



DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

2 February 2010

DSDS6 PROPOSED SUBDIVISION - BOUNDARY ADJUSTMENT
FILE: T6-09-426 DC1 {Folio No. *}

SUMMARY:

Reporting that Council has received a development application to undertake a boundary adjustment to rectify an encroachment of a dam onto an adjoining property.

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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Applicant: Ms C Dobson
Subject Property: Lot 1111 DP 858913 & Lot 5 DP 260017
895 & 907 Stuarts Point Road Stuarts Point
Zone: 1(a3)(Rural "A3" Agricultural Protection Zone)

BACKGROUND:

Previously Planning Circular B1 allowed councils to assume the concurrence of the Director General for the use of SEPP 1 when considering boundary adjustments between two undersized lots providing no additional lots or dwelling entitlements are created and the existing or potential agricultural use of the land will not be compromised.

However, following the Wollongong ICAC inquiry, Planning Circular PS 08-14 (issued 14 November 2008) now requires that when the variation is greater than 10%, the application must be determined at a full Council meeting.

DESCRIPTION:

Currently Lot 1111 DP 858913 is a 2.65ha lot containing the Yarrahapinni Nursery and Lot 5 DP 260017 is a 5.89 ha lot containing an existing dwelling. Both lots are currently under the minimum lot size for the zone. The proposal will move approximately 250m² (the exact amount will be determined when the final survey is done) from Lot 5 to Lot 1111, allowing the dam to be wholly located on the nursery site.

It is considered that the proposed boundary adjustment should be supported given both effected lots are already undersize and the practicalities of containing the dam wholly on the one title. The boundary adjustment will not have an adverse impact on the environment.

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RECOMMENDATION IMPLICATIONS:

- **Environmental**

There will be no adverse environmental impacts.

- **Social**

Nil

- **Economic (Financial)**

Nil

- **Policy or Statutory**

The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979, Kempsey Local Environmental Plan 1987 and has had a Bushfire Safety Authority issued by the Rural Fire Service.

RECOMMENDATION:

That the Development Application and SEPP 1 objection be approved subject to the following conditions:-

PARAMETERS OF THIS CONSENT

1. **Development is to be in accordance with approved plans**
The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No./ Supporting Document	Version	Prepared by	Dated
Survey Plan Dwg Ref: 15575SET.VCD	A	M W Rogers & Associates	8 May 2003

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

2. **Plan of Subdivision**
An application for a Subdivision Certificate must be made on the approved form. The Subdivision Certificate fees, in accordance with Council's adopted schedule of fees and charges, must

accompany such application. Seven (7) copies of the plan of subdivision are to be submitted with the application for a subdivision certificate. The location of all buildings and/or other permanent improvements including fences and internal access driveways/roads must be indicated on 1 of the copies.

3. **Certificate for pipes, access driveways, etc. within easements**
A certificate from a registered surveyor is to be submitted to Council certifying that all pipelines, structures, access driveways and/or services are located wholly within the relevant easements.
4. **On-site sewage management facility Section 68 approval required**
An approval under Section 68 of the Local Government Act 1993 for on-site effluent disposal for the system on existing lot 1111 must be obtained from Council.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH AT ALL TIMES

5. **NSW Rural Fire Service**
The following conditions have been imposed by the NSW Rural Fire Service under the integrated development provisions of the Environmental Planning and Assessment Act, 1979 and the Rural Fires Act 1997.

Asset Protection Zones

The intent of measure is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

- a. **At the issue of subdivision certificate and in perpetuity, the land surrounding the existing dwelling on Lot 5, to a distance of 20 metres, shall be maintained as an asset protection zone (APZ) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.**

Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation.

- b. **Property access for both lots shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.**

Landscaping

- c. **Landscaping around all habitation buildings is to comply with the principals of Appendix 5 of 'Planning for Bush Fire Protection 2006'.**

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES

