

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

15th November 2005

DSDS1	PROPOSED DWELLING AND SHED - SANDY CREEK ROAD, SOUTH KEMPSEY FILE: T6-05-182 TJN
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SUMMARY:

Reporting that Council has received an application to erect a dwelling adjacent to land identified for rezoning for industrial development.

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Applicant: C Mobbs
Subject Property: Lot 151 DP 752417 Sandy Creek Road, South Kempsey
Zone: 1(d) Rural Investigation

Description of Proposal

The proposal involves the construction of a dwelling and shed approximately 100 metres from land being investigated for an industrial rezoning. ([Appendix A](#))

Background

The application was lodged on 26th April 2005. Following initial assessment, it was referred to the Development Assessment Group on 10th May 2005 as it was adjacent to land being considered for industrial rezoning and is in fact within the identified investigation area for industrial rezoning.

A meeting was subsequently held with the applicant on 23rd May 2005 whereby it was explained that Council wished to ensure the viability of any future industrial area was not compromised by constraints imposed by adjoining residences. The applicant was requested to relocate the house to a site as far as practical from the adjoining potential industrial zone, which the applicant indicated they would consider. An alternative location was identified about 300 metres south west of the initial dwelling-site. The applicant was asked to provide Council with a written estimate of additional costs associated with locating the house at the alternative site.

On 30th May 2005, the applicant provided verbal advice that additional costs would be possibly \$1000-\$2000, and that they has

commissioned a consultant to prepare a revised Bushfire Threat Assessment for the alternative dwelling site.

The revised Bushfire Threat Assessment was submitted on 10th June 2005. ([Appendix B](#)) – showing proposed dwelling location)

On 20th June 2005 a further meeting was held whereby the applicant stated that the additional costs would be \$15,000 - \$20,000, and that the adjoining landowner wishing to carry out the industrial development should “buy them out”.

Following this meeting, the applicant requested that the application be considered based on the original location for the dwelling house.

The application was reported to Council at its meeting of 12th July 2005, where Council resolved:

“That the matter be listed for a Works Inspection and copies of the relevant certificates issued to Mr Mobbs in respect of the land be provided to Councillors prior to the Works Inspection”.

Following the meeting, the applicant requested that the application be deferred pending discussions in relation to the cost of relocating the house in accordance with the recommendation to Council. The applicant again advised that the application be considered with the house located as originally proposed.

The application was again reported to Council at its meeting of 11th October 2005, where Council resolved:

“That this matter be deferred to the next meeting to allow further negotiations between the parties involved, in relation to the road”

Council has received no further advice from the applicant in respect to amending the application.

Heads of Consideration

The proposal has been assessed having regard for the Heads of Consideration as identified under Section 79C(1) of the Environmental Planning and Assessment Act 1979 with the following matters deemed to be of particular relevance: -

The proposal is not considered to be contrary to the North Coast Regional Environmental Plan 1988 (NCREP 1988)

Kempsey Local Environmental Plan 1987

The subject land is zoned 1(d) (Rural Investigation ‘D’ Zone) under the provisions of this plan. The objectives of this zone are: -

(a) To provide for future expansion of Kempsey Shire’s Population.

- (b) To ensure that such land is not subject to excessive capital investment; and
- (c) To enable a thorough investigation of land prior to release for development.

The proposal is considered contrary to the zone objectives as the location of the dwelling may sterilize planned urban expansion of Kempsey.

The land has been identified for rezoning to industrial in the Kempsey and South West Rocks Industrial Land Review prepared by Environmental Resource Management and adopted by Council on 9th November 2004. In addition to this the land is to be addressed in a Local Environmental Study for the rezoning of land identified in application T5-95. [\(Appendix C\)](#)

One of the [criteria](#) for identifying the area was the lack of dwellings in the area. [\(Appendix D\)](#)

By placing the dwelling 100 metres from the boundary, a large area of future industrially zoned land could essentially be sterilized, as any development would be required to be undertaken in accordance with the Industrial Noise Policy. This would include the provisions of buffer zones. Included in the Industrial Land Review is provided a list of [recommended](#) buffer distances for a range of industry types. [\(Appendix E\)](#)

In order to minimize future impacts on the dwelling, and to maximize the amount of adjoining land available for industrial development, the dwelling should be located as far as practically possible from the lots eastern and northern boundary. An alternative location has been identified on the site, which was the subject of a revised bushfire hazard assessment. However the applicant has advised he is not preferred to relocate the house.

REPORT IMPLICATIONS:

- ***Environmental***

Environmental impacts can be reasonable managed as indicated by the submitted reports for on-site effluent disposal and bushfire hazard assessment.

- ***Social***

Erection of a new dwelling within a potential future industrial area may lead to future land use conflicts.

- ***Economic (Financial)***

Erection of a new dwelling house in the proposed location will potentially limit the available land for development for industrial purposes. The residential land investigation area

was specifically chosen due to the absence of existing dwelling houses. Approval may effect the future economic development of the shire.

- *Policy or Statutory*

The proposal is considered contrary to Council's Industrial Land Strategy, and is contrary to the zone objectives for Zone 1(d)

- *Directors Review*

This matter has been considered by Council on two previous occasions. In the event that Council intends to approve the application, appropriate conditions are attached. [\(Appendix E\)](#)

RECOMMENDATION:

That the application be refused for the following reasons:

- 1 Proposed location of the dwelling is contrary to the objectives of the 1(d) zoning of the land.**
- 2 The subject land is within the proposed investigation area for the provision of industrial land to serve the needs of Kempsey Shire's population.**
- 3 Approval of the dwelling would render a substantial area of potential future industrial land unable to be used for such a purpose due to the need to separate industrial development from dwelling-houses.**
- 4 Approval of the dwelling-house is likely to prevent the economic development of adjoining land for a broad range of industrial land uses.**