



DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

9th August 2005

DSDS3	PROPOSED ERECTION OF A FARM SHED AND STOCKYARD LOT 372 DP 1070288 NEVILLE MORTON DRIVE, DULCONGHI HEIGHTS
	FILE: T6-04-619 GGL

SUMMARY:

Reporting that Council has received amended plans providing for an alternative location for the farm shed and access road for which objections have been received.

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Applicant: Andrew Petterson
Subject Property: Lot 372 DP 1070288
 Neville Morton Drive, Dulconghi Heights
 Crescent Head
Zone: 1 (c) (Rural (Small Holdings "C" Zone))

Proposal:

An application has been received by Council to erect a Farm Shed and Stockyard. The applicant proposes to access the subject allotment from an easement off Neville Morton Drive.

Background

At its meeting 12 April 2005 Council resolved :-

"That the applicant be invited to submit amended plans providing for an alternative location for the farm shed and access road which would result in less potential impacts on adjoining residents".

The applicant has provided an alternative location for the proposed farm shed and stock yards. The new proposed location is on Lot 372 between Lots 17 and 18. [\(Appendix D\)](#)

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 land is Zoned 1(c) Rural (Small Holdings "C" Zone) under KLEP 1987, therefore the proposed Stockyards and agricultural buildings are permissible on the subject allotment with consent.

The proposed access to the development is via a drainage and wildlife easement off the northern end of Neville Morton Drive. No structures are proposed in this easement, however the proposed location of the stockyard are still affected by Clause 51 of KLEP 1987, which relates specifically to development of land at Dulconghi Mountain.

Clause 51 (2)(a) and (b) of KLEP 1987 requires Council to:

- ensure that provision has been made for the identification of watercourses as drainage reserves and for the protection of vegetation within those reserves.
- ensure that the abovementioned drainage reserves extend from the designated wetlands under State Environmental Planning Policy No. 14 – Coastal Wetlands to the land within Zone No. 7(d), wherever possible.

Clause 51(4) requires Council consent to cut down any trees. The applicant has stated that five (5) blackbutt trees will be required to be removed. The subject trees have been identified as a vegetation community under DCP 21 (see DCP 21).

North Coast Regional Environmental Plan (NCREP)

Clause 15 (Wetlands or fishing habitats) requires Council to consider:

"(a) the need to maintain or improve the quality of quantity of flows of water to the wetland or habitat downstream from the site."

The current proposal provides a better location for the development as it is setback about 20 metres from the nearest watercourse.

Development Control Plan No. 21 Dulconghi Heights

Clause 5.7 states Council shall not consent to clearing for purposes other than the erection of a building unless the applicant is able to

demonstrate that exceptional circumstances exist. Such circumstances shall not include the use of the land for agriculture.

The proposal indicates the removal of five blackbutt trees within the perimeter of the proposed cattleyards. The trees are not hollow-bearing, but are reasonably mature.

The stockyard would not require the removal of any trees, if it were relocated about 15 metre further west.

The proposal is otherwise generally consistent with the Development Control Elements of DCP 21.

Flooding

The flood level for this locality is estimated at 3.75m AHD. The contour levels at the proposed locations of the shed and stockyards is no less than 4.00m AHD, therefore being flood free.

Flora and Fauna

The assessment for the subdivision identified a number of species on the subject land for which an eight part test was conducted. This resulted in the easements being identified on the subdivision plan as Drainage Reserve/Wildlife Corridors and the general prohibition of further tree removal. While removal of 5 blackbutt trees is not considered significant, the DCP intended to retain all trees so that incremental loss did not lead to significant impacts in the long term.

The trees also provide visual screening for the subdivision when viewed from Crescent Head.

Planning Comment

The proposed stockyard and the farm shed are permissible with consent, but still may cause some conflict with the adjoining rural residential housing. Provided the proposed access and stockyards are carefully located, there is unlikely to be a need to remove any trees.

This proposal demonstrates better access than the original location and is considered to have less impact on neighbours, and habitat which was the intention of Council's previous resolution. Appropriate conditions are proposed to require minor modification to avoid the need for tree removal.

Public Exhibition

The proposal was advertised in accordance with Council's Policy with two (2) objections, one which is confidential [\(Appendix E\)](#) having been received, which may be summarised as follows:

Objection

Planning Comment

- | | |
|--|---|
| 1 The proposed stockyard and shed will affect my privacy and view. The size and height is not known. | 1 The location of the stockyard and shed is not expected to have significant impact on privacy or views. |
| 2 The stockyards will increase noise from cattle and truck movements. The stockyards will devalue my property. | 2 Noise can be policed in accordance with the Protection of the Environment Operations Act. It is unlikely that the frequency of use of the stockyard will create any justified noise complaint.

There is no evidence to suggest that the proposed stockyards will devalue the property. |

REPORT IMPLICATIONS:

- ***Environmental***

The proposed location of the farm shed and stockyards has no significant fauna or flora impact. However, the proposed accessway is along a Drainage Reserve/Wildlife Corridor. Construction of this stockyard will necessitate the removal of five (5) blackbutt trees. However, a condition of consent is recommended to require minor adjustment to the location of the stockyard to avoid these trees.

- ***Social***

No significant social impacts are anticipated from development. Amenity issues are considered to have been minimised.

- ***Economic (Financial)***

The proposed stockyard and farm shed facilitate the continued general agricultural use of the land.

- ***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 submit an amended plan providing for relocation of the stockyards

approximately 15 metres further south so as to avoid the need for any tree removal.

B That upon the requested amended plans being received, that consent be granted 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 (0443/04 dated 24/1/05 by Robert Dennis and Associates Pty Ltd and Ref 10531 Sheet 2 of 5 and plan produced by Mitre 10 Home and Trade, Kempsey) as modified by any conditions of this consent.
- 2** The shed is not approved for or to be used for human habitation, industrial or commercial purposes.
- 3** This consent has been issued on the basis that Council has been appointed as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.
- 4** This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained. A Construction Certificate may be obtained from Council upon application being made or from an accredited certifier.
- 5** The shed 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.

- 6** Before the commencement of site works, 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.

7 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.

8 The hours of construction 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.

9 No trees at the proposed location of the cattleyards and farm shed to be lopped or removed except in accordance with Council's Policy on Tree Preservation, and with the written consent of Council except as stated in the approved plans.

C That the objectors be advised of Councils decision.

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES