



DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

July 12 2005

DSDS5	EXTENSION TO EXISTING COMMERCIAL PREMISES
	FILE: T6-05-165 GGL

This report should be read in conjunction with Confidential Report DSDS 1.

SUMMARY:

Reporting that Council has received a development application for an addition to existing commercial premises which is contrary to Council's Flood Risk Management Policy.

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Applicant: J Kinnear
Subject Property: Lot 1 DP 1043808
36 Forth Street, Kempsey
Zones: 3 (a) Business General &
1 (e) (Rural (Floodway))

Background:

Council previously approved a development application in June 2002 for a change of use from residence to a commercial premises including building extensions. At its meeting of 11th June 2002, Council resolved to vary the Flood Risk Management Policy allowing the building addition to have no flood storage area. This was justified

on the basis that the change of use from a dwelling to commercial use would result in less risk of property damage from inundation during flood events.

In this current proposal the applicant proposes to construct a single storey addition at the rear of the subject premises or flood storage. The proposed addition is 49 sqm in area. No additional parking is proposed. [\(Appendix N\)](#)

Matters for Consideration

The proposal has been examined having regard for the Matters for Consideration identified under Section 79C (1) of the Environmental Planning and Assessment Act with the following matters considered to be of particular relevance to the proposal.

Relevant Environmental Planning Policies

Kempsey Local Environmental Plan 1987 (KLEP 1987)

The majority of the land is Zoned 3 (a) Business General with the rear 9 metres zoned 1(e) (Rural (Floodway) under KLEP 1987. Clause 9 provides that the proposed development is prohibited unless Council is satisfied that the proposal is consistent with the objectives of the Zone.

The objective of the 3 (a) zone is to accommodate commerce, retailing and public administration development at accessible locations.

It is considered that the proposed development is consistent with the 3(a) zone objectives as the building's addition will contribute to the local economy.

The objective of the 1 (e) zone is to control development in rural floodways. The carparking area is within this zone, which is permissible with consent.

Flooding

The larger portion of the subject property is located in the Central Business District Floodway currently zoned 3(a) Business (General) and a smaller portion on the northern boundary is located in Kempsey Local Floodway No 1 and is zoned 1(e) Rural Floodway.

The current 1 in 100 year Flood Level from the Macleay River at this site is 8.62 metres AHD. There is no velocity data at this site. In the

vicinity the velocity is approximately 1.9 metres/second and the depth at this site is approximately 3.6 metres.

The proposal is to provide a building extension 14 metres long and not provide flood storage.

It is recognised that this is a commercial area and there is adequate flood warning for the occupants to evacuate this development. However, this lot is HIGH hazard.

Council's Flood Risk Management Policy

6.2.1.3(a) requires that where the commercial extension is to be greater than 10%, Council will seek flood storage 500 mm above the assessed 1 in 100 year flood level for the site to store goods.

Combined with the previous approved extensions, the additions represent a 75% increase in the pre-existing floor area which would require the provision of 13.4m² of flood storage above the 1 in 100 year flood level. (See Planning Comment)

Council's Car Parking Code

The proposed building addition is for an increase of 49m² for commercial use and as such is required to provide 1.5 additional car spaces in accordance with Council's Car Parking Code. The development application makes no provision for the required additional onsite car park and a contribution would be payable.

Applicant Submission

The applicant states that flood storage would be impossible to provide as the 1 in 100 year event would completely inundate the premises. The applicant requests a variation to the flood storage standard as outlined in Council's Flood Risk Management Policy stating that the proposed addition will only house a small amount of furniture and equipment that can be easily transported by a small truck.

Planning Comment

The Flood Management Policy requires 20% of the extended floor area to be provided as flood storage 500 mm above the 1 in 100 year flood level. With the 1 in 100 year flood level inundating the subject premises to a height of 3.6 metres a floor height of 4.1 metres would be required which cannot be achieved within the building.

Council has previously granted a variation to the standard, with about 19% floor space increase for this site being approved in 2002.

The proposed extension may alter flood water velocities in this area due to the proximity of buildings to in excess of 2m/sec thereby adversely affecting the stability of foundations through scouring.

Public Exhibition

The proposal was advertised in accordance with Council's Policy with no objections having been received.

REPORT IMPLICATIONS:

- ***Environmental***

The proposal is contrary to Council's Flood Risk Management Policy, as it will create additional floor space subject to flooding, without the provision of flood storage above the flood level.

The proposed extension may increase the velocity of flood water in the area and due to the proximity of buildings the stability of foundations maybe affected through scouring. However, a structural engineers certificate could be required to certify that the proposed structure is designed to withstand floodwater including buoyancy and debris loadings.

- ***Social***

Development contrary to Council's Flood Policy will lead to increased disruption during major flood events.

- ***Economic (Financial)***

Increased floor area within the Kempsey CBD floodway without flood storage floor space will increase the costs from major floods.

- ***Policy or Statutory***

The application has been assessed under Section 79 (c) of the Environmental Planning and Assessment Act 1979.

RECOMMENDATION:

- A** That the applicant be requested to withdraw the application.
- B** That the applicant be advised that unless the application is withdrawn within 14 days of notice being given that the application be refused for the following reasons:
 - 1** The proposal is contrary to Council's Flood Risk Management Policy as it is impractical to provide flood storage floor space.
 - 2** The proposal is likely to result in unacceptable increase in the risk to life and property.

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K J Ward
ACTING DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES