

**DIRECTOR SUSTAINABLE DEVELOPMENT
SERVICES REPORT**

14 June 2005

DSDS12	SUBDIVISION OF LOT 3 DP 831419 WILLI WILLI ROAD, MOPARRABAH FOR I & D FLOOD FILE: T6-04-411 AJC
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SUMMARY:

Reporting on a written submission from the owner of the property questioning the amount of the Section 94 Contribution towards upgrading of Willi Willi Road required in relation to a subdivision.

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Applicant: Laundry and Beukers Pty
Subject Land: Lot 3 DP 831419, Willi Willi Road, Moparrabah
Owner: Mr I and Mrs D Flood

History

The development application was lodged on the 17th July 2004 to create four rural allotments.

The proposal is to subdivide Lot 3 DP 831419 into four rural allotments as shown in the plan attached to this report. [\(Appendix X\)](#)
The subject property is located at 2624 Willi Willi Road, Moparrabah as shown in the plan attached to this report. [\(Appendix Y\)](#)

Council issued a conditional development consent on the 18th October 2004 after the NSW Rural Fire Service issued a Bushfire Safety Authority notice received by Council on the 11th October 2004.

The applicant applied on the 10th November 2004 to modify the development approval to vary condition 7 only so an appropriate right of way benefiting proposed lot 1 and burdening proposed lot 2 could be created. A modified development approval was issued on the 18th November 2004.

The owners of the subject property lodged a letter, received on the 6th January 2005, requesting Council review condition 5 of the development consent imposed by the NSW Rural Fire Service with a view to deleting this condition which related to bushfire protection measures. As the NSW Rural Fire Service imposed this condition, any review would need to be undertaken by the Service in the first instance. Council forwarded the owners submission to the NSW Rural Fire Service on the 10th January 2005.

In addition to this the owners also verbally requested Council review condition 11 which required a road upgrading contribution for Willi Willi Road of $\$19,230 \times 3 = \$57,690$ (Indexed 2004/2005).

Council received the NSW Rural Fire Service review on the 18th April 2005. The Service agreed to delete its condition shown at condition 5 of the development consent.

Council wrote to the owners regarding the review of the Section 94 road Upgrading Contribution on the 13th April 2005 and stated that the review was undertaken in accordance with the current Section 94 Rural Roads Contribution Plan and that the rate per additional allotment would be \$19,182, i.e. $\$19,182 \times 3 = \$57,546$ (Indexed 2004/2005).

A meeting was convened at the applicant's request on the 21st April 2005 to discuss the contribution rate contained in Council's letter of the 13th April 2005. At that meeting the owner was informed that the \$19,182 was the rate per allotment that would be used and that an Application to Modify a development consent and associated fee would need to be lodged.

The owners were invited to submit an Application to modify their development application on the 21st April 2005. The application to modify the development consent was lodged by the applicant (Laundry and Beukers Pty Ltd) on the 2nd May 2005 and Council issued the Notice to modify a development application on the 13th May 2005.

The applicant has lodged a further request for the contribution rate to be reviewed.

Owners Submission

A copy of the owner's submission is appended to this report.
[\(Appendix Z\)](#)

Discussion

The original contribution rate prepared for the 18th October 2004 conditional approval was determined by applying the CPI Index sourced from the Australian Bureau of Statistics to a previously calculated contribution rate for Willi Willi Road. The rate determined was \$19,230 per equivalent tenement. In January 2005 Council agreed to review the contribution rate levied by undertaking a calculation of the contribution based upon the formula described in the Section 94 Plan for Rural Roads for Willi Willi Road. Council wrote to the owner of the subject property on the 13th April 2005 stating that the review process was complete and that the rate applicable is \$19,182 per equivalent tenement for 2004/2005 (indexed).

At the meeting of the 21st April 2005 it was explained to the owner that the contribution rate was calculated using the current Section 94 Plan for Rural Roads.

The time taken (in excess of 3 months) for the NSW Rural Fire Service to review their conditions in this instance in respect to the Bushfire Safety Authority issued is outside Council's control. Current legislation requires a Bushfire Safety Authority to be issued by NSW Rural Fire Service prior to the issue of the development consent.

The rate determined using the Current Section 94 plan for Willi Willi Road is fair and any move to artificially reduce this rate will cause a precedent that will place an unnecessary financial burden upon council with development not meeting its apportioned share of the burden for the upgrading of this section of Council road.

REPORT IMPLICATIONS

- *Environmental*

None relevant to the review of the contribution.

- *Social*

If there is a substantial reduction in the developer contributions then there will be a cumulative impact in relation to the ability of the Council to adequately service this and or similar rural catchments.

- *Economic*

Any move to reduce the developer contributions outside the framework of the current Section 94 Rural Road Contribution Plan will place a substantial additional financial burden on Council.

RECOMMENDATION

That Council advise the applicant that the Section 94 calculation was determined in accordance with the current Section 94 Rural Roads Plan and that the current rate for Willi Willi Road for 2004 /2005 is \$19,182.

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES