

## DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

13 June 2006

**DSDS4      PROPOSED RELOCATION OF DWELLING AND ERECTION OF DETACHED GARAGE WITH WATER TANK UNDER  
FILE: T6-06-20 DJW**

### SUMMARY:

Reporting that Council has received an application to relocate a single storey dwelling which is identified in Council's Heritage Study.



**Applicant:** Mr. E. Ball  
**Subject Property:** Existing – 25-27 Paragon Ave,  
 South West Rocks  
 Proposed -Lot 1, DP 807291, 12-14 Cooper Street, Spencerville  
**Zone:** 2(a) Residential "a" Zone

### Proposed Development

The proposal is to relocate an existing dwelling and erect a detached garage with water tank under

### 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(a) Residential Zone under Kempsey Local Environmental Plan 1987. The proposal is not contrary to any State Environmental Planning or North Coast Regional Environmental Plan 1988.

### DCP No 22 – Local Housing Strategy (DCP 22)

The proposal is required to comply with the following requirements of DCP No 22.

STANDARD	REQUIRED	PROPOSED	COMPLIANCE PERFORMAN	DEVELOPMENT STANDARD
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			<b>CE OBJECTIVE</b>	<b>YES/NO</b>
<b>Density Proposed</b>	600m <sup>2</sup>	1172m <sup>2</sup>	Yes	Yes
<b>Front Setbacks</b>	5m	6m	Yes	Yes
<b>Side Setback</b>	1.8m	5.9m & 6.5m	Yes	Yes
<b>Rear</b>	1.8m	< 1.8m	Yes	Yes
<b>Car Parking &amp; Access</b>	1 Covered space	2 Covered spaces	Yes	Yes
<b>Private Open Space</b>	25m <sup>2</sup>	> 25m <sup>2</sup>	Yes	Yes
<b>Landscaping</b>	195m <sup>2</sup>	> 195m <sup>2</sup>	Yes	Yes
<b>Height</b>	6.2m	< 6.2m	Yes	Yes
<b>Solar Access</b>	2hours between 9.00 & 3.00	> 2hours	Yes	Yes
<b>Privacy</b>	Visual Privacy to be ensured	Provided	Yes	Yes
<b>Cut and Fill</b>	Maximum 1.5m	None	Yes	Yes
<b>Erosion and Sediment Control</b>	Demonstrate control	To be provided with construction certificate	Yes	Yes

## Heritage Assessment

Whilst the subject property has heritage value the dwelling has had a number of alterations and additions carried out to its existing structure. This has been identified in Community Based Heritage Study, Councils Heritage advisor and the applicant. It is also noted the surrounding dwellings have been either modified or newly constructed.

The application to relocate the dwelling is worthy of Council's support, subject to the applicant being required to submit a historical / conservation report of the site and dwelling to the satisfaction of council. The report is to be recorded and placed in Council's libraries and a plaque is to be erected on site to the satisfaction of Council.

## Bush Fire

The application has been referred to the NSW Rural Fire Services on two occasions. In the first instance the building was required to be constructed in Level 3 Construction for Buildings in Bushfire Prone Areas. However, the applicant required the building to be constructed in level 'Low' Construction for Buildings in Bushfire Prone Areas to preserve the heritage fabric of the building. In order to do this the creation of an easement pursuant to section 88B of the Conveyancing Act 1919 is required.

As this requires a title restriction on a third party property and is therefore uncertain, any consent should be a "deferred commence" consent conditional upon the 88B instrument being registered.

## Public Exhibition

The proposal was advertised in accordance with Council's Policy with one (1) objection having been received, which is summarised as follows. [\(Appendix F\)](#)

Objection	Planning Comment
1 The removal of the building is very likely to result in the property being poorly maintained.	1 This can not be substantiated
2 Prior to any demolition / removal of the property a thorough investigation of the property into the historical value of the property be undertaken	2 See Heritage Assessment.

## 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 employment in the building industry.***

- **Economic**

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

- **Policy or Statutory**

*The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 197, Kempsey Local Environmental Plan 1987 and Development Control Plan 22-Local Housing Strategy.*

- **Directors Comment**

*Whilst the building has been identified as having Heritage significance, having regard to a recent Land and Environmental Court challenge, the identification of the building in the Heritage Study is insufficient grounds on which to base a refusal.*

#### **RECOMMENDATION:**

**A. That consent be granted subject to the following conditions:-**

**a) This is "deferred commencement" consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979. This consent shall not commence until the following matters have been satisfied:**

**(i) Kempsey Shire Council has been provided with documentation that a suitable restriction as to user has been created over adjoining Lot 2 DP 807291 to provide asset protection zone for the proposed dwelling. In order to achieve a low category of bushfire attack the minimum overall dimensions of the asset protection zone shall be 40metres, comprising an inner protection area of 30metres and an outer protection area of 10metres.**

**b) Upon the matters specific in Part A being satisfied, the development may be carried out subject to the following conditions.**

**1. The applicant shall provide a historical / conservation report of the site and dwelling to the satisfaction of council. The report is to be recorded and placed in council's libraries and a plaque is to be erected on site**

to the satisfaction of council prior to the release of the Construction Certificate.

2. 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.
3. 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.
4. 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.
5. A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
6. 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.
7. The dwelling and demolition of existing 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.

8. The following inspections are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.
9. 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:-

- (i) Install or alter existing septic system.
  - (ii) Carrying out storm water drainage work.
10. 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.

11. 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.
12. 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.
13. 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 78I requires that the toilet must be provided before any work is commenced.

14. 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) 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.

- b) 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.
- c) 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:-

- Part 3.9.1. and 3.9.2 of BCA Housing Provisions

Note: Spacing of rails not to exceed 125mm.

- d) 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.

- e) Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.
- f) 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.
- g) Kitchen exhaust fans are to be ducted externally of the building or a recirculating hood type be provided.
- h) 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.

- i) All glass in shower doors, shower screens, bath enclosures and associated windows (the lowest sight line of which is less than 1500mm above the floor or bottom of the bath or shower base) shall be Grade A Safety Glass.
  - j) 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.
  - k) Any sarking used in the roof of the dwelling must have a flammability index not more than 5.
  - l) Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
  - m) Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
- 15 A Survey Report is to be submitted on completion of floor framework to ensure the location of the building is in accordance with the approval issued.
- 16 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.
- 17 Construction of a vehicular access from the road formation to the property boundary in accordance with Council's Standard for Access to Urban Properties. Applicant is to consult Mr Tony Castle of Council's Environmental Services Department for requirements before commencing construction.

- 18 Roof waters 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.
- 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 upsite runoff around cleared and / or disturbed areas and areas to be cleared and / or disturbed.
  - b) sediment control fences at the downslope 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.

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.
- 20. The entire property shall be managed as an Inner Protection Area as outlined within section 4.2.2. in Planning for Bushfire Protection 2001.
  - 21. Provide three (3) copies of Architectural Drawings with recommendations of Rural Fire Services in correspondence dated 13<sup>th</sup> April 2006.

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

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**R B Pitt**  
**DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES**