



## DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

9<sup>th</sup> August 2005

**DSDS2            ALTERATIONS TO AN EXISTING DWELLING  
- 46 TOZER STREET, WEST KEMPSEY  
FILE: T6-05-230    GGL**

### SUMMARY:

Reporting that Council has received a development application to alter an existing dwelling which requires a variation to Council's Flood Risk Management Policy.

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**Applicant:**                    V Pierpoint  
**Subject Property:**        Lot 17 DP 792915  
                                      46 Tozer Street, West Kempsey  
**Zones:**                        1 (e) (Rural (Floodway))

### Proposal

The subject allotment is identified under Kempsey Local Environment Plan 1987 as being located in a Floodway. The applicant is proposing to raise the dwelling by about 3 metres and construct a garage and workshop under the dwelling. The proposal is contrary to Council's Flood Risk Management Policy to which the applicant seeks a variation. [\(Appendix C\)](#)

### 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 Environment Plan 1987 (KLEP 1987)

The land is Zoned 1 (e) (Rural (Floodway) under KLEP 1987. The zone permits additions to dwellings with consent, provided Council is satisfied that the proposal is consistent with the objectives of the Zone.

The objective of the 1 (e) zone is to control development in rural floodways. See comments below as to the development being consistent with Council's Flood Risk Management Policy.

## **Flood Risk Management Policy**

Flood Depth 100 year = 3.4 m to 4.2 m  
Velocity for > 100 year = 3.5 metres/second  
V x D = 12 to 15

The land is located within the township floodway under Council's Flood Risk Management Policy and is subject to an extreme flood hazard.

Clause 6.2.1 of the Flood Risk Management Policy aims to seek the eventual clearance of the floodway. Notwithstanding this intention, the policy recognizes that there may be circumstances where it is appropriate for Council to consider repairs, renovations or extensions to existing buildings under certain conditions.

The Flood Risk Management Policy allows approval to be given to repairs and renovations provided they do not alter the basic structure of the building. The proposed development does alter the basic structure of the dwelling. Clause 6.2.1(b) of the Policy allows minor extensions up to 10% of the existing floor area. Under the Policy, the new garage/workshop under the house would be regarded as a 100% increase in floor area.

It should be noted that in respect to new developments, only habitable rooms are required to be above the flood level in non-floodways. (See Planning Comment)

## **Building Height**

Whilst no height limit is applicable to the 1 (e) zone, Council has consistently required dwellings in Kempsey to not exceed an overall height of 7.9 metres, for pitched roofs. The proposed raising of the dwelling would see roof height to be approximately 8.9 metres from natural ground. This height will not result in the floor level being the required 500 mm above the 1 in 100 year flood level.

In order to comply with the flood policy, a ceiling height of 7.9 metres and a roof height of 9.6 metres would result.

## **Overshadowing and Privacy**

The building as proposed is setback 1.2 metres from the southern boundary, and will overshadow the living room windows of the house to the south. The proposed decks will overlook the rear yard of the house to the south. A Council owned hall exists on land to the north.

The applicant has indicated agreement to relocating the dwelling towards the northern boundary which would reduce overshadowing.

## **Applicant Submission**

The applicant states that the area is protected by the Cooks Lane to Wide Street flood levee. The applicant wishes to raise the dwelling by 3 metres to allow construction of a garage underneath and to increase the level of flood protection. The applicant's submission states that no increase in the floor area will result from the proposed alteration works and that the dwelling can be designed to withstand flood and debris loading.

## **Planning Comment**

Since adoption of the Flood Risk Management Policy, the Cooks Lane levee has been constructed to protect West Kempsey in floods up to the 1 in 100 year event. Consequently, up to the 1 in 100 year event, the subject land would no longer be a floodway due to protection from the levee. However, the land would be inundated by backup water from further downstream. At present, the house is affected by floodwaters in relatively minor events, and the proposed raising would significantly reduce the frequency of inundation. The proposed floor level is at the maximum reasonable having regard to the streetscape. To minimise overshadowing and privacy impacts on the house to the south, it is recommended the house be set back a minimum of 3.2 metres from the south side boundary. The applicant has indicated no opposition to this.

The proposal also incorporates an enclosed ground floor garage/workshop that is capable of being used for habitation and storage. By removing the enclosure, the area could be used as a carport and the laundry could be relocated to the ground level for convenience.

Whilst the proposed first floor would be approximately 500 mm below the 1 in 100 year flood level, it would be well above the existing level (approximately 3.0 metres) which is subject to more frequent flooding. In the circumstances it is considered reasonable to vary the minimum floor level for the dwelling provided the application is amended to delete the ground floor enclosure with the option of relocating the laundry to the ground floor.

## **Public Exhibition**

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

## **REPORT IMPLICATIONS:**

- *Environmental*

*There are no significant environmental impacts associated with the proposed development.*

- *Social*

*The proposal would result in reduced social impacts at times of flooding.*

- *Economic (Financial)*

*The proposal will result in reduction in frequency of inundation of the house, and a reduction in property damage in minor flood events.*

- *Policy or Statutory*

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

- *Director's Comment*

*Although the proposal represents a variation to Council's Policy, compliance would be impractical due to the height of flooding affecting the land. With the provision of a levee on River Street, the hazard would no longer be a "floodway" as velocities would be greatly reduced. By requesting removal of the ground floor enclosure, the potential for damage would be greatly reduced. Although not protected in a 1 in 100 year event, the dwelling would be protected to approximately a 1 in 80 year event resulting in a considerable improvement in the existing situation.*

## **RECOMMENDATION:**

**A** That the applicant be requested to submit amended plans providing for deletion of the ground floor enclosing walls with the option of relocating the laundry to the ground floor and relocation to a minimum of 3.2 metres from the southern boundary of the land.

**B** That upon satisfactory plans being requested that the application be approved subject to the following conditions:

**1** The development referred to in this application is to be carried out substantially in accordance with

the approved development plans as modified by any conditions of this consent.

- 2 Details of the finished floor are to be submitted to Council for approval, prior to approval of the Construction Certificate.
- 3 The building being setback a minimum of 3.2 metres from the southern side boundary.
- 4 Provide survey certificate indicating finished floor at frame construction stage.
- 5 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
- 6 Two days prior to commencing work, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
- 7 The house is not to be occupied prior to the issue of an Occupation/Interim Occupation Certificate by Council.

An application for a certificate is enclosed. It is requested that it be completed and returned to Council prior to requesting an inspection. A minimum of 48 hours notice is necessary when requesting the inspection. Appointments will be made in accordance with the inspection program for that area.

- 8 Before the commencement of site works, demolition or building, the following activities must be completed:
  - a Installation of soil erosion and sedimentation control devices.
  - b Installation of safety fencing/hoardings between the property and the street
  - c Protection barriers for existing trees
  - d Installation of builder's toilets
  - e Installation of signage in prominent, visible position including -
    - "Unauthorised site entry is prohibited"
    - Name and phone number of builder or other responsible person for contact outside working hours.

9 Submission of an application(s) to Council pursuant to Section 68 of the Local Government Act 1993 for the following, prior to the issue of a Construction Certificate:-

a Carrying out sewerage work.

10 Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6.

Details are to be submitted to Council prior to work commencing.

11 A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours.

12 All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Your attention is drawn to the following requirements of the Building Code of Australia.

a Structural Engineer's Details for footings is to be submitted prior to any work commencing on the building.

b Protection is to be provided from subterranean termites. Council's Code of Practice outlines methods which may be used. Details of the proposed method or methods are to be submitted for approval prior to commencement of work and suitable certifications are to be submitted prior to the issue of an occupation certificate.

c The windows and glass installations within the building shall comply with AS 1288, Part 3.6 BCA Housing Provisions and AS2047. The

applicant shall furnish Council with a report from the supplier upon completion of the window and glass installation indicating compliance with the requirements of AS1288 and AS2047.

- d Should the verandah, patio or landing exceed 1 metre in height above the ground then a suitable balustrade is to be provided to the verandah, patio or landing and steps for safety and convenience.

Such balustrade to conform with the requirements of the Building Code of Australia:-

- (1) D2.16
- (2) Part 3.9.1. and 3.9.2 of BCA Housing Provisions

Note: Spacing of rails not to exceed 125mm.

- e Riser and Going dimensions for stairs shall be in accordance with Clause D2.13 of the Building Code of Australia. In Class 1 and 10 buildings the following will apply:

Riser(R)		Going (G)		Quantity (2R+G)	
max	min	max	min	max	min
190	115	355	240	700	550

Note: Any openings between treads not to exceed 125mm.

- f Class 1(a) and 1(b) Buildings

An automatic fire detection and alarm system is to be installed in the building. Such system to conform with Specification E1.7 of the Building Code of Australia or be a smoke alarm system complying with AS 3786 or listed in the SSL Register of Accredited Products.

The system is to be provided with mains electrical power, have a stand by power supply and installed in each storey to comply with Clause E1.7 (N.S.W. Variation). Details of location of the units are to be provided for approval prior to installation.

- g** All glass in shower doors, shower screens, bath enclosures and associated windows (the lowest sight line of which is less than 1500mm above the floor or bottom of the bath or shower base) shall be Grade A Safety Glass.
  - h** The sub floor ventilation must comply with Part 3.4.1.2 a) b) c) d) e) f) and g) of the Building Code of Australia (Housing Provisions).
  - i** Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
  - j** Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
- 13** The hours of construction of the activity are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
  - 14** All loading and unloading in connection with the use of the subject premises shall be carried out wholly within the subject property.
  - 15** Building materials are not to be stored within the road reserve or any other public place.
  - 16** Submission of a certificate from a Structural Engineer advising that the building has been designed to withstand the forces created by floodwaters and debris loading anticipated for that area prior to release of the Construction Certificate.
  - 17** Roofwaters are to be directed by means of sealed pipes to the street gutter. Details are to be provided with the plans for the required Construction Certificate.
  - 18** Runoff and soil erosion controls shall be installed in accordance with the approved Erosion Control prior to work commencing on the site. The controls shall incorporate:-

    - a** diversion of uncontaminated upsite runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed.

- b sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent unwanted sediment and other debris escaping from the land.**
- c maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.**

**Protection of any kerb inlet pit located downstream of the site in accordance with Council's Engineering Guidelines for Subdivision and Development (Drawing No SW20).**

**Note:**

- i. Any roof drainage system is to be connected to the required discharged point at the building frame inspection stage.**
- ii. Any material spilled or deposited on the road reserve or in the gutter is to be removed immediately.**

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**R B Pitt**  
**DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES**