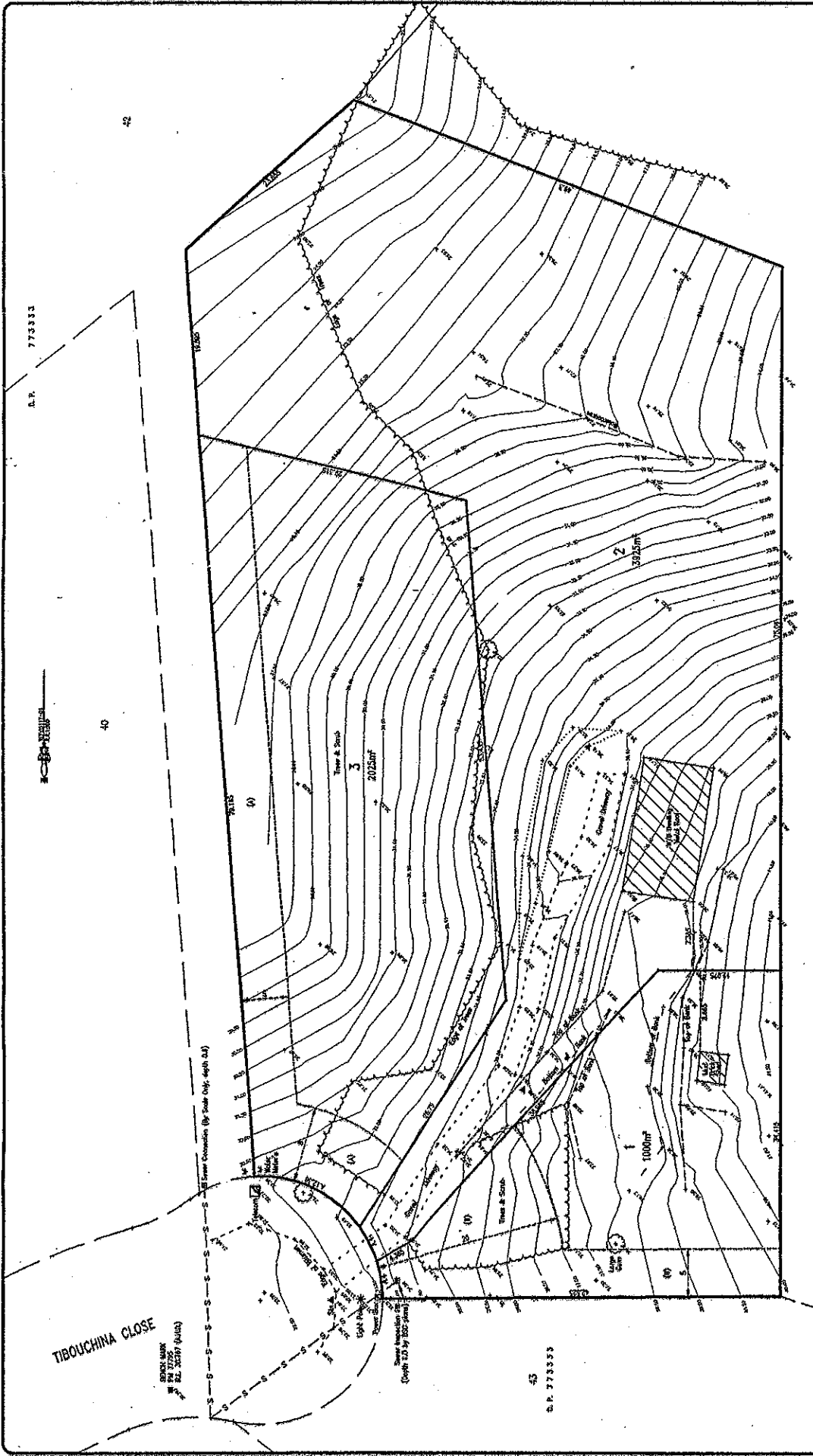
You will need to provide reasons why the conditions should be changed or deleted. You may lodge a Section 96 application at any time after the notice of determination. If you are not happy with Council's decision on your request for modification, then you may appeal to the Land & Environment Court within 12 months of the date of the determination of your original application.

For and on behalf of  
Bellingen Shire Council

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Melanie Green  
**ACTING SENIOR PLANNER**





NOTES:-  
 1) SPACING PINS SHOWN HEREIN HAVE BEEN LOCATED WHERE POSSIBLE BY THE ENGINEER AND SHOULD BE USED AS A GUIDE ONLY.  
 2) PRIOR TO ANY INDIVIDUAL SUBDIVISION OR TRANSFER OF LAND ON THE SITE, THE APPLICANT SHOULD CONSULT THE ENGINEER AND THE LOCAL COUNCIL TO DETERMINE THE LOCATION OF PINS AND THE NEAREST TO SETTLED BOUNDARY.

- (A) RESTRICTIONS AS TO USE INCLUDING THE LOCATION OF ANY PART OF A ROAD OR OTHER WORK SHALL BE AS SHOWN ON THIS PLAN AND SHALL BE A PART FROM THIS PLAN FOR THE PURPOSE OF ACCESS & SERVICES.
- (B) RESTRICTIONS AS TO USE INCLUDING THE LOCATION OF ANY PART OF A ROAD OR OTHER WORK SHALL BE AS SHOWN ON THIS PLAN AND SHALL BE A PART FROM THIS PLAN FOR THE PURPOSE OF ACCESS & SERVICES.

SHEET NO. 1 OF 1		SHEET NO. 1 OF 1	
L.C.A.S. - BELINGEN SHIRE COUNCIL			
PROPOSED SUBDIVISION:- LOT 41 D.P. 773333 TIBOUCHINA CLOSE, BELINGEN			
REG WALTERS & PARTNERS CONSULTING ENGINEERS, SURVEYORS AND PLANNERS 21 JAMES SMALL DRIVE BELINGEN, N.S.W. 2374 PHONE 4418 455 477 FAX 4418 455 478		SHEET NO. 1 OF 1	
SCALE 1:200	DATE 22/04/04	CHECKED BY R.W.	APPROVED BY [Signature]
DRAWN BY G.M.	DATE 14/04/04	CHECKED BY G.M.	APPROVED BY [Signature]
SHEET NO. 1 OF 1	DATE 14/04/04	CHECKED BY G.M.	APPROVED BY [Signature]