



## DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

13<sup>th</sup> November 2007

<b>DSDS11</b>	<b>REMOVAL OF EXISTING DWELLING AND ERECTION OF NEW DWELLING</b>	<b>{Folio No. *}</b>
	<b>FILE: T6-07-199 BTC</b>	

### SUMMARY:

Reporting that Council has received an application for the removal of an existing dwelling and construction of a new three storey dwelling which requires the support of a State Environmental Planning Policy 1 Objection and for which two objections have been received.

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### DESCRIPTION:

**Applicant:** R Short  
**Subject Property:** Lot 152 DP 754441 No 2 May Street, CRESCENT HEAD  
**Zone:** 2(a) (Residential "A" Zone)

### Proposed Development

The site contains an existing dwelling which is to be removed. The front boundary width is 15.99 with a site area of 385.7m<sup>2</sup>. The land falls across the block from the east to the west 2.5metres i.e. a slope of 9.9%.

The proposal is to erect a three storey dwelling on the subject allotment.  
[\(Appendix E – Page G31\)](#)

### 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.

### Kempsey Local Environment Plan 1987 (KLEP)

The proposed maybe defined as "dwelling house" and is permissible with consent in the 2(a) residential "A" zone under Kempsey Environmental Plan 1987.

The proposal is not contrary to the North Coast Regional Environmental Plan.

## **Building Height**

The 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 top plate ceiling level of not more than 6.2 metres above natural ground level unless the topography of the site makes compliance extremely difficult.

The Proposal is for the lower two storeys to have a natural ground level to top plate of 6.02m. As the slope is less than 10%, Council's Building Heights Policy allows for a maximum of 6.2m. Council's Policy allows for a rise of 2 metres from the top plate to the top of the roof (i.e. 8.2metres).

The applicant is seeking approval for the erection of a three-storey dwelling by incorporating a third storey within the roof cavity with of height 8.02m which is less than maximum height limit of 8.2m.

## **State Environmental Planning Policy 1 Objection (SEPP1)**

The dwelling application has been accompanied with a SEPP 1 objection objecting to the 2 storey height limit and may be summarised as follows: - [\(Appendix F – Page G32\)](#)

This statement serves as a formal objection to Clause 24(1) of Kempsey LEP1987. It is submitted that the circumstances of this particular development render compliance with the development standard as unreasonable and unnecessary for the following reasons.

1. The attic store which is contained within the roof space creates the third storey.
2. With the exception of the attic store area contained within the roof space the dwelling will comply with the maximum height requirements as detailed in Council's Policy.
3. The attic store will be used for storage of furniture for use when family and friends come to stay in the dwelling.
4. The only visible evidence of the third storey will be dormer windows in the northern and southern roof area which have been designed in a way to be complementary to the scale and size of the proposed roof and the proportions of the whole dwelling.

## **Planning Comments**

The dwelling has been architecturally designed and to provide minimal impact on the streetscape and adjoining neighbourhood.

The dwelling's natural ground to top plate and ridge height limit of 6.2 meters and 8.2m have been met. The third storey is encapsulated within the roof space area and dormer windows enhance the roof facade.

A site analysis has been carried out which demonstrates minimal impacts on the adjoining neighbours and streetscape.

Approximately half the proposed dwelling's side elevations will be that of a single storey dwelling i.e. height of 5m or less when view from the adjoining properties. [\(Appendix G – Page G36\)](#)

## **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. [\(Appendix H – Page G38\)](#)

- 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 are 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 location 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.

## 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 medium density area.

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>Front Setbacks</b>	5m	5m	yes	yes
<b>Side Setback</b>	1.5m & 3m	Northern side 3.0m Southern side 1.875m	Yes Yes	yes yes
<b>Rear</b>	1.8m	> 1.8m	yes	yes
<b>Car Parking &amp; Access</b>	1 covered paces and 1 visitor space	2 covered spaces & two visitor 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>	115m <sup>2</sup>	>170m <sup>2</sup>	yes	yes
<b>Height</b>	6.2m	6.2m	yes	yes
<b>Solar Access</b>	2hrs Between 9.00am & 3.00pm	>2hrs	yes	yes
<b>Visual Privacy</b>	Minimal loss of Privacy	Minimal loss of Privacy	yes	yes

<b>Cut and Fill</b>	1.5m	1.97m	Yes	yes*
<b>Landscaping</b>	115m <sup>2</sup>	>115m <sup>2</sup>	yes	yes
<b>Views</b>	Compliance with Planning Principles for assessment of view sharing	Does meet the principles	yes	yes*
<b>Erosion and Sediment Control</b>	Demonstrate control	To be provided with construction Certificate	yes	yes
<b>Density Proposed</b>	Large 330m <sup>2</sup>	385.7m <sup>2</sup>	yes	yes

\*see comment [\(Appendix I – Page G40\)](#)

### Cut and Fill

The applicant proposes to provide a 1.97 cut and retain the area with the external wall of the dwelling. DCP Crescent Head provides that a retaining wall may exceed 1.5 metres if internal or under proposed house.

It is considered that the applicant has demonstrated that compliance will be achieved as: -

1. The cut area will not be visually evident externally when the building is completed.
2. The cut area will not have any adverse impact on the adjoining neighbourhood or streetscape.
3. The cut area is to be certified and retaining wall designed by an Engineer.

### 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 proposed dwelling will result in a minor loss of water views from surrounding dwellings however the dwelling at No. 4 May Street has no windows in the wall facing the proposed dwelling.

#### 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."*

"Views across front or rear boundaries from standing position should be protected to a reasonable extent."

These views are substantially unaffected by the proposed dwelling.

### Step 3

#### Where is the impact?

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

These views are substantially unaffected by the proposed dwelling.

*"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 DCP Crescent Head.

*"If it does not 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"*

The minor reduction of the views is considered reasonable in this instance and view sharing reasonable. [\(Appendix I – Page G40\)](#)

### Public Exhibition

The proposal was advertised in accordance with Council's Policy, with (2) objections having been received which may be summarised as follows:

[\(Appendix J – Page G42\)](#)

Objection	Planning Comment
1. The proposed dwelling will block the views of all residences behind the property.	1. See protection of Views
2. The land component of the property would not support the proposed development.	2. The proposed development satisfies Council's DCP Crescent Head Medium Density Control requirements.
3. The development proposal contravenes SEPP1.	3. See SEPP1 submission and comments. <a href="#">(Appendix F – Page G32)</a>
4. The proposed development does not suit the character of neighbouring properties in Crescent Head.	4. The proposed development with its open verandas and extensive landscaping complies with Council's DCP Crescent Head requirements for Building

	Character and Design
5. The existing property is very quaint and should be preserved for heritage reasons.	5. The existing fibro clad dwelling has not been identified in the Heritage Study as having heritage value.
6. The proposed development would adversely affect the safety of traffic using Killick Lane and Rankine Street.	6. There exists a 4 metre wide road reserve on Rankine Street. The proposed landscaping on the corner of Rankine Street and Killick Lane will be conditioned to provide adequate line of sight for vehicles leaving Killick Lane into Rankine Street.
7. The flue on the south west area of the roof may allow smoke to pollute our living room and sleeping areas.	7. The flue has been removed from the proposed 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 Dual Occupancy.*

- **Social**

*That for the period of construction, the development will provide employment for local trades people 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:**

**A. That Development Application T6-07-199 is approved subject to standard conditions:-**

- 1. 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.**

2. 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.
3. The dwelling is not to be occupied prior to the issue of an Occupation / Interim Occupation Certificate by Council.
4. 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. 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.
6. 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.

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) Carry out water supply
  - b) Carry out sewerage work
  - c) Carry out storm water drainage work
7. 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.

8. The cut excavation is not to exceed 1.97m in depth.
9. The Design Engineer is to supervise the excavation works.
10. 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.
11. 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.
12. 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 to 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 veranda, patio or landing exceed 1 metre in height above the ground then a suitable balustrade is to be provided to the veranda, patio or landing and steps for safety and convenience. Such balustrade to conform with the requirements of

(1) 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.

- g) 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:

(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.

- h) Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.
- i) 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.
- j) Kitchen exhaust fans are to be ducted externally of the building or a recirculation hood type be provided.
- k) 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 E2.2a 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 E2.2a (N.S.W. Variation). Details of location of the units are to be provided for approval prior to installation.

- l) 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.
  - m) 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.
  - n) Any sarking used in the roof of the dwelling must have a flammability index not more than 5.
  - o) Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
  - p) Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
  - q) Submit amended plans prior to release of the construction certificate indicating the fire separation complying with Part 3.7 of Volume 2 of the BCA.
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. 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.

#### Treatment of Stormwater

15. 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.
16. 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.
17. 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 9.02 metres A.H.D.
  18. Survey Certificate is to be submitted upon completion of the roof framing to ensure the top plate is at or below 14.82 metres AHD and the ridge is at or below 16.62m AHD.
  19. 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.
  20. Submit engineering details of the pre- treatment storm water disposal system prior to issue of the Construction Certificate
  21. Insulation in a building must comply with the National BCA provision 3.12.1.1
    - The sealing of a building must comply with the National BCA provision 3.12.3.0 to 3.12.3.5
    - Building Services must comply with the National BCA provisions 3.12.5.0 to 3.12.5.3
  22. A person taking down, demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify WorkCover

**Authority.** The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in Asbestos removal. The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.

23. Prior to the release of the Construction Certificate a Landscaping Plan is to be submitted and approved providing uninterrupted vision for traffic movement at the corner of Killick Lane & Rankine Street and May Street & Rankine Streets, Crescent Head.

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