

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

18th July 2006

**DSDS2 MODIFICATION OF CONSENT: SEPP5
DEVELOPMENT NORTH STREET KEMPSEY
FILE: T6-03-586 AJC {Folio No. * }**

SUMMARY:

Reporting on a proposal to modify a condition of development consent to allow filling of flood prone land by more than 1metre.



DESCRIPTION:

Applicant: Mr C Boyes
Owners: Mr. C Boyes and Mr. P Cavanagh
Subject Property: Lot 1 DP759080, corner of North street and Belmore Street, West Kempsey,
Zone: 1(d) (Rural[Investigation]D Zone)

Background

Council issued a conditional approval for 31 dwellings and community title subdivision under State Environmental Planning Policy 5 on 29 March 2004.

Condition 44 of the development consent required the maximum depth of filling not to exceed 1 metre in depth in accordance with Council's Flood Risk Management Policy.

Proposal

The applicants have requested Council consider modifying that part of condition 44 requiring lot filling to be no greater than one metre in depth. The one metre depth requirement is contained in Clause 6.3.5 *Urban Subdivision* of Council's Policy on Flood Risk Management.

The proposed fill depth will range up to a maximum depth of 1.98metres. The area that is to be filled in excess of 1 metre is shown in plan 0099/04 sheet SO1 and is attached to this report [\(Appendix A\)](#).

In the past council has only agreed to one other proposal to vary that part of clause 6.3.5 dealing with maximum depth of filling. That was

the Bunyapine Estate residential subdivision in 2003. Council resolved to support filling over the affected allotments (2210m²) to a maximum depth of 1.42metres.

Applicants Submission

The applicant's Consultant requests Council consider approving of the minor non-compliance in this instance for the following reasons: -

- a) The proposed lot layout and filling depths are as per the approved Development application plan.
- b) The area of deeper fill is only minor and all the building sites will be approved by a Geotechnical Engineer.

Planning Comment

No objections are raised to the variation for the following reasons: -

- a) There will be no significant cumulative effects as this fill proposal is small (approximately 650m²) even when added to the 2210m² from the Bunyapine Estate located to the east. Flooding in this area is backwater from the Macleay River. The subject land parcel is on the flood fringe and therefore has connection to higher ground above the 1 in 100 Flood to North Street and is protected by an existing levee and drainage systems.
- b) Levees were constructed on the left bank of the Macleay River to protect Glenrock and Tennessee areas in 1958 and 1963.
- c) It is anticipated that the filling will have a negligible effect in larger floods emanating from the Macleay River and no effect from floods generated in the local catchment area.
- d) Having regard to the circumstances of the case, the variation will not set an undesirable precedent as no unacceptable risk to life and property would result from the proposal.

REPORT IMPLICATIONS:

- **Environmental**

The proposed amendment will not generate any adverse environmental impacts.

- **Social**

The proposed amendment will not generate any adverse social impacts.

- *Economic (Financial)*

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

RECOMMENDATION:

That Council agree to vary the Flood Risk Management Policy to permit the requested modification with condition 44 to be amended to read: -

44. a) The allotments to be filled shall have a minimum longitudinal fall of 1%, to either the proposed internal road(s) and or proposed interallotment pipe drains.
- b) A specification for the sourcing, suitability, placement and certification of the fill materials (including associated documents) is to be prepared by a suitably qualified person and submitted to Council for approval prior to the issue of the construction certificate.
- c) *AS3798 Guidelines on Earthworks for Commercial and Residential Development* requirements are to be incorporated into the Specification and construction certificate drawings.
- d) A Geotechnical Engineer is to certify that the material when placed in accordance with the approved specification will render each of the affected allotments suitable for residential development purposes.

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES