

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

14th December 2004

**DSDS5 ERECTION OF RESIDENTIAL FLAT BUILDING
CONTAINING SEVEN UNITS
FILE: T6-04-497 TJN**

SUMMARY:

Reporting that Council has received a Development Application which requires variations to both Councils Height of Buildings Policy and Development Control Plan 22 – Local Housing Strategy.



Applicant: Simon Emerzidis
Subject Property: Lot 299 DP 754396, 29 McIntyre St, South West Rocks
Zone: 2(c) (Residential “C” Zone)

Description of Proposal

The proposal is for a residential flat building which incorporates seven self contained units and a subsurface car park.

Heads of Consideration

The proposal has been examined having regard for the Heads of Consideration as identified under Section 79C(1) of the Environmental Planning and Assessment Act 1979 with the following matters deemed to be of particular relevance:-

Kempsey Local Environmental Plan 1987

The subject lot is zoned 2(c) residential. The objectives of the zone are:-

- to increase the quality of residential and holiday accommodation within the central area of South West Rocks; and
- to allow development which is visually compatible with existing development.

The proposal is defined as a “residential flat building” and is permissible with Council’s consent. The building is consistent in terms of bulk and scale with a number of nearby developments and, as such, meets the objectives of the zone.

Clause 24 of KLEP 1987 sets a height limit of 2 storeys for the zone. Pursuant to State Environmental Planning Policy 6 – Number of Storeys in a Building, the proposal has 3 storeys as it incorporates a below ground carpark. As a result the application requires the support of a SEPP 1 objection which the applicant has submitted.

Development Control Plan 22 – Local Housing Strategy

The proposal is located in a medium-high density area as identified by DCP 22 and it is required to comply with the following requirements:-

Standard	Required	Proposed	Complies Y/N
DENSITY – medium/high 7 x 3 bedrooms	Site area= 910m ² Site coverage = 60%	Site area= 1005m ² Site coverage = 68%	No
HEIGHT	2 storey 6.2m maximum	3 storey 6.2m maximum	No
LANDSCAPED AREA 7.55m ²	385m ²	344m ²	No
SETBACKS - front - rear 1 st storey 2 nd storey	5.0m 900mm with av 1.8m 1.5m with av 3.7m 905mm minimum 1.8minimum average 2.0m minimum 3.7m average	6.675m 4m 1 st floor 4m 2 nd floor 900mm minimum <1.8m average 1.8m minimum 3.7m average	Yes Yes Yes Yes Yes
Private open space Unit 1 Unit 2 Unit 3 Unit 4 Unit 5 Unit 6 Unit 7	 25m ² 25m ² 25m ² 25m ² 25m ² 15m ² 15m ²	 17m ² 15m ² 83m ² 83m ² 15m ² 35m ² 20m ²	 Yes Yes Yes Yes Yes Yes Yes

Landscaping	Endemic species	Condition	Yes
Solar Access	3.5 star rating Full solar access	All 3.5 star or greater No overshadowing issues	Yes Yes
Visual Privacy	Sect 4.7.4	No objection received No major overloading	Yes
Cut and fill	1.5m cut or fill	Maximum cut of 3.8m Top plate height is in compliance with the 6.2m limit	No
Erosion/ sediment control	Sect 4.10	Condition	Yes
Infrastructure	Sect 4.11	Condition	Yes

Site Coverage

The proposal covers 68% of the site, where a maximum of 60% applies in medium-high density areas within South West Rocks. The applicant has made a number of submission which can be summarized as follows:-

- *The reason for the excess is mainly due to the wall articulation in the design at ground level to express an interest architectural experience at human scale.*
- *The stepping "in and out" design of the ground floor plan contribute to the excess site coverage area. This creates a far more interesting building than a square box.*
- *For the design to satisfy the 60% site coverage the resulting building would be more of a square box which is bulky in scale.*
- *The proposal also provides for off street basement parking which contributes to the excess ground coverage.*

The purpose of the 60% site coverage standard is to limit the size and bulk of development. The proposal has a high degree of architectural merit, with the variety of walls lengths and heights, and incorporation of the building into the topography of the lot presenting a building that has minimal visual impacts in terms of bulk and scale. In this regard it is reasonable to allow the variation to

the site coverage standard as the proposal meets the performance objectives of DCP 22.

Landscaped Area

Section 3.6 of DCP 22 requires that the appearance and amenity of the of new development for users and the general community should be enhanced by the new development. It encourages integration of the building and the landscape.

The proposal shows a deficiency in landscaped area of 10.6%. This deficiency is a result of the increase in site coverage. Any lack in landscaped area can be alleviated through the incorporation of planter boxes on the larger upper balconies facing McIntyre Street which should be imposed as a condition of consent. The submitted landscape plan also provides for extensive landscaping at both the front and sides of the building. The building itself is to be of colours that have the effect of enhancing its place within the natural landscape.

Subject to the above conditions, the proposal will meet the performance objectives of DCP 22 and refusal on grounds of non-compliance will be difficult to justify.

Height

The proposal requires the support of a SEPP 1 objection concerning the number of stories. Under the provisions of SEPP 6 the proposal is a three (3) storey development, where the maximum allowable in the zone is two (2). Council has consistently allowed the additional storey within the zone, provided the height complies with the 6.2m limit and the building presents itself as being only two storeys. The applicant has amended previously submitted plans to show a maximum height of 6.2m to the top plate over the entire building. The third storey is the result of the basement car park, and it does not contribute to the bulk of the building, nor does it give the appearance of being three storeys ([Appendix O](#)). It is recommended that Council resolve to support the variation to the 2 storey limit on the grounds that it complies with the overall height limit and will have no adverse impacts on the streetscape or any adjoining premises.

Cut/Fill

To accommodate the basement car park, approximately 3.8m of cut will be needed on the McIntyre Street elevation, and 2.1m on the Orara Street elevation. This exceeds the maximum of 1.5m under DCP 22. The amount of cut allowed is a compromise to ensure that Councils height limit of 6.2m is met.

The site is not overly steep and the cut will not result in any slope destabilization which is the intent of the standard. Any cut will be contained by

the building. Conditions should be imposed requiring details of means of protecting the adjoining properties during excavation.

Private Open Space

Although units 1 and 5 do not comply with DCP 22 as currently proposed, by provision of steps connecting to the area below the terrace, Units 1 and 5 would comply and a condition should be imposed accordingly.

RECOMMENDATION

That consent be granted 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 Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.**
- 3 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.**
- 4 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.**
- 5 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.**
- 6 The units are 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.

- 7 The building is not to be occupied until all conditions of Council's consent have been complied with and an Occupation Certificate has been obtained from Council or an accredited certifier and submitted to Council.**

- 8 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 Carrying out water supply work.
 - b Carrying out sewerage work.
- 9 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.
- 10 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.
- 11 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.
- 12 If the excavation is to extend below the level of the base of the footings on an adjoining allotment, the person causing the excavation shall:
- (a) preserve and protect such building from damage; and
 - (b) if necessary, underpin and support the building in an approved manner.
- Seven (7) days notice is to be given to the owner of the adjoining allotment of the intention to excavate below the level of the base of the footings. (Reference: Clause 34, Local Government (Approvals) Regulation 1993).
- 13 Hoarding/fence is to be provided to the site in accordance with the assessment provided to Council.
- 14 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.

15 Details of proposed hoarding to be submitted, in writing, prior to the commencement of building operations.

16 A builder's toilet complying with Clause 133 of the Environmental Planning and Assessment Regulation is required on site throughout the entire building operation.

Note: Clause 133 requires that the toilet must be provided before any work is commenced.

17 Compliance with the Building Code of Australia.

All building work must be carried out in accordance with the requirements of the (BCA).

A construction certificate shall not be issued until the Principal Certifying Authority (PCA) is satisfied that the plans and specifications comply with the BCA.

18 A schedule of the fire safety measures which are to be installed in the building is to be submitted with the required Construction Certificate for approval together with the minimum Standard of Performance as identified in Clause 80B and C of the Environmental Planning Assessment Regulation 1994.

Detailed plans of each measure prepared by a suitably qualified person are to be submitted for approval with the required Construction Certificate.

19 A BCA Assessment Report of the proposed building prepared by an appropriately accredited certifier is to be provided with the plans for the required Construction Certificate.

20 The proposed building has been assessed by Council under the provisions of the Building Code of Australia as a Class 2 & 7 building, having a rise of 2 storeys. The buildings are to be constructed in Type B fire resistance construction. It is the builder's responsibility to ensure that all building elements have the minimum fire resistance level specified in Specification C1.1, Table 4 of the Building Code of Australia.

21 Every part of the building shall be constructed in a proper and workmanlike manner to achieve the required level of performance using materials that are not faulty or unsuitable for the purpose for which they are used.

22 A "Smoke Hazard Management System" shall be designed and installed within the building in accordance with the relevant provisions of Section E2.2a of the Building Code of Australia.

- 23 Clothes drying facilities must comply with Part F, Clause F2.1 of the Building Code of Australia.
- 24 All materials used in the building shall comply with the provisions of Clause C1.10 of Building Code of Australia. A list of all the proposed construction and finishing materials detailing their early fire hazard properties (i.e. spread of flame and smoke development indexes) shall be compiled then submitted to Council for approval prior to their use in the Building.
- 25 Emergency lighting requirements must comply with Part E, Clause E4.2 of the Building Code of Australia.
- 26 Where protection is required, doorways, windows and other openings must be protected in accordance with Part C, Clause C3.4 of the Building Code of Australia.
- 27 Lintels must comply with Clause 2.3 of Specification C1.1 of the Building Code of Australia.
- 28 Brick cavities shall be cleaned in accordance with the requirements of AS3700 - Masonry in Buildings.
- 29 Full details of the means of damp-proofing all garages below or partly below ground level shall be submitted to Council with the Construction Certificate.
- 30 Provisions shall be made for the installation of telephone and television services by installation of conduits during construction for each sole-occupancy unit.
- 31 No service installations shall be installed in exits or paths of travel leading to an exit except as conceded in D2.7 of the Building Code of Australia.
- 32 Walls and floors separating sole-occupancy units and separating sole-occupancy units from a plan room, lift shaft, stairway, public corridor or the like must have Sound Transmission Class (STC) not less than 45.
- 33 A wall separating a bathroom, laundry or kitchen in one sole-occupancy unit from a habitable room (other than a kitchen) in an adjoining unit must have a Sound Transmission Class (STC) not less than 50 and must comply with F5.5 of the Building Code of Australia. Details of the proposed method of complying with F5.5 must be submitted to Council for approval prior to the commencement of construction.

- 34 Soil and waste pipes passing through more than one sole-occupancy unit must be separated from rooms in any sole-occupancy unit by construction complying with F5.6 of the Building Code of Australia.
- 35 Upon completion and prior to occupation of the building, a certificate from a practising Structural Engineer shall be submitted to Council certifying that the building has been erected in accordance with the approved structural drawings and is structurally adequate for the loads imposed.
- 36 Where structural reinforced concrete members are required to have a fire resistant rating, the practising Structural Engineer shall certify that the requirements of the relevant SAA Concrete Structures Code have been satisfied. This is to be submitted prior to occupation.
- 37 A certificate shall be submitted by a practising Structural Engineer certifying that the building has been designed in compliance with the requirement as detailed in AS 1170.4 "SAA Earthquake Loads".
- 38 Openings in floors, walls and shafts for services must comply with Section C, Clauses C3.12, C3.13 and C3.14 of the Building Code of Australia.
- 39 The following information to be submitted with the Construction Certificate:-
 - a Two sets of specifications for the Class 2 & 7 building detailing the appropriate clauses of the BCA and Australian Standards for the work to be constructed.
 - b Provide alternative solution prepared by a suitably qualified fire safety engineer demonstrating the building complies with performance requirements of Clause F2.3.4 of the BCA.
- 40 The applicant's consultants are to provide certified plans and specifications with the Construction Certificate for the works to be constructed.
 - a The installation of the hydrants complying with Clauses E1-3 of the BCA and AS2419.
 - b The installation of portable fire extinguishers.
 - c The installation of the smoke management system complying with NSW, Part E Tables E2.2. of the Building Code of Australia.

- d The installation of emergency lighting and exit signs complying with Part E4 and AS/NZS 2293 Part 1-1998.
 - e The installation of plumbing and drainage complying with the requirements of the Local Government Act and Regulation, Australian Standard 3500 and New South Wales Code of Practice Standard 3500.
- 41 The following survey certificates must be given to Council at the following stages:-
- On completion of each floor slab framework before concrete is poured, detailing the:-
 - a. location of the structure to the boundaries; and
 - b. compliance with the floor height. Levels shall relate to the datum shown on the consent.
 - At completion of the slab confirming that location is in accordance with the approval.
- 42 If the soil conditions require it:-
- (a) retaining walls or other approved methods of preventing movement of the soil must be provided; and
 - (b) adequate provision must be made for drainage.
- 43 Access to the site for deliveries is to be confined to between 7.00 am and 7.00 pm daily. In this regard, a sign clearly indicating same is to be displayed at the entry to the development. Details, including location of signage, are to be provided with the plans for the required Construction Certificate.
- 44 The hours of operation of construction 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.
- 45 Building materials are not to be stored within the road reserve or any other public place.
- 46 Excavated material from the site is not to be placed within the road reserve or any other public place.
- 47 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.

- 48 Any redundant footpath crossings or access culverts to be removed and reconstructed at the applicant's expense, and footway access restored to the satisfaction of Council, prior to occupation of the premises.
- 49 The plans prepared for the required Construction Certificate are to provide for a footpath across the full road frontage of the property strictly in accordance with Council's Engineering Guidelines for Subdivision and Development. All works are to be carried out strictly in accordance with the plan.
- 50 All internal parking areas, accessways, turning areas, driveways and ramps are to be constructed in accordance with Council's Parking Code and Engineering Guidelines for Subdivision and Development before occupation of the building or commencement of the proposed land use. All such areas to be concrete paved and/or bitumen sealed.
- 51 All internal accessways and parking spaces have been designed and constructed in accordance with Council's Engineering Guidelines for Subdivision and Development to at least concrete paved standard.
- 52 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.
- 53 Soil Erosion control measures are to be implemented on the site. The control measures shall be in accordance with Council's Guidelines - Preparing an Erosion and Sediment Control Plan. The Control Plan is to be submitted and approved prior to release of the required Construction Certificate.
- 54 The plans for the required Construction Certificate are to include calculations of the amount of cut.
- If an excess of earth will result, details of the means of disposing of all material are to be provided. Depending on the amount of any excess, Council may require lodgement of a cash bond to cover the cost of any damage to Council's road system caused by haulage.
- Submission of written advice with the plans for the required Construction Certificate indicating the means proposed to dispose of any excess earth generated by construction of the development.
- A Construction Certificate shall not be issued unless Council has given it's written agreement that such means are satisfactory.
- 55 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.
- 56 Lodgement to Council of a cash bond to the value of \$10,000 as surety against any damage to the nominated haul route prior to release of the Construction Certificate.
- 57 Details are to be submitted from a practising structural engineer on the measures, which are to be used to protect the adjoining properties, including Councils road reserve as a result of proposed excavations. Details are to include engineering designs and certificates to cover the work. The details are to be submitted for approval with the Construction Certificate.
- 58 Drawings which demonstrate compliance with AS/NZ 2890.1:2004 must be prepared and certified for relevant car parking aspects of the development (including facilities, driveways, site access/egress, vehicle movement, structural profiles and clearances) must be submitted prior to the issue of the construction certificate.

- 59 All roofwaters and stormwater runoff from all paved areas within the allotment boundaries are to be collected, directed and conveyed off-site by means of a sealed pipe system designed for a 1 in 10 year storm recurrence interval and connected via an industry recognized outlet arrangement to the existing public stormwater drainage receiveal and disposal system. A pit is to be provided adjacent to southern allotment boundary to provide separation between the private house drainage service drainage line and the downstream stormwater system to become under the jurisdiction of Council.
- 60 Detailed construction drawings and specifications for the entire stormwater management system which demonstrates compliance with the latest versions of Australian Rainfall and Runoff, Stormwater Industry Associated Guidelines, proprietary product manufacturers specifications and relevant Australian Standards must be prepared for relevant aspects of the system (including materials, installation, bedding, backfilling, compaction and quality testing) prior to the issue of the construction certificate.
- 61 In relation to the management of seepage, leakage, drainage and any other waters entering the subterranean basement level of the development an industry recognised, detailed scheme of arrangement must be prepared, certified and submitted to Council for its approval prior to the issue of the Construction Certificate.
- 62 The plans for the required Construction Certificate are to include provision of a sump or other means suitable to prevent flooding in the event of water entering the basement in excess of 300mm in depth during a 1 in 10 year stormwater event in accordance with Australian Rainfall and Runoff without reliance on mechanical pumping. Such plans are to include the means of draining the basement following such an event.
- 63 The plans for the required Construction Certificate are to provide for planter boxes to be provided on all decks and balconies. Details of the plant species to be placed in the planter boxes to be included in the sites landscape plan prior to release of the Construction Certificate.
- 64 Submission of an application for a Certificate of Compliance pursuant to Section 305 of the Water Management Act 2000 and the lodgement of a Certificate of Compliance indicating that the requirements of Section 306 of the Water Management Act 2000 have been met, prior to release of the Construction Certificate.

You are advised that a Certificate of Compliance pursuant to Division 5 of the Water Management Act 2000 will be issued by Council, subject to the following matters being complied with:-

- a Payment of a contribution towards district water supply at the rate of \$1211 per equivalent tenement, i.e \$1211 x 6 E.T = \$7266. (Indexed 2004/2005)
- b Payment of a contribution towards the augmentation of sewerage headworks at the rate of \$3031 per equivalent tenement, i.e \$3031 x 6 E.T = \$18,186. (Indexed 2004/2005)
- c Provision of separate sewer junctions, with a maximum of two connections per junction to the existing sewer main.
- d Details of separate water meter for watering service to be included prior to the release of the construction certificate.

- 65 The applicant is to pay a contribution towards the embellishment of open space and ancillary facilities for each additional dwelling unit after the first unit in accordance with Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Construction Certificate, at the rate prevailing at that time. The current rate is \$1,883 per additional dwelling unit, i.e \$1,883 x 6 E.T = \$11,298. (Indexed 2004/2005)

A copy of Council's Section 94 Plan may be inspected at Council's offices, Corner Elbow and Tozer Streets, West Kempsey.

- 66 Payment of a cash contribution prior to the issuing of the required Construction Certificate towards Council's trunk drainage system in accordance with Council's Section 94 Plan for Stormwater Drainage at the rate of \$1476 per equivalent tenement, i.e. \$1476 x 6 E.T. = \$8856 (Indexed 2004/2005).

The Plan may be inspected at Council's offices, Cnr Elbow and Tozer Streets, West Kempsey.

- 67 Security lighting to be provided in the car park, between the units and in the internal void areas. Lighting is designed and directed to minimize impacting upon adjoining residences.

- 68 The plans for the required Construction Certificate are to provide for the linkage of the balconies for units 5 and 2 into the adjacent yard. Such means may include the provision of steps.

- 69 All material in the building which contains asbestos shall be removed in accordance with the guidelines of the WorkCover

Authority and requirements of the Environmental Protection Authority.

- 70 Prior to demolition commencing, erosion control measures shall be provided on site eg. siltation fences etc.**
- 81 Demolition shall be limited to the hours of between 7.00am and 6.00pm weekdays, 7.00am and 1.00pm on Saturdays with no work being carried out in accordance with the requirements of Australian Standard 2601-1991 where applicable.**
- 72 Prior to demolition commencing, the person causing the demolition to be carried out shall be given written notice of his intention to the owners of any adjoining allotment of land seven days prior to the commencement of demolition work.**
- 73 A sign shall be erected on the site stating that unauthorised entry is not permitted.**
- 74 A sign shall be displayed on the site indicating the name of the builder or another person responsible for the site and a telephone number of which the builder or other person can be contacted outside normal working hours or when the site is unattended.**

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES