

## **DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT**

14th November 2006

<b>DSDS7</b>	<b>PROPOSED ALTERATIONS AND ADDITIONS TO AN EXISTING TWO (2) STOREY DWELLING FILE: T6-06-166 DJW</b>
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### **SUMMARY:**

Reporting that Council has received a Development Application for alterations and additions to an existing two storey dwelling for which objections have been received.

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**Applicant:** Mr Allan Rudge Architects  
**Subject Property:** Lot 3 DP 758302 No 56 Dulconghi Street  
Crescent Head  
**Zone:** 2 (a) (Residential "A" Zone)

### **Proposed Development**

The site contains an existing two storey dwelling situated on the eastern side of Dulconghi Street. The front boundary width is 26.994m with a site area of 776.9m<sup>2</sup>. The land is very steep and falls to the north 9metres over a distance of approximately 36.576 metres, i.e. a slope of 25%. The slope of the site on footprint of the proposed building work is 24%. [\(Appendix G\)](#)

The proposal is to build alterations and additions to an existing two storey dwelling on the subject allotment.

### **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 Environment Plan 1987(KLEP)**

The proposed may be defined as 'dwelling house' and is permissible with consent in the 2(a) Residential "A" zone under Kempsey Local Environmental Plan 1987.

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

## **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. [\(Appendix H\)](#)

- 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 located a substantial distance from any coastal foreshore and will not interfere with any public access to the foreshore.
- c. As the site is not located adjacent to any foreshore there is no requirement to enhance any existing public access.
- d. See comments in body of the report on suitability of the development in the locality.
- 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. The development will not detract from the scenic qualities of the New South Wales Coast line.
- g. The site will require minimal clearing therefore having minimal impact upon threatened species of flora and fauna.
- h. There will be no direct impacts on marine ecosystems.
- i. The lot is situated within an existing subdivision. There will be no impact upon any wildlife corridor.
- j. There is no perceived impacts, upon coastal process
- k. The site has no foreshore frontage so conflict between land and water based activities will not result from this development
- l. Measures to protect the cultural places, values, customs, beliefs and traditional knowledge of aboriginals have been considered.
- m. The applicant is required to treat storm water on site to an acceptable level to minimise impacts on coastal water bodies.

- n. There are no issues related to the conservation and preservation of items of heritage, archaeological or historic significant

## NSW Coastal Policy 1997

The design and locational principles as set out in Strategic Action 3.2.7 table 3 of NSW Coastal Policy have been incorporated in DCP Crescent Head. The proposal is considered to be consistent with the principal which seeks to ensure that buildings are consistent with the height and scale of existing development.

### Building Height

Building heights within various residential and commercial zones are controlled by Clauses 24 and 25 of Kempsey Local Environmental Plan 1987. In respect to residential zones, buildings are restricted to two (2) storeys with a topmost ceiling level of not more than 6.2 metres above natural ground level unless the topography of the site makes it impractical to comply.

Council's Height of Buildings Policy sets out the circumstances under which Council will consider compliance to be impractical. Council's Policy provides that it is impractical to comply with the 6.2 metre height limit where slopes exceed 10% within the footprint of the building provided the ceiling height is not more than 7.2 metres with an overall ridge height of 9.2metres. The proposed ceiling height is 6.2 metres with an overall ridge height of 6.6 metres together with a retractable sun shade height of 7.90 metres. (See Protection of Views)

## DCP Crescent Head - Local Housing Strategy

The proposal has been assessed under the requirements of DCP Crescent Head. The location of the proposal is contained within a defined low density area for which single dwellings only are permitted.

An assessment of the proposal against the relevant requirements of DCP Crescent Head may be summarised as follows:

STANDARD	REQUIRED	PROPOSED	DEVELOPMENT STANDARD YES/NO	COMPLIANCE PERFORMANCE OBJECTIVE
<b>Density Proposed</b>	500m <sup>2</sup>	776.9m <sup>2</sup>	YES	YES
<b>Front Setbacks</b>	5m	5m	YES	YES
<b>Side Setback</b>	0.9m,1.5m & 2m	Eastern side 1.5m	YES	YES

		Western side 2.419m & 2.772m	YES	YES
<b>Rear</b>	1.5m	> 1.5m	YES	YES
<b>Car Parking &amp; Access</b>	2 covered spaces and two stacked spaces	2covered spaces & two stacked spaces	YES	YES
<b>Private Open Space</b>	25m <sup>2</sup>	>25m <sup>2</sup>	YES	YES
<b>Safety in Design</b>	Comply with the NSW Department of Planning's document Crime Prevention and the Assessment OF Development Application Guidelines.	Complies with surveillance and access control.	YES	YES
<b>Landscaping</b>	165m <sup>2</sup>	>165m <sup>2</sup>	YES	YES
<b>Height Existing two storey dwelling</b>	7.2m	< 7.2m	YES	YES
<b>Solar Access</b>	2hrs Between 9.00am & 3.00pm	>2hrs	YES	YES
<b>Visual Privacy</b>	Minimal loss of Privacy	Screens to be provided	YES	YES*
<b>Cut and Fill</b>	1.5m	1.5m	YES	YES
<b>Landscaping</b>	165m <sup>2</sup>	>165m <sup>2</sup>	YES – to be conditioned and provided with the Construction Certificate	YES
<b>Views</b>	Compliance with Planning Principles for	Does meet the principles	YES	YES*

	assessment of view sharing			
<b>Erosion and Sediment Control</b>	Demonstrate control	To be provided with construction Certificate	YES	YES

\*See comment

## Loss of Privacy

DCP Crescent Head requires visual privacy between proposed and existing adjoining dwellings to be ensured. Overlooking of living spaces in buildings and private open spaces is to be avoided.

The proposed dwelling additions have the potential to cause a loss of privacy to the private open space of No 54 Dulconghi Street Crescent Head from the proposed decks and the living room windows situated on the Eastern elevation.

The applicant proposes 1.5m high privacy screens to the balconies located on the Eastern side boundary. The applicant has also prepared a site analysis of the loss of privacy from the first floor windows. The analysis shows that a sill height of 450mm will minimise the visual Loss of Privacy to the yard of the adjoining property. The applicant also proposes to provide a screen to the north terrace windows to reduce any visual impact from this area.

[\(Appendix D\)](#)

## Protection of Views

DCP Crescent Head provides principles to be applied to applications to determine the impact of the development on the views enjoyed by adjoining properties:

### Step 1

#### Where views will be affected:

*"Water views are more valuable than land views."*

*"Whole views are valued more highly than partial views."*

The proposal will result in a loss of views of the Little Nobby

### Step 2

#### Where are views obtained from?

*"Views across side boundaries cannot be protected by unreasonable requirements."*

*"Views from sitting positions can not be protected by unreasonable requirements".*

The dwelling at No 58 has been designed to take advantage of the primary views to the north/east across the side boundary.

### Step 3

#### Where is the impact?

*"Views from living areas and kitchens are more important than from bedrooms and service areas."*

The losses of views are from the living and deck area

*"Assess view loss in qualitative terms - The loss would be Minor."*

### Step 4

#### Is the proposal reasonable?

*"Does the proposal comply with other controls in this DCP?"*

The proposal complies with other controls in the DCP Crescent Head.

*"If it does comply would a more clever design provide the same development potential and amenity and reduce the impact on views? If not, impact probably considered as capable and view sharing reasonable"*

It is considered the minor reduction of the views of Little Nobby and the foreshore caused by the building's living rooms northern external wall and roof construction meet the Principal of Protection of views setout in DCP Crescent Head.

It is further considered any further building redesign will require a major structural engineering design to support the first floor northern external wall. It would be unreasonable to require the applicant to redesign the building to reduce the minor loss of Little Nobby and foreshore view however the retractable sail awning will impact on the views of Little Nobby and the foreshore. It is considered the impact is acceptable and view sharing reasonable subject to the removal of the retractable sail awning

### Applicant's Submission

The applicant has provided supporting documentation [\(Appendix J part 1, part 2\)](#) asserting that the impacts on views are acceptable and any further reductions to protect side views is unreasonable.

### Summary of Applicants Submission

#### Loss of Views

We refer to our recent discussions concerning the effect of our proposed development on the neighbour to either side our clients property. The view from this existing deck is directly across our side boundary 1/3 of the framed view is obscured by foliage from trees on our site.

From our early site investigation/analysis we determined to locate the bulkier higher section of our addition behind a line drawn diagonally across the existing metal roof of our clients existing house. The basic premise has been strictly adhered to throughout the design process as demonstrated on drawing DA05/D. This way the neighbours view across our side boundary will not be affected detrimentally.

## Comments

The proposal meets the Principal of Protection of Views as setout in DCP Crescent Head subject to the removal of the retractable sail awning from the first living room deck.

## Loss of Visual Privacy

Although our proposal complies with required set-backs from the North-east boundary, we previously sought to remove and /or thin the existing dense foliage along this boundary. Ideally, our clients wish to maintain and enhance this visual barrier/sun-shade device; however, for the construction of steps, paths and the construction of the renovations in general, it may be necessary to remove at least one paper-bark tree and to prune some branches of trees leaning towards our proposed structure.

With the exception of the rear BBQ deck and terrace, we have three (3) elevated areas from which there exists the potential to over-look the neighbour's level terraced area. The right-hand section of this deck is to be enclosed, forming an ensuite bathroom to Bed 4.

## North Deck

A new deck extending 3.9m (max) to the left is proposed, seeking to capitalise on the northern sun and northern ocean view. The neighbour's house is currently screened by exotic shrubs which will be further enhanced and identified by the proposed 5.0m high landscaping.

## East Deck

East deck is to be now located 1800 back from the metal mesh fence on the boundary. Here we have amended the boundary set-back from the originally-proposed 1.0m. By now keeping this deck vertical alignment with the living room above, will increase the set-back to 1.8m, allowing for a 1.0m-wide path and 800mm of existing landscaping along the boundary. The paper-bark tree shown in the plate 4 should now be preserved, albeit with pruning of the branches leaning towards our new structure. As can be seen from plate 4, the existing foliage is dense enough to prevent overlooking.

## Living Room/Kitchen and Associated North Terrace

A sill height of 450mm is now proposed for both the living room east windows as well as the north terrace, as a seating arrangement similar to that to the living room is most likely to be employed here as will.

## Comments

The development application has been conditioned to provide 1.5m high screening to the decks and a 450mm sill to the living room and north terrace windows.

## **Bush Fire Prone Area**

The application was referred to the NSW Rural Fire Services for consideration. The NSW Rural Fire Services assessed the proposed additions/alterations to the dwelling as requiring Level 3 Construction complying with AS 3959-1999 and provided advice that the development should have additional conditions. The conditions have been incorporated into the recommended development consent.

## **Section 79C (1) (e) - ADVERTISING**

The proposal was advertised in accordance with Council's Policy with two (2) objections received. The grounds for objections may be summarised as follows: [\(Appendix K\)](#)

<b>Objection</b>	<b>Planning Comment</b>
1 Light and ventilation to eastern windows will be affected	1 Setbacks and solar access comply with DCP Crescent Head
2 The windows on the extension of the southern elevation will look straight into our pool and open space area	2 The windows on the southern elevation consist of dormer windows and windows located above ground level. Privacy Screens and landscaping will reduce impact on the adjoining property.
3 View obstruction Spent \$80000 on decking to obtain views after having our building additions objected to by neighbours due to their view being obstructed. We find the roof heights in the present form we will lose a large amount	3 See "Protection of Views"

	of views of Little Nobby, golf course and the sea. Hopefully with consultation and amendments this can be overcome	
4	Loss of Trees.	4 Tree removal will comply with Tree Preservation Order requirements.
5	Precedent set at 14 Korogora Street. Applicant required to lower building 2metres to retain view	5 Check of Council's records reveals building complied with councils policy
6	The lower balcony comes forward to the point, where the balcony will have direct view into our lounge room and therefore the balcony needs to be reduced or angled to the west	6 The balconies and windows would look directly into the rear of the adjoining property if they were not screened See "Loss of Privacy"
7	Is this building to be a single dwelling, or will it be converted to a Dual Occupancy. Currently when 19 Dulconghi is rented, there have been up to 10 vehicles parked	7 The proposed building complies with LEP 1987 and DCP Crescent Head as a single dwelling

### ***Report Implications:***

- ***Environmental***

***From the information supplied to council, it is not anticipated that there will be any adverse environmental impacts from the proposed new alterations and additions to the existing dwelling.***

- ***Social***

***That for the period of construction, the development will provide employment for local tradespeople and others employed in the building.***

- ***Economic (Financial)***

***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 1979, Kempsey Local Environmental Plan 1987 and Development Control Plan Crescent Head*

**RECOMMENDATION:**

**Director Sustainable Development Services recommendation:**

**A That Development Application T6-06-166 be approved subject to the following conditions:-**

- 1. The applicant is to nominate the haulage route for disposal of overburden, including where it is proposed to place the material and submit details to council prior to release of the Construction Certificate.**
- 2. A longitudinal section of the driveway complying with AS/NZS 2890.1.2004 shall be submitted to council prior to release of the construction certificate**
- 3. A schedule of finishes for the low tone non reflective finishes of the proposed buildings roof and external façade including the fence shall be submitted to council prior to the release of the Construction Certificate.**
- 4. A site plan indicating the dwelling additions setback 5m from the primary building line shall be submitted with the Construction Certificate.**
- 5. Details of erosion control are to be submitted, approved and to be installed prior to commencing on site works.**
- 6. The Design Engineer is to supervise the excavation works.**
- 7. 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.**
- 8. 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.**

9. 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.
10. The dwelling is not to be occupied prior to the issue of an Occupation/Interim Occupation Certificate by Council.
11. 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.
12. 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.
13. A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.

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.

14. 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.
15. 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.

16. 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.
17. 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 steel work is to be submitted prior to the issue of the construction certificate.
- b) Geotechnical Engineer's report shall be submitted to council for the excavation prior top issue of the construction certificate.
- c) 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.
- d) 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.
- e) 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.

f) 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

(g) Part 3.9.1. and 3.9.2 of BCA Housing Provisions of the Building Code of Australia.

Note: Spacing of rails not to exceed 125mm.

(h) 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.

(i) Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.

(j) 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.

(k) Kitchen exhaust fans are to be ducted externally of the building or a recirculation hood type be provided.

(l) 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.

- (m) 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.
  - (n) 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.
  - (o) Any sarking used in the roof of the dwelling must have a flammability index not more than 5.
  - (p) Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
  - (q) Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
18. The dwelling shall be constructed to include all the energy efficiency requirements contained within the single residence scorecard. The requirements shall be indicated on the architectural drawings and shall be submitted prior to release of the Construction Certificate.
19. 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.
20. 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.

21. 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.
22. 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.

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.
23. Survey Certificate is to be submitted upon completion of the slab formwork to ensure that the ground floor's finished floor height is at or below RL 59.46 metres A.H.D.
  24. A survey certificate prepared by a registered surveyor being submitted to Council to verify the

siting of the building in relation to adjacent boundaries, and work is not to proceed beyond that stage until a written release has been given by Council. The survey is to be submitted at completion of floor slab formwork before concrete is poured.

25. Submit engineering details of the pre- treatment storm water disposal system prior to issue of the Construction Certificate.
26. 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.
27. Construction shall comply with AS3959-1999 level 3 'Construction of Buildings in bushfire prone areas'. Details to be provided on the architectural drawings prior to the release of the Construction Certificate.
28. The entire property shall be managed as an 'Inner Protection Area' as outlined within Section 4.2.2 in Planning for Bushfire Protection 2001.
29. Access to the rear of the property shall be providing for fire fighting purposes.
30. All fencing shall be constructed from non-combustible materials.
31. Provide amended plans indicating suitable screens to minimum height of 1.5m on the outer edge to the balconies on the eastern elevations of the proposed additions to provide privacy to adjoining dwelling prior to release of the Construction Certificate.
32. Provide amended plans indicating 460mm sills to living room and north terrace windows prior to release of the Construction Certificate.
33. The plans for the require Construction Certificate are to indicate deletion the retractable sail awning deleted.

**B** That the objectors be advised of Councils decision.

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