



KEMPSEY
Shire Council

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

9th May 2006

DSDS3	PROPOSED REZONING - 153 MACLEAY STREET, FREDERICKTON DRAFT KEMPSEY LOCAL ENVIRONMENTAL PLAN 1987 (AMENDMENT 101) FILE: T5-101	{ Folio No. * }
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SUMMARY:

Reporting that a request to proceed to rezone land at 153 Macleay Street Frederickton to facilitate residential development has been refused by the Department of Planning.



Applicant: DEX Consulting Pty Ltd
Subject Property: Lot 9 DP 745274, 153 Macleay Street, Frederickton
Zone: Rural 1(a3) "Agricultural Protection"

BACKGROUND:

Council considered a request to rezone the subject lot from rural 1(a3) to residential 2(v) at its meeting of 14th February 2006. The following was resolved: -

"That Council in accordance with Section 54 of the Environmental Planning and Assessment Act, prepare a draft Local Environmental Plan to rezone Lot 9 DP745274 Macleay Street Frederickton from Rural 1(a3) to Residential 2(v)"

The recent introduction of the LEP Review Panel, by the State Government, prevents Council from proceeding with the draft LEP until notification of Council's decision has been given to the Department of Planning, and only if the Department then advises Council may proceed.

Department of Planning Advice

The Department responded on March 15th 2006 [\(Appendix H\)](#) indicating that they will not support the proposal as it represents a spot rezoning which is not supported by either local or regional urban development strategies. It was suggested that Council consider the proposal through a review of its Urban Development Strategy in the context of developing the new standard LEP due in three years.

Council should note that if it decides to proceed with the rezoning following this advice, it is unlikely that the Department will certify the draft plan pursuant to section 65(1) of the Environmental Planning and Assessment ACT 1979.

REPORT IMPLICATIONS:

- ***Environmental***

There are no adverse environmental implications.

- ***Social***

There will be no adverse social impacts.

- ***Economic (Financial)***

Due to the size of the lot, no viable income can be gained from use of the lot for agricultural purposes. The only potential economic value of the lot is for residential purposes.

- ***Policy or Statutory***

The Department of Planning has indicated that it is unlikely to certify the draft plan in accordance with section 65(1) of the Environmental Planning and Assessment Act 1979. Without this certification the Draft LEP cannot proceed.

- ***Director's Review***

The reason provided by the Department relates that they lack of an Urban Development Strategy that includes the subject land in any future release.

Clause 38 of North Coast Regional Environment Plan specifies matters to be satisfied in determining whether to prepare a draft LEP to permit residential development.

Clause 38 relates to proposals that constitute "significant urban growth".

The proposal does not constitute significant urban growth being infill development, does not require the extension of water and sewerage services, is serviced by the highway and

will nationalise the use of the land with adjoining residential development.

Rather than proceed with the rezoning in the face of advice from the Department that they are unlikely to permit exhibition of any draft LEP, it is recommended that Council request the Department to reconsider issuing a Written Authorisation to Exercise Delegation on the basis of the reasons provided above.

RECOMMENDATION:

That the Director General of Planning be requested to reconsider his decision not to issue a Written Authorisation to Exercise Delegation provided in this report.

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES