

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

8th February 2005

**DSDS2 TWO STOREY DWELLING AND ATTACHED GARAGE
LOT 4 DP 758505 No 8 LEDGE STREET,
HAT HEAD
FILE: T6-04-637 SAR**

SUMMARY:

A Local Development Application has been received for approval to erect a new two-storey dwelling and detached garage which does not comply with the requirements of DCP 22 for which objections have been received.



Applicant: Chris Jenkins Design Architects P/L
Subject Property: Lot 4 DP 758505, 8 Ledge St, Hat Head
Zone: 2(v) (Village or Township Zone)

Proposed Development

The proposal is to build a split-level two storey dwelling on the abovementioned allotment with a detached garage.

Siting

The site is a vacant allotment situated on the south eastern side of Ledge Street. The land falls to the street in a south to north direction 14m over 50.2m where the dwelling is to be erected. The property has a street frontage of 31.18m and a total site area of 1064 m².

Heads of Consideration:

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

The proposal may be defined as “dwelling house” and is permissible with consent in the 2(v) (Village or Township) zone under Kempsey Local Environmental Plan 1987.

The proposal is not contrary to any State Environmental Planning Policy or North Coast Regional Environmental Plan 1988.

Bushfire Risk Assessment

An assessment was undertaken by Council in relation to the potential for bushfire risk, however Council was unable to make a determination due to the close proximity of the dwelling to a potential bushfire hazard at the rear of the proposed dwelling. The application was referred to the NSW Rural Fire Service for consideration & a number of recommendations made in conjunction with a Bushfire Assessment Report by Midcoast Environmental Services in regard to protection from bushfire. The recommendations made by the Rural Fire Service will form part of any determination made by Council.

DCP 37- Hat Head

In regard to DCP 37 Hat Head, Section 4.0 Key Landscape elements, Council must ensure that adequate measures are employed to minimize any visual impacts of all buildings in order to preserve the character of the Hat Head village. Under its current form, it is considered that the proposed dwelling may pose a visual impact on the slopes of O’Connors Hill, thereby contravening the requirements of DCP 37 as to maintaining key landscape elements. By reducing the overall height of the eastern portion of the dwelling, the proposal would maintain visual uniformity with the existing streetscape as well as complying with the requirements of DCP 22.

DCP No 22- Local Housing Strategy

The proposal is required to comply with the following requirements of DCP 22:-

STANDARD	REQUIRED	PROPOSED	COMPLIES Y/N
Density	600m ²	1064m ²	Y
Landscape	250m ²	713m ²	Y
Setbacks			
- Front	5m	12m	Y
- Side	1.5m	0.4m	N
	0.9m	0.9m	Y
- Rear	1.8m	13m	Y
Carparking	1	2	Y
Private open space	>25 m ²	>25m ²	Y

Landscaping	250m ²	713m ²	Y
Height	7.9m	9.3m	N
Solar access	15 point	24 points	Y
Cut and fill	Max 1.5m	1m (approx).5m garage/dwelling	N/A
Erosion/ sediment control	Adequate	Adequate	Y

Height

The above non-compliance in relation to building height on the northeastern corner, was referred back to the applicant for reconsideration. It was suggested to the applicant that the non-compliant portion of the building be dropped in height by excavating the ground floor level into the ground and aligning the upper floor of the eastern portion of the dwelling with the floor level of the living area on the western portion of the dwelling. In response to this request a submission was received from Chris Jenkins Architects and is appended to this report as ([Appendix D](#)).

The applicant concludes that the topography of the land justifies the non compliant height, while the requested cut in land would be in excess of 2 metres and unacceptable to Council. While the topography of the site in Ledge Street does make compliance difficult for the current proposal, a redesign of the dwelling as requested will achieve compliance in regard to building height. Further, it is not considered that the required cut would be in excess of the required 1.5 metres as proposed by the applicant, and in terms of acceptance to Council, it is anticipated that the excavated cut would find more favour with Council than the proposed non-compliant height.

Setbacks

The non-compliant side setback in regard to the distance of the rear deck to the property boundary can be alleviated by a reduction in the width of the deck. A minor reduction would bring the deck into compliance with DCP 22 in terms of side setbacks. The deck is compliant with the Building Code of Australia, as encroachments within 900mm of the property boundary are allowed for unroofed terraces, landings, steps and ramps not more than 1 metre in height.

Public Exhibition

The application was advertised in accordance with Council's notification and advertising policy to adjoining owners, with two (2) submissions received ([Appendix E](#)).

Objection

Planning Comment

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| 1 Proximity of the deck on the north eastern side of the dwelling. | 1 The deck on the north eastern side of the dwelling is non compliant in terms of DCP 22 and a reduction in width would be required to achieve compliance. |
| 2 Compliance with DCP 37 Section 4.1.3 (e) in regard to rainwater storage tank overflows. | 2 Any overflow from the proposed rainwater tank will be required to be disposed of by means of a rubble drain, so as not to impact on adjoining properties. |
| 3 Lack of privacy screening on the deck adjacent the entry point into 10 Ledge Street. | 3 Some degree of overlooking of adjoining properties is to be anticipated, however this can be further reduced by the implementation of some form of privacy screening on the exposed areas of deck fronting the adjoining properties. |

Report Implications:

- **Environmental**

From information supplied to Council, it is not anticipated that there will be any adverse environmental impacts from the proposed new dwelling.

- **Social**

The proposal is considered for the period of construction, to provide employment for local tradespeople and others employed in the building industry.

- **Economic**

The proposal is considered to provide an economic benefit only for the period of construction.

- **Statutory or policy**

The application has been assessed under Section 79(c) of the Environmental Planning and Assessment Act, 1979,

Development Control Plan 22- Local Housing Strategy and Development Control Plan 37- Hat Head.

- **Directors Comment**

KLEP 1987 and DCP 22 place the onus on the applicant to demonstrate that the topography of the site makes it impractical to comply.

By reducing the lower level ceiling by 300mm and excavating up to 1.1 metres in one corner or by stepping the building, compliance could readily be achieved.

In this instance it is considered that the applicant has failed to justify any variation.

RECOMMENDATION:

1. That the applicant be requested to submit revised plans with the proposed dwelling demonstrating compliance with DCP 22 in regard to building height.
2. That the applicant be advised that unless the requested plans or written advice to submit such plans is received within fourteen (14) days of the date of notice being given, that the application be refused, for the following reason:
 - a. The proposal is contrary to Councils Development Control Plan 22- Local Housing Strategy in regard to building height.
 - b. The proposal is likely to create an undesirable precedent for similar variations in the locality and throughout the Shire.

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES