



## **DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT**

13 September, 2005

**DSDS8                      SUBDIVISION OF LOT 5 DP 758302 NO 58  
MAIN STREET, CRESCENT HEAD  
FILE: T6-05-200            AJC**

### **SUMMARY:**

Reporting on an application to subdivide which includes an objection pursuant to the provisions of State Environmental Planning Policy No 1 to a development standard that would otherwise prohibit the proposed subdivision.

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**Applicant:** Dutton Engineering Excellence Pty Ltd  
**Subject Property:** Lot 5 DP 1758302 No 58 Main Street, Crescent Head  
**Owner:** Mr David Baker  
**Zone:** 2(a) (Residential "A" Zone)

### **Background**

The development application was lodged to subdivide a lot of 1,012m<sup>2</sup> into 2 lots. Proposed Lot 2 has frontage to Hodgson Street, a rear laneway requiring widening resulting in dedication of 39.9m<sup>2</sup> to Council. Consequently, proposed Lot 2 will have an area of 472.1m<sup>2</sup> which is less than the minimum size requirement specified in Clause 16(1)(d) of Kempsey Local Environmental Plan 1987.

The applicant was informed that lodgement of a State Environmental Planning Policy No. 1 Application objecting to Clause 16(1)(d) of Kempsey Local Environmental Plan 1987, was necessary.

The applicant has now submitted a State Environmental Planning Policy No. 1 (SEPP 1) Objection to the development standard for Council to consider.

## Proposal

There is one existing dwelling on the subject land, which fronts Main Street Crescent Head and has an existing garage accessible off High Street. The existing dwelling will remain on proposed lot 1 and the garage will be located on proposed lot 2. [\(Appendix M\)](#)

Proposed lot 1 will have an area of 500m<sup>2</sup> and proposed lot 2 an area of 472m<sup>2</sup> which is below the required minimum of 500m<sup>2</sup>. The applicant has submitted an objection under SEPP 1 to the development standard. A copy of the objection is appended to this report [\(Appendix N\)](#).

## Heads of Consideration

The proposal has been examined having regard for the Heads of Consideration identified under Section 79C(1) of the Environmental Planning and Assessment Act with the following matters considered to be relevant in relation to the matter at hand.

### Kempsey Local Environmental Plan 1987

The land is zoned 2(a) under Kempsey Local Environmental Plan 1987. Subdivision is permissible with consent. Clause 16 provides:

*16(1) The council must not consent to the subdivision of land unless each allotment proposed to be created by the subdivision has an area of at least: -*

*(d) in the case of land within Zone 2(a), 2(b1) or 2(v), 0.05hectares.*

Proposed Lot 2 is only 0.0472 hectares in area. The objective of the zone is to provide for areas suitable for low density residential development.

### State Environmental Planning Policy No 1 – Development Standards

SEPP 1 allows Council to grant consent to development that does not comply with a development standard provided it can be justified that compliance with the standard is unreasonable or unnecessary in the particular case.

Strict compliance with the development standard in this instance is unreasonable and unnecessary for the following reasons: -

- i) The minimum lot size in the locality of the smaller lots average out to be approximately 480m<sup>2</sup> with similar corner lots having a total area of 460m<sup>2</sup> and is in keeping with the objective of this zone.
- ii) The reduction in the lot size to below the minimum required is a direct result of Council requiring land associated with this development to be dedicated as public road along the Hodgson Street frontage.
- iii) The existing land parcel has frontage to Main, High and Hodgson Streets enhancing its prospects for future low density residential development.

State Environmental Planning Policy No 71- Coastal Protection

The subject lot falls within the coastal zone as defined by SEPP 71, however the site is not classified as a sensitive coastal location. Council is required to have regard for the matters as set out by Clause 8. [\(Appendix O\)](#)

- a) The proposal is not considered contrary to the aims and objectives as set out in Clause 2 of the SEPP.
- b) The proposal is not located adjacent to any coastal foreshore and will not interfere with public access.
- c) As the site is not located adjacent to any coastal foreshore there is no requirement to enhance any existing public access.
- d) The site is located in an area of Crescent Head that is characterized by small residential lots. It is considered suitable development having regard for the surrounding area.
- e) The site is not located adjacent to any coastal foreshore and therefore will not overshadow any public foreshore reserve.
- f) The surrounding area is predominately urban of a very similar scale, as such, it will not detract from the scenic qualities of the New South Wales coastline.
- g) The site is cleared meaning that there will be minimal impact upon threatened species of flora and fauna.
- h) There will be no perceived impacts upon marine ecosystems.
- i) The lot situated within a cleared residential area meaning that there will be no impacts on wildlife corridors.
- j) There is no perceived impacts upon coastal processes.
- k) The site has no foreshore frontage so conflict between land and water based activities will be negligible.
- l) No items of heritage significance are to be destroyed or defaced.
- m) Stormwater treatment is required to minimise impacts on coastal water bodies (see below).
- n) see (l)

- o) Not applicable as no rezoning is proposed.
- p) Cumulative impacts are not expected to be significant.

Clause 16 requires Council to consider the impact of this proposal on water quality as it eventually discharges into Killick Creek and states:-

*The Consent Authority (Council) must not grant consent to a development application to carry out development on land to which this Policy applies if the Consent Authority (Council) is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.*

The Shire Services Department of Council has advised that construction of a combined gross pollutant and sediment trap to treat stormwater flows in the same catchment area as this development will occur during the 2005/2006 financial year. These works are being fully funded by Council from the Environmental Levy. The new lot once created will contribute to this project via the Environmental Levy.

#### **REPORT IMPLICATIONS:**

- ***Environmental***

***No significant environmental impacts are anticipated from this development.***

- ***Social***

***There will be no significant social impacts from this development proposal.***

- ***Economic (Financial)***

***There will be no financial implications for Council arising from this development proposal.***

#### **RECOMMENDATION:**

- A** That Council support the SEPP 1 objection and vary the 500m<sup>2</sup> minimum lot size development standard.
- B** That consent be granted subject to the following conditions:

## GENERAL

- 1 The development referred to in this application is to be carried out substantially in accordance with the approved Development Plan #265" dated 15 June 2005 and as modified by any conditions of this consent.
- 2 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.
- 3 Two days prior to commencing work under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
- 4 Applicant is to submit with the final plan of subdivision copies of any instruments under Section 88B or E of the Conveyancing Act 1919 relevant to any restrictive covenants, assessments or rights of way created by or affected by this subdivision.
- 5 Submission of an application for Subdivision Certificate pursuant to Section 4A of the Environmental Planning and Assessment Act 1979, which authorises the registration of the plan of subdivision.

## PUBLIC UTILITIES

- 6 The applicant shall make satisfactory arrangements with Telstra Australia for the provision of underground telephone plant to each lot. A letter from Telstra stating that satisfactory arrangements have been made for the provision of underground telephone plant is to be lodged with Council prior to release of Subdivision Certificate.
- 7 The applicant is to make satisfactory arrangements with CountryEnergy for the supply of electricity to each lot. A letter from Country Energy stating that satisfactory arrangements

have been made for the provision of electricity supply to this development is to be lodged with Council prior to release of the Subdivision Certificate.

- 8 Any necessary alterations to or relocations of public utility services to be carried out at no cost to Council.

## CONTRIBUTIONS

- 9 The applicant is to pay a contribution towards Outdoor Recreation for each additional dwelling unit after the first unit in accordance with Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Subdivision Certificate, at the rate prevailing at that time. The current rate is \$410 per additional dwelling unit, i.e  $\$410 \times 4 \text{ E.T} = \$410$  total for 2005/2006. (Indexed)
- 10 Submission of an application for a Certificate of Compliance pursuant to Section 305 of the Water Management Act 2000 and the lodgement of a Certificate of Compliance indicating that the requirements of Section 306 of the Water Management Act 2000 have been met, prior to release of the Subdivision Certificate.
- 11 You are advised that a Certificate of Compliance pursuant to Division 5 of the Water Management Act 2000 will be issued by Council, subject to the following matters being complied with:-
  - (a) Payment of a contribution towards district supply at the rate of \$1,256 per equivalent tenement, i.e  $\$1,256 \times 1 \text{ E.T} = \$1,256$  total for 2005/2006. (Indexed).
  - (b) Payment of a contribution towards Augmentation Sewerage Treatment Works at the rate of \$2,103 per equivalent tenement, i.e  $\$2,103 \times 1 \text{ E.T} = \$2,103$  total for 2005/2006. (Indexed).
  - (c) Payment of a contribution towards Sewerage Reticulation contribution at the rate of \$1,550 per equivalent tenement, i.e  $\$1,550 \times$

1 E.T = \$1,550 total for 2005/2006.  
(Indexed).

- (d) Extension or modification of the town sewerage system is necessary to serve the proposed development, at full cost to the applicant. Detailed plans are to be submitted for approval prior to commencing work.
- (e) The applicant shall make satisfactory arrangements with Macleay Water (Council) for the provision of a water service to proposed lot 2 off Main Street. The meter is to be located at the Main Street frontage and the internal service line extended to lot 2 proper. This water service is to be in place prior to issue of the Subdivision Certificate.

## INFORMATION TO BE SUBMITTED WITH THE CONSTRUCTION CERTIFICATE

- 12 Detailed Engineering Plans are to be submitted with the application for Construction Certificate providing for all civil engineering works associated with this development proposal in strict compliance with Council's Development Control Plan No 36 *Engineering Guidelines for Subdivision and Development*.

## ROADS

- 13 Prior to the issue of the Subdivision Certificate, the existing kerb and gutter and pavement in Main Street shall be extended for the full frontage of all the lot in the development to the characteristics defined in Table D1.5 of Development Control Plan No 36 Councils *Engineering Guidelines for Subdivision and Development* as follows:-
  - (a) Main Street, Type 1 Access Place
- 14 Prior to the issue of Subdivision Certificate, the existing kerb and gutter and bitumen seal in High Street is to be extended to the full frontage of proposed lot 2 in Hodgson Street with grassed footway area. The applicant is to consult with the Director of Shire Service for details prior to

lodging the detailed engineering plans for approval

- 15 Dedicate as public road at no cost to Council the section of proposed lot 2 fronting Hodgson Street being 1.98 metres wide as shown on the approved development plan. Such dedication to be included in the plan of subdivision.
- 16 The hours of operation of the construction works are to be confined to 7.00am to 6pm, Mondays to Fridays, and 7.00am to 12noon Saturdays.

## STORMWATER DRAINAGE

- 17 Detailed engineering plans providing for a private piped inter-allotment stormwater drainage system to convey all existing and proposed flows through to Councils piped system in Main Street are to be submitted with the application for Construction Certificate for approval, and constructed prior to issue of the Subdivision Certificate.
- 18 The applicant is to restore, replace, reconstruct any damage caused to urban road pavements, surfaces or street furniture on the haulage route(s) used for the construction of the subdivision, prior to the issue of the Subdivision Certificate.

## INSPECTIONS

- 19 The following inspections are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.

**Note:** Accounts will be forwarded for inspections that are required and / or undertaken in addition to those inspections for which a pre-payment has been made.

**Inspections required:**

- (a) The inspections for the required civil engineering works are listed in Section 6.3 of Council's Engineering Guidelines for Subdivision and Development (DCP 36) and must be undertaken prior to the appointed contractor proceeding to the next stage of the construction.
  
- (b) Council is to inspect all Telstra and CountryEnergy cables where they cross existing and or new Council sewer or water mains prior to the contractor backfilling the trench.

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