



KEMPSEY
Shire Council

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

11th April 2006

DSDS4	PROPOSED 3 STOREY DWELLING LOT46 DP822650, NO.10 KINCHELA STREET, CRESCENT HEAD FILE: T6-06-8 SAR	{ Folio No. * }
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SUMMARY:

Reporting that Council has received an application to build a 3 storey dwelling at 10 Kinchela Street, Crescent Head; which requires a SEPP1 variation to the Kempsey Local Environmental Plan 1987 and variation to Development Control Plan 22 Local Housing Strategy.



DESCRIPTION:

Applicant: Simon & Monique Wetzler
Subject Property: Lot 46 DP 822650, No 10 Kinchela Street, Crescent Head
Zone: 2 (a) Residential Zone

Proposed Development

The proposal is to erect a 3 storey dwelling at 10 Kinchela Street, Crescent Head, which requires a SEPP1 variation to the Kempsey Local Environmental Plan 1987 and variation to Development Control Plan 22 Local Housing Strategy.

Site

The site is situated on the eastern side of Kinchela Street, with the land falling from the rear of the property toward Kinchela Street. The property has a street frontage of approximately 21 metres and a site area of approximately 653m².

Background

A proposal for a new three storey dwelling was submitted to Council for consideration with deficiencies being identified in regard to the overall building height. The top plate height of the building was

shown to exceed Councils requirements by 1m. The applicant was requested to address this deficiency and new plans with a revised building height were submitted to Council for consideration.

The revised plans submitted to Council failed to comply with the height requirements by 300mm over a portion of the north western corner of the dwelling. Further revised plans were provided by the applicants Architect addressing this deficiency and submitted to Council for consideration.

Heads of Consideration.

The proposal has been examined having regard to the Heads of consideration identified under Section 79 C (1) of the Environmental Planning and Assessment Act 1979.

Kempsey Local Environmental Plan 1987

The building heights within various residential and commercial zones are controlled by Clauses 24 and 25 of the Kempsey Local Environmental Plan 1987. In respect to residential zones, Clause 24 of Kempsey Local Environmental Plan 1987 states that;

24. 1) The Council shall not consent to the erection, on and within the Zone No. 2(a), 2(b1), 2(c) or 2(v) of a building:
 - a. Which contains more than 2 storeys; or
 - b. In the case of a building of 2 storeys, having a topmost floor with a ceiling level more than 6.2 meter above the level of the natural surface.

Sub clause 2 of Clause 24, does not however prohibit the Council from consenting to the erection of a 2 storey building on land where, because of the local topography, it is impractical to erect a 2 storey building on the land in compliance with sub clause 1.

The applicant is seeking approval for the erection of a three (3) storey dwelling which complies with the 6.2 meter maximum height limit.

State Environmental Planning Policy 1 (SEPP1)

The Development Application has been accompanied by a SEPP1 objection, objecting against the 2 storey height limit and may be summarised as follows:

- 1 The lot is the smallest lot in the subdivision 653m² and 50% of the lot is unavailable for building due to setbacks.
- 2 A mains sewer easement crosses the site at approximately 6 metres from the rear of the block.

- 3 The topography of the site is such that there is an 8 metre diagonal fall from the rear boundary.
- 4 The house will be consistent with neighbourhood housing.
- 5 The neighbour to the south has no objection and the elevated house at the rear will see over it without restriction.

Planning Comments

The dwelling has been architecturally designed to be complementary to the existing streetscape.

The proposed dwellings natural ground level to ceiling height complies with the requirements of Development Control Plan 22.

The proposed dwellings number of storeys exceeds the Kempsey Local Environmental plans requirements by one storey with 3 stories proposed over the western portion of the dwelling. The remainder of the dwelling complies with the 2 storey requirement of the Kempsey LEP.

The proposed third storey component results because of the need to have the garages incorporated into the dwelling design below ground level allowing easier access from Kinchela Street.

The proposed cut varying from 1m to approximately 2.1 metres at the rear of the garage allows for a lowering of the dwelling and reduction in its overall size and bulk. The required minimum cut of 1.5m is exceeded by a maximum of 0.6 metres.

The proposed retaining walls at the south western corner of the dwelling and at rear of the garage area exceed the 1.5 metres requirement by approximately 1 metre. This variation however is required to adequately shore up the proposed cuts and it is anticipated that these will have no foreseeable impact on the streetscape or adjoining properties.

DCP 22 - Local Housing Strategy

The proposal is required to comply with the requirements of DCP 22. Section 4.6 (b) of Development Control Plan 22- Local Housing Strategy states that in respect to residential zones, buildings are restricted to two (2) storeys with the topmost floor ceiling level of not more than 6.2 metres above natural ground level unless the topography of the site makes compliance extremely difficult. Section 4.6 (c) allows for a further 1.7 metres for buildings containing a raked ceiling.

In regard to compliance with the draft review of Development Control Plan 22 currently under consideration, the proposed building is in general compliance with the following requirements such as building

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character and design, height, setbacks, building and retaining walls, solar access, protection of views and density.

An assessment of the proposal against the relevant requirements of Development Control Plan 22 results in the following:

STANDARD	REQUIRED	PROPOSED	COMPLIANCE PERFORMANCE OBJECTIVE
Density	>600m ²	653 m ²	Complies
Landscaped area	>200m ²	310.4m ²	Complies
Setbacks			
- Side (North)	1.5m (2 storey) 2.0m (3 storey)	1.2m 2.5m	Complies with compensatory setbacks.
- Side (South)	1.5 (2 storey) 2.0m (3 storey)	1.5m 10m	Complies with compensatory setbacks.
- Front (West)	5m	9.2m	Complies
- Rear (East)	3m	6.5m	Complies
Height	6.2m	6.2m	Complies
Landscaping	Adequate	Adequate	Complies
Carparking	1 covered	2 covered	Complies
Solar access	Adequate	Adequate	Complies
Privacy	Adequate	Adequate	Complies
Retaining walls	<1.5m	2.5m	Does not meet performance objective, however wall will be located at the rear and side of the garage and unseen from the street.
Long Walls	<20m	<20m	Complies
Private open space	>25m ²	>25m ²	Complies
Cut & fill	1.5m	2.1m	Does not meet performance objective, however cut will not impact on the streetscape and will minimise building bulk and height.

Cut and fill

The non-compliance in regard to cut and fill is due to the establishment of garages below ground level. Development Control Plan 22 allows a maximum cut of 1.5m with the proposed excavation varying from 1m to approximately 2.1 metres. This non-compliance can be justified in that in order to minimise the overall height and

bulk of the building, and subsequent impact on the streetscape, the applicant has proposed to excavate the garage area deeper than what would normally be permissible.

Retaining walls

In conjunction with the above mentioned non compliant cut, the height of the retaining walls is exceeded due to the need to excavate the garages below natural ground level in order to minimise the overall height and bulk of the building. The required maximum retaining wall is 1.5 metres with a proposed retaining wall of approximately 2.5 metres being proposed. The 2.5 metre retaining wall is required to shore up the proposed 2.1m cut, and being located at the rear of the garage as well as below ground level, will not create a detrimental impact on the existing streetscape.

Objections

Adjoining property owners were notified of the proposed development in accordance with Councils Notification Policy, with one submission received.

The following concerns were raised:

The proposed height exceeds the restrictions detailed in DCP 22 and LEP.

The building does not meet the minimum setbacks from the adjoining property boundary.

Objection	Planning Comment
1 The proposed height exceeds the restrictions detailed in DCP 22 and LEP.	1 The amended building height complies with the building height requirements of DCP 22 and LEP, however exceeds the number of storeys by one storey.
2 The building does not meet the minimum setbacks from the adjoining property boundary.	2 The building setbacks are compliant with the setback requirements and compensatory setback areas of DCP 22.

Conclusion

Having considered all of the relevant matters under Section 79(c) of the Environmental Planning and Assessment Act 1979, Kempsey Local Environmental Plan 1987 and Development Control Plan 22, as well as the performance objectives and circumstances of the

proposed new dwelling; it is recommended that Council accept the SEPP 1 variation to the Kempsey Local Environmental Plan 1987 and minor variations to DCP 22 and approve the proposal subject to conditions.

Directors Comments

As the applicant is an acquaintance of the Director, the Director has excluded himself from any involvement in the processing of the application and this report has been prepared under the supervision of the Manager of Health and Building Services.

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***

That for the period of construction, the development will 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, Kempsey Local Environmental Plan 1987 and Development Control Plan 22- Local Housing Strategy.

RECOMMENDATION:

A That, Council supports the SEPP 1 variation to the Kempsey Local Environmental Plan 1987 and approve the proposed dwelling 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**

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Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.

- 3 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.**
- 4 The dwelling is not to be occupied prior to the issue of an Occupation / Interim Occupation Certificate by Council.**

An application for a certificate is enclosed. It is requested that it be completed and returned to Council prior to requesting an inspection. A minimum of 48 hours notice is necessary when requesting the inspection. Appointments will be made in accordance with the inspection program for that area.

- 5 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.

- 6 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.**
- 7 A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours.**
- 8 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.

- 9 All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Your attention is drawn to the following requirements of the Building Code of Australia.

- a Structural Engineer's Details for retaining walls, reinforced concrete slab and structural work is to be submitted prior to any work commencing on the building.
- b Protection is to be provided from subterranean termites. Council's Code of Practice outlines methods which may be used. Details of the proposed method or methods are to be submitted for approval prior to commencement of work and suitable certifications are to be submitted prior to the issue of an occupation certificate.
- c That the floor surface of the wet areas are properly graded and drained and the junctions of the floor with the walls are treated to prevent the penetration of moisture into the walls. An inspection of the treated area is to be arranged with Council or suitable certification is to be submitted prior to the issue of an occupation certificate.
- d The windows and glass installations within the building shall comply with AS 1288, Part 3.6 BCA Housing Provisions and AS2047. The applicant shall furnish Council with a report from the supplier upon completion of the window and glass installation indicating compliance with the requirements of AS1288 and AS2047.
- e Should the verandah, patio or landing exceed 1 metre in height above the ground then a suitable balustrade is to be provided to the verandah, patio or landing and steps for safety and convenience.

Such balustrade to conform with the requirements of the Building Code of Australia:-

- (1) D2.16
- (2) Part 3.9.1. and 3.9.2 of BCA Housing Provisions

Note: Spacing of rails not to exceed 125mm.

- f Riser and Going dimensions for stairs shall be in accordance with Clause D2.13 of the Building Code of Australia. In Class 1 and 10 buildings the following will apply:

Riser(R)		Going (G)		Quantity (2R + G)	
max	min	max	min	max	min
190	115	355	240	700	550

Note: Any openings between treads not to exceed 125mm.

- g Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.
- h Details of wall bracing to be carried out in accordance with Australian Standard 1684 - 1999 are to be submitted to Council prior to commencement of work.
- i Kitchen exhaust fans are to be ducted externally of the building or a recirculating hood type be provided.
- j Class 1(a) and 1(b) Buildings

An automatic fire detection and alarm system is to be installed in the building. Such system to conform with Specification E1.7 of the Building Code of Australia or be a smoke alarm system complying with AS 3786 or listed in the SSL Register of Accredited Products.

The system is to be provided with mains electrical power, have a stand by power supply and installed in each storey to comply with Clause E1.7 (N.S.W. Variation). Details of location of the units are to be provided for approval prior to installation.

- k** The walls immediately adjacent or behind a bath, basin, sink or trough, shall be finished to a height of not less than 300mm above the fixture or in the case of a shower, to a height of 1.8 metres above the floor with cement render ceramic tiles or other approved finish impervious to water.
 - l** The door to all fully enclosed sanitary compartments must open outwards, or slide, or be readily removable from the outside, in accordance with the requirements of the Building Code of Australia.
 - m** Any sarking used in the roof of the dwelling must have a flammability index not more than 5.
 - n** Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
 - o** Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
 - p** Australia Post has requirements in respect to the location and size of mail boxes. For example, for single residences the mail box should be placed at the junction of the footpath and driveway, and have the opening slot between 0.9 metres and 1.2 metres above ground. The local Postal Manager has information about mail boxes and advice should be sought in relation to the size and location of mail boxes.
 - q** It is suggested that the advice of Telstra should be sought in respect to wiring for telephone services.
- 10** A survey report is to be submitted on completion of the garage slab formwork to ensure that the ground floor level is at 28.0m AHD.
- 11** A survey report is to be submitted on completion of the building frame to ensure that the top plate at bedroom 5 is at or below 35.3m AHD and the remainder of the dwelling is at 35.6m AHD.

- 12 Basix Certificate 47792S requirements as indicated in red on the plans and specifications are to be complied with.
- 13 The hours of operation of the activity are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
- 14 Building materials are not to be stored within the road reserve or any other public place.
- 15 Excavated material from the site is not to be placed within the road reserve or any other public place.
- 16 Construction of a vehicular access from the road formation to the property boundary in accordance with Council's Standard for Access to Urban. Applicant is to consult Council's Sustainable Development Services Department for requirements before commencing construction.
- 17 Roofwaters are to be directed by means of sealed pipes to the street gutter. Details are to be provided with the plans for the required Construction Certificate.
- 18 No trees to be lopped or removed except in accordance with Council's Policy on Tree Preservation, and with the written consent of Council.
- 19 Runoff and soil erosion controls shall be installed in accordance with the approved Erosion Control prior to work commencing on the site. The controls shall incorporate:-
 - a diversion of uncontaminated up-site runoff around cleared and / or disturbed areas and areas to be cleared and / or disturbed.
 - b sediment control fences at the down-slope perimeter of the cleared and / or disturbed area to prevent unwanted sediment and other debris escaping from the land.
 - c maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.

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Protection of any kerb inlet pit located downstream of the site in accordance with Council's Engineering Guidelines for Subdivision and Development (Drawing No SW20).

Note:

- i. Any roof drainage system is to be connected to the required discharged point at the building frame inspection stage.
- ii. Any material spilled or deposited on the road reserve or in the gutter is to be removed immediately.

Critical stage inspections required for Class 1 and 10 buildings

1. At the commencement of building work
2. After excavation for, and prior to the placement of any footings
3. Prior to pouring any in situ reinforced concrete building element.
4. Prior to covering of the framework for any floor, wall, roof or other building element.
5. Prior to covering waterproofing in any wet areas.
6. After the building work has been completed and prior to any occupation certificate in relation to the building

Other inspections

1. Strip or pad footings
2. Slab/steel reinforcement
3. Retaining walls

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DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES