



## DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

13 March 2007

**DSDS4 PROPOSED REZONING LOT14 DP1069003 NO.80-114  
MACLEAY STREET FREDERICKTON - SENIORS LIVING  
FACILITY  
FILE: T5-91 GAN {Folio No. \*}**

### SUMMARY:

Reporting that Council has received an application to rezone land to 2(a) residential to permit the applicant to submit a development application for Stage 2 of the Seniors Living facility at Macleay St Frederickton.

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**Applicant:** ERM on behalf of Thompson Health Care  
**Subject Property:** Lot 14 DP1069003 80-114 Macleay Street  
 Frederickton  
**Zone:** 1(d); 2(v)

### DESCRIPTION:

The site, Lot 14 DP1069003 is located on the southern side of Macleay Street (Pacific Highway) at Frederickton. It is a rectangular shaped allotment approximately 13.25ha in size. [\(Appendix R – Page G43\)](#)

A development application for a 130 Bed Residential Care Facility and two (2) bedroom staff residence was approved on this site in December 2006 (T6-06-313). This application represents Stage 1 of a larger development proposed for the site.

Stage 2, which will be subject to a future application, is for self contained dwellings. These dwellings were presented in concept form within the stage 1 development application.

Given restrictions under the current zoning and State Environmental Planning Policies Seniors Living, Stage 2 requires an amendment to Council's Local Environmental Plan in order permit these dwellings on the site.

A rezoning application was submitted in 2004 by the previous owners to rezone the site from 1(d) to 2(a) (T5-91) which, upon sale of the land was not pursued. To proceed to amend Kempsey Local Environmental Plan and thus apply for Stage 2 of the Seniors Living facility, the applicant has provided the following information in support of the application. [\(Appendix S, part 1, part 2, part 3, part 4, part 5, part 6, part 7 – Page G44\)](#):

- Flood Impact Statement (Webb McKeown & Associates);
- Stormwater Management Strategy (ERM);
- Traffic Impact Assessment (Roadnet).

The above documents were submitted with the recently approved development application for Stage 1 which addressed both stages of the development. It is noted that the other technical documents submitted with the Stage 1 Development Application are available should they be requested.

## **Kempsey Local Environmental Plan 1987**

### Zone Objectives

The site is currently zoned 1(d) (Rural Investigation) D Zone and 2(v) (Village or Township Zone). The objectives of the predominant 1(d) zone are:

- a) to provide for the future expansion of Kempsey Shires Population;
- b) to ensure that such land is not subject to excessive capital investment; and
- c) to enable a thorough investigation of land prior to the release for development.

The self care units as proposed for Stage 2 of this development are currently prohibited.

### **Proposed Zoning**

The proposed rezoning will result in a split zone, 2(a) residential being located in the higher elevated portions of the site and rural for the remainder of the site. ([Appendix I – Page G114](#))

The zoning will generally follow the existing 1 in 100 year flood level however it does encroach on a small area of flood prone land ([Appendix I – Page G114](#)). This area is proposed to be filled to a level of 6.7m (ranging from approximately 1-2.5m in depth). According to Kempsey Local Environmental Plan 1987 and the Flood Risk Management Policy filling in flood prone area can be undertaken only if Council is satisfied that the placing of the fill will not have adverse environmental impact, will have minimal effect on the normal flood pattern and have no adverse impacts on adjoining land.

A flood impact assessment prepared by Web McKeown and Associates has indicated that this filling would not have a significant effect on the Macleay River floodplain levels or flood storage.

The Flood Risk Management Policy also identifies that if filing is to be considered within the flood prone area it shall not exceed 1m. The proposal is likely to be inconsistent with this portion of Council's Policy, however this would be assessed in more detail upon receipt of an application for this area.

The proposed 2(a) zone will allow an application to be submitted for Stage 2 of the Seniors Living Facility (self care duplexes and community buildings).

### **Justification for Rezoning**

Council's current residential release strategy indicates that Frederickton has an adequate supply of residential and village zone land for an expected 20 year demand. Therefore Council does not have a strategy in place to support the proposed rezoning. *The NSW Department of Planning are reluctant to support site specific spot rezoning, however in this case it is submitted that there are significant economic and social benefits that will result from the proposal and these benefits are consistent with the following state, regional and local policies:*

## **Commonwealth/National Strategies**

National Strategy for an Ageing Australia (2001) – this strategy identified a need to cater for an ageing population through the provision of a variety of housing choices with access to services. The proposal is consistent with this strategy

## **State Policies**

Stronger Together: A new direction for disability services in NSW 2006-2016 (NSW department of Ageing, Disability and Home Care) – the proposed rezoning will allow for development which is consistent with this strategy, in that it will allow for a range of different dwellings to cater varying needs of individuals and be developed in accordance with the relevant standards.

SEPP Seniors Living – this SEPP repealed SEPP 5 which governed seniors living development in the past. SEPP 5 would have permitted the proposed stage 2 without requiring this rezoning. In accordance with SEPP Seniors Living in accordance with the proposed rezoning will allow a future development application to be submitted. The concept of the future development for the site is consistent with the aims of this SEPP.

SEPP 44 Koala Habitat Protection – the application for stage 1 determined that the site contains no potential Koala Habitat.

NSW Rural Fires Act 1997 – the site is not bushfire prone land.

NSW Threatened Species Conservation Act 1995 – the stage 1 application did not detect the presence of any threatened species, populations, or communities on the site. It is unlikely the proposed rezoning would result in a significant impact on any threatened species.

## **Regional and Local Policies**

North Coast Regional Environmental Plan – the proposed rezoning is consistent with the objectives of the REP in that it will provide for a range of adequate, affordable and suitable housing to meet the needs of the region's Population.

The proposed rezoning is inconsistent with the REP objectives because the proposed rezoning has not originated from a strategy and it requires the rezoning of flood prone land to Residential zoned land.

117 Direction no. 1 Acid Sulphate Soils – acid sulphate soils are likely to occur within the southern portion of the site. In accordance with this direction an

acid sulphate soils management plan has been prepared for the site (Coffey, 2006).

117 Direction no. 15 Flood Prone Land – this direction indicates that Council shall not rezone flood prone land from rural to residential as is proposed in this instance. The applicant has justified this via the provision of a flood assessment report indicating that the proposal is unlikely to have an impact on flood storage or flows in the locality.

The final location of the zone boundary between residential and rural zone will be determined by Council and the Department of Planning.

117 Direction no. 21 Residential Zones – the proposed rezoning is consistent with this direction. It is adequately serviced and provides for a variety of housing forms.

117 Direction no. 22 Rural Zones - this direction indicates that land shall not be rezoned from rural to residential purposes unless:

- The land has been identified in a strategy approved by Council and the Director General;
- The rezoning is justified by an Environmental Study;
- The rezoning is in accordance with the relevant regional strategy prepared by the Department;
- The rezoning is in the opinion of the Director General, of minor significance;

Given that the site is surrounded on (3) sides, by existing urban areas and the future development will comprise of an aged care facility and self contained dwellings of a lesser density than surrounding locality the applicant is of the opinion that the rezoning is of minor significance.

Kempsey Shire Council Social Plan - demand for senior living accommodation is expected to increase in the near future. Council's Social Plan has addressed this to some extent. Goal 6 Of Council's Social Plan is to provide adequate affordable housing and a primary strategy is to encourage retirement village development. The proposed rezoning will allow stage 2 of the proposed seniors living facility in Frederickton to be submitted and assessed in accordance with the Environmental Planning and Assessment Act 1979. The proposed rezoning is consistent with this local policy.

## **Planning Comments**

The proposal does not reflect the recommendations of a strategy and is inconsistent with state and regional policies regarding flood prone land. However the proposed rezoning is consistent with the remainder of state and regional policies. The social and economic benefits of the proposal for the local community are significant.

The draft LEP will be prepared in consultation with appropriate government authorities and the final boundary of the Rural/Residential land will be

identified through this process. Any inconsistencies will be addressed through this process and either accepted or amended as appropriate.

## **REPORT IMPLICATIONS:**

- ***Environmental***

*The proposed rezoning will allow for an increased density of development to occur on the site in comparison to what could be approved in its current zone. Impacts associated with increased density are numerous however these impacts can be managed through controls and standards.*

*The Local Environmental Plan amendment will eliminate grazing from the majority of the site and any future development of the site can be controlled through conditions of consent. Stage 1 of the Seniors Living Facility has already been approved subject to strong landscaping, revegetation and stormwater management conditions.*

*Amending the zone of the land to residential is not expected to result in a significant environmental impact.*

- ***Social***

*The intent of the 1(d) zone is to provide for future urban areas subject to appropriate investigations. The proposal has investigated those aspects of the site and locality which represented potential constraints to future rezoning from an environmental and social perspective. The results of these investigations indicate that detrimental impacts to social and environmental aspects of the locality are unlikely.*

- ***Economic (Financial)***

*The proposed rezoning will bring employment opportunities to the shire with both construction and operational stages of any future development.*

- ***Policy or Statutory***

*With the current zone, Stage 2 of the seniors living development on the site is not permitted due to the Kempsey Local Environmental Plan 1987 and State Environmental Planning Policies Seniors Living. The amendment to the Local Environmental Plan will allow stage 2 of the proposal to proceed subject to development approval.*

*Section 54 of the Environmental Planning and Assessment Act 1979 considerations requires Council to resolve to support the Local Environmental Plan amendment in order for Council to forward the proposal to the Department of Planning.*

*Pursuant with Section 62 of the Environmental Planning and Assessment Act 1979 Consultation shall be undertaken with the NSW Roads and Traffic Authority; Department of Natural Resources; Department of Primary Resources; and any other authority as advised by the Department of Planning.*

**RECOMMENDATION:**

1. That, in accordance with Section 54 of the Environmental Planning and Assessment Act, Council prepare a draft Local Environmental Plan to rezone Lot 14 DP1069003 Macleay Street, Frederickton to Zone No 2(a) Residential General and another appropriate zone.
2. That the Local Environmental Plan Review Panel be notified of Council's decision.

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