



DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

13 September, 2005

**DSDS6 PROPOSED DUAL OCCUPANCY –
5 GOWING STREET, CRESCENT HEAD
FILE: T6-05-308 TJN**

SUMMARY:

Reporting that Council has received an application to erect a dual occupancy which required variations to DCP 22 and for which objections have been received.

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Applicant: Bentpin Pty Ltd
Subject Property: Lot 170 DP 754441 No 5 Gowing Street,
 Crescent Head
Zone: 2(v) (Village or Township Zone)

Description of Proposal

The proposal involves the erection of an attached dual occupancy on vacant land. The subject lot has two street frontages. [\(Appendix F\)](#)

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 (KLEP 1987)

The subject land is zoned 2(v) (Village or Township Zone) under the provisions of this plan. The objectives of this zone are: -

- (a) To allow a wide range of land uses in smaller settlements.

The proposal is defined as a dual occupancy development and is permissible in the zone with development consent.

State Environmental Planning Policy 71 – Coastal Protection

The subject lot falls within the coastal zone as defined by SEPP 71, however the site is not classified as a sensitive coastal location. Council is required to have regard for the matters as set out by Clause 8. [\(Appendix G\)](#)

- a) The proposal is not considered contrary to the aims and objectives as set out in clause 2 of the SEPP.
- b) The proposal is not located adjacent to any coastal foreshore and will not interfere with public access.
- c) As the site is not located adjacent to any coastal foreshore there is no requirement to enhance any existing public access.
- d) The site is located in an area of Crescent Head that is characterized by two-storey dual occupancy type development. It is considered suitable development having regard for the surrounding area.
- e) The site is not located adjacent to any coastal foreshore and therefore will not overshadow any public foreshore reserve.
- f) The surrounding area is predominately urban of a very similar scale, as such, it will not detract from the scenic qualities of the New South Wales coast line.
- g) The site is cleared meaning that there will be minimal impact upon threatened species of flora and fauna.
- h) There will be no perceived impacts upon marine ecosystems.
- i) The lot is situated within a cleared residential area meaning that there will be no impacts on wildlife corridors.
- j) There is no perceived impacts upon coastal processes.
- k) The site has no foreshore frontage so conflict between land and water based activities will be negligible.
- l) The only building on the site is a garage. No items of heritage significance are to be destroyed or defaced.
- m) The applicant is required to treat stormwater on site to an acceptable level to minimize impacts on coastal water bodies.
- n) see (l)
- o) Not applicable as no rezoning is proposed.
- p) The proposal complies with Council's energy smart homes criteria and is not expected to contribute to any negative cumulative environmental effects.

State Environmental Planning Policy: BASIX

The application was lodged with Council on June 28 2005, meaning a BASIX certificate was not required.

Development Control Plan 22 – Local Housing Strategy

The proposal is subject to the provisions of Development Control Plan 22 Sections 3 and 4. The subject lot is classified as medium density under the provisions of this plan.

STANDARD	REQUIRED	PROPOSED	COMPLIES Y/N
Density	480m ²	449.68m ²	No
Setbacks	1.5m min, 3.5 average	>1.5mmin, >3.4 average	Yes
- side			
- front	5 metres	5 metres	
- rear	3.0 metres	1.6 metres	No
Carparking			
- resident	2 covered	2 covered	Concern
- visitor	1	2	
Private open space	4x4m ² >25m ² total	4x4m ² >25m ²	Yes
Landscaping	170m ²	165m ²	No
Height	6.2 m max	5.9 m	Yes
Solar access	Section 4.7	** 3.5 star rating	Yes
Privacy	Section 4.8	Concern	Concern
Cut and fill	1.5 m max cut/fill	Minimal	Yes
Erosion/ sediment control	To be conditioned		
Infrastructure	To be conditioned		

* Concern raised over visitor spaces.

** Possible overshadowing on adjacent lot – see “Overshadowing”

Density

The applicant has formally requested a variation to the density provisions of the DCP [\(Appendix H\)](#) . This can be summarised as follows: -

“ The applicant seeks permission to construct 2x2 bedroom units. The parcel of land is in a medium density zone and has an area of 450m². The required area under DCP 22 for 2x2 bedroom dwellings is 480m². Given that the site falls short by only 30m² and taking into consideration that the proposed development meets all other

requirements and performance objectives of DCP 22 it is requested that the Council consider a variation”.

In 1995 Council approved a 2x3 bedroom development on the site under the provisions of SEPP 25 which has not been repealed and prior to residential development within the shire being subject to the provisions of DCP 22. In 2003, Council approved a detached dual occupancy on 7 Gowing Street that did not meet the density provisions by 10m². Given this, and the fact that in the surrounding area there are very similar proposals which do not meet the current density provisions of the DCP, Council should be prepared to consider the applicants request. This should be contingent on all other parts of the DCP being complied with, which are discussed below.

Landscaped Area

Given the minimal nature of the departure from Council's standard (5m²), no objection is raised to the non-compliance.

Setbacks

Council has a program to progressively acquire land for the purpose of widening Killick Lane (see “Road Widening”). As a result of this the setback to Killick Lane, classified as a secondary street frontage, will be reduced to 3.1 metres. The balcony will be set back approximately 1.6 metres from the boundary.

Section 4.2.1(c) of DCP 22 allows Council to consider reductions in the secondary street frontage provided the reduced setback is consistent with the majority of setbacks within the street. Other similar developments with frontage to Killick Lane have reduced setbacks following road widening, and it is envisaged that as the area is redeveloped more land acquisitions will occur. The reduced setback will therefore have no negative impacts on the streetscape as it is considered in keeping with the current and the future planned streetscape. The proposal would fully comply with the setback provisions of DCP 22 if no road widening was proposed making it unreasonable to refuse the application on these grounds.

Overshadowing

The attached plan shows the degree of overshadowing on the adjacent lots (Appendix I). No area of private open space, balcony or living areas are overshadowed at all. Some parts of both lots on the southern side will be overshadowed for the majority of the day on June 22nd, however given that these are not living areas the proposal is considered to comply with the DCP.

Road Widening

As part of the development Council will require dedication of a 1.9 metre strip of the lot facing Killick Lane. This has been a requirement of other developments in the area and is for the purpose of allowing Killick Lane to act as a more serviceable road which is capable of accommodating increased traffic levels as the area is redeveloped into higher density residential.

While dedication of this land will reduce the site area, landscaped area and setback to Killick Lane, Council will achieve the road widening without cost. Council has supported similar development on adjoining land parcels.

Advertising

The proposal was advertised for fourteen (14) days in accordance with Council's advertising policy with four (4) objections being received. [\(Appendix J\)](#)

Objection	Planning Comment
1 Feel I will be more affected by shadowing if the western elevation is allowed compared to the indented eastern elevation.	1 See "Overshadowing" The proposal complies with the DCP requirements.
2 The indent in the eastern elevation will be more pleasing to the eye than two stories of flat wall and straight corner.	2 The proposal is considered to have reasonable architectural treatment and is consistent with surrounding development.
3 The gable roof over the balcony and the encroachment into the street setback will impact upon views. This would seem to contravene DCP 22 where encroachments are only permitted if they don't impact on adjoining properties.	3 No significant views from the objectors property will be affected due to the encroachment, as the balcony will be clear of any view paths from the focal points of the property. DCP 22 allows this encroachment. Council's officers have assessed the encroachment as having no negative impacts on adjoining premises.

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| 4 | The proposal contravenes the density provisions of DCP 22. | Agreed. However, the proposal conforms to all other provisions of the DCP. |
| 5 | The minimum landscaped area requirements have not been met. | The departure from the landscaped area requirements under the DCP is considered to be minimal. |
| 6 | The proposed rumpus room on the ground level could potentially be used as a third bedroom. | Given that the rumpus room forms part of the major entrance to the dwelling, is a major thoroughfare from the garage, and contains the staircase that accesses the upstairs area, it is considered that it is not readily adaptable for use as a bedroom. |
| 7 | Minimum private open space requirements have not been met | Open space requirements have been met and exceeded. |
| 8 | The sliding glass door on the decks and the windows in the main living areas would be looking directly into my second storey living area. | Agreed. The applicant should be required to provide a privacy screen on this part of the deck to alleviate any potential privacy concerns. |
| | Screening on this part of the deck should be looked at to avoid this. | |
| 9 | Killick Lane is not wide enough to serve as a primary access for a dwelling. | Council will be acquiring a section of Killick Lane to assist in long term widening of the road. |

REPORT IMPLICATIONS:

- ***Environmental***

The applicant will be required to treat storm water onsite prior to discharge to Council's system. Once this has been addressed it is considered that there will be no adverse environmental outcomes.

- *Social*

There are no perceived adverse social implications as a result of this proposal.

- *Economic (Financial)*

The proposal will bring an economic benefit for the period of construction only.

RECOMMENDATION

A That Council resolve to support the variations to DCP 22 and approve the application subject to the following conditions:

- 1** The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.
- 2** This consent has been issued on the basis that Council has been appointed as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.
- 3** This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.
- 4** A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
- 5** Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
- 6** The dwellings are not to be occupied until all conditions of Council's consent have been complied with to the satisfaction of Council and an Occupation Certificate has been obtained.

- 7 Before the commencement of site works, demolition or building, the following activities must be completed:
 - a Installation of soil erosion and sedimentation control devices.
 - b Installation of safety fencing/hoardings between the property and the street
 - c Protection barriers for existing trees
 - d Installation of builder's toilets
 - e Installation of signage in prominent, visible position including -
 - "Unauthorised site entry is prohibited"
 - Name and phone number of builder or other responsible person for contact outside working hours.
- 8 Submission of an application(s) to Council pursuant to Section 68 of the Local Government Act 1993 for the following, prior to the issue of a Construction Certificate:-
 - a Installing a temporary structure on land.
 - b Carrying out water supply work.
 - c Installing, altering, disconnecting or removing a meter connected to a service pipe.
 - d Carrying out sewerage work.
 - e Carrying out stormwater drainage work.
 - f Connecting a private drain or sewer with a public drain or sewer under the control of a Council or with a drain or sewer which connects with such a public drain or sewer.
 - g Disposing of waste into a sewer of the Council.
- 9 Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that

complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6.

Details are to be submitted to Council prior to work commencing.

- 10 Before work commences, the Council must be informed in writing of the name and contractor licence number of the licensee who has been contracted to do or intends to do the work.
- 11 All excavation and backfilling are to be executed safely and in accordance with appropriate professional standards, and are to be properly guarded and protected to prevent them from being dangerous to life or property.
- 12 If the excavation is to extend below the level of the base of the footings on an adjoining allotment, the person causing the excavation shall:
 - (a) preserve and protect such building from damage; and
 - (b) if necessary, underpin and support the building in an approved manner.

Seven (7) days notice is to be given to the owner of the adjoining allotment of the intention to excavate below the level of the base of the footings. (Reference: Clause 34, Local Government (Approvals) Regulation 1993).
- 13 Hoarding/fence is to be provided to the site in accordance with the assessment provided to Council. Details of proposed hoarding to be submitted, in writing, prior to the commencement of building operations.
- 14 A builder's toilet complying with Clause 78I of the Environmental Planning and Assessment Regulation, and connected directly to the sewer is required on site throughout the entire building operation.

Note: Clause 78 I requires that the toilet must be provided before any work is commenced.

- 15 A builder's toilet complying with Clause 78I of the Environmental Planning and Assessment Regulation, and connected directly to the sewer is required on site throughout the entire building operation.

Note: Clause 78 I requires that the toilet must be provided before any work is commenced.

- 16 Compliance with the Building Code of Australia.

All building work must be carried out in accordance with the requirements of the (BCA). A construction certificate shall not be issued until the Principal Certifying Authority (PCA) is satisfied that the plans and specifications comply with the BCA.

- 17 If the soil conditions require it:-

(a) retaining walls or other approved methods of preventing movement of the soil must be provided; and

(b) adequate provision must be made for drainage.

- 18 The dwelling shall be constructed to include all of the energy efficiency requirements as specified by the assessment provided with the application.

- 19 Access from the street to the property boundary to be via a standard layback and full width concrete paving. Paving to be 125mm thick unreinforced with construction joints to suit service trenches. Applicant is to consult Council's Environmental Services Department for details prior to commencing work on site.

- 20 Any redundant footpath crossings or access culverts to be removed and reconstructed at the applicant's expense, and footway access restored to the satisfaction of Council, prior to occupation of the premises.

- 21 All internal accessways and parking spaces have been designed and constructed in accordance with Council's Engineering Guidelines for Subdivision and Development to at least concrete paved standard.
- 22 Roofwaters are to be connected to the existing stormwater disposal system.
- 23 An interception drain at the boundary of the property to collect all stormwater runoff from paved areas piped then discharged through the kerb via a standard converter, strictly in accordance with Council's Engineering Guidelines for Subdivision and Development.
- 24 Submission of a detailed landscaping plan providing for the establishment of suitable species endemic to the area, including the number and species of plants to be planted and the means of establishing the landscaping beds prior to release of the Construction Certificate.
- 25 Soil Erosion control measures are to be implemented on the site. The control measures shall be in accordance with Council's Guidelines - Preparing an Erosion and Sediment Control Plan. The Control Plan is to be submitted and approved prior to release of the required Construction Certificate.
- 26 Submission of an application for a Certificate of Compliance pursuant to Section 305 of the Water Management Act 2000 and the lodgement of a Certificate of Compliance indicating that the requirements of Section 306 of the Water Management Act 2000 have been met, prior to release of the Construction Certificate.
- 27 You are advised that a Certificate of Compliance pursuant to Division 5 of the Water Management Act 2000 will be issued by Council, subject to the following matters being complied with:-
 - a Payment of a contribution towards the augmentation of sewerage headworks at the rate of \$2,103 per equivalent tenement, i.e

$\$2,103 \times 0.33 \text{ E.T} = \693.99 (Indexed 2004/2005)

- b Payment of a contribution towards sewerage reticulation works at the rate of \$1,256 per equivalent tenement, i.e $\$1,256 \times 0.33 \text{ E.T} = \414.48 . (Indexed 2004/2005)
- c The applicant is to pay a contribution towards the embellishment of open space and ancillary facilities for each additional dwelling unit after the first unit in accordance with Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Construction Certificate, at the rate prevailing at that time. The current rate is \$410 per additional dwelling unit, i.e $\$410 \times 0.33 \text{ E.T} = \135.30 . (Indexed 2004/2005)

A copy of Council's Section 94 Plan may be inspected at Council's offices, Corner Elbow and Tozer Streets, West Kempsey.

- 28 Provision of kerb and guttering to both the Gowing Street and Killick Street frontages and extension of the existing bitumen seal to the new kerb and guttering at no cost to Council and to be constructed prior to issue of the Occupation Certificate. Detailed plans are to be provided with the information for the required Construction Certificate.
- 29 Submission with the Construction Certificate Application, an application for Subdivision Certificate pursuant to s4A of the Environmental Planning and Assessment Act 1979 which authorises the registration of the plan of subdivision, for the road widening dedication required by Condition 30.
- 30 Dedication of land 1.981 metres wide required for widening of the laneway (Killick Lane) at no cost to Council, and proof of registration of the linen plan prior to release of the Occupation Certificate.
- 31 Submission of a Stormwater Management Plan detailing the following:-

- (a) Means to restrict stormwater flows to pre development level.
- (b) Means to treat stormwater to an appropriate level prior to discharge from the site.
- (c) All stormwater from the site is to be directed to the nearest Council drainage system.

32 Plans for the required Construction Certificate are to show the following:-

- (a) Provision of a privacy screen to Council's satisfaction on the southern elevation of the balconies of both units.

B That the objectors be advised of Council's decision.

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES