



RESCISSION MOTION

14th February 2005

**RM1 ERECTION OF RESIDENTIAL FLAT BUILDING
CONTAINING 15 UNITS – CNR BAKER DRIVE AND
KILLUKE CRESCENT, CRESCENT HEAD
FILE: T6-04-75**

Notice is hereby given that we intend to move the following Rescission Motion at the Extra-Ordinary Meeting of Kempsey Shire Council on 14th February 2005.

That resolution number 2005.71 from the Ordinary Council Meeting held 8th February 2005, as printed below be rescinded;

"A. 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 Before the commencement of site works, demolition or building, the following activities must be completed:***
 - a Installation of soil erosion and sedimentation control devices.***
 - b Installation of safety fencing/hoardings between the property and the street***
 - c Protection barriers for existing trees***
 - d Installation of builder's toilets***
 - e Installation of signage in prominent, visible position including -***
 - "Unauthorised site entry is prohibited"***
 - Name and phone number of builder or other responsible person for contact outside working hours.***
- 3 The hours of construction 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.***

- 4 *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 Construction Certificate.*
- 5 *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.*
- 6 *Details are to be submitted from a practising structural engineer on the measures, which are to be used to protect the adjoining properties, including Council's 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.*
- 7 *If the excavation is to extend below the level of the base of the footings on an adjoining allotment, the person causing the 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.
- 8 *If the soil conditions require stabilisation:-*
 - 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.*
- 9 *This consent has been issued on the basis that it is intended to appoint Council as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.*
- 10 *This consent does not permit commencement of any works. Works are not to commence until such time*

as a Construction Certificate has been obtained. A Construction Certificate may be obtained from Council upon application being made or from an accredited certifier.

- 11** *A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.*
- 12** *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.*
- 13** *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.*
- 14** *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.

- 15** *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.*
 - c** *Carrying out stormwater drainage work.*
 - d** *installing a temporary structure on the land.*
- 16** *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.

- 17 *The plans for the required Construction Certificate are to provide for a 5.5m width access way from the property boundary to the furthest most point of the basement car park driveway. Details are to be provided demonstrating that all parking areas comply with Australian Standard 2890.1-Off Street Car Parking.*
- 18 *Submission a BCA Assessment Report for the proposed building by an appropriately accredited certifier with the Construction Certificate.*
- 19 *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.*
- 20 *Hoarding/fence is to be provided to the, details of which are to be included with the plans for the required Construction Certificate. The hoarding/fence is to be erected prior to commencing any other work onsite.*
- 21 *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.*
- 22 *A builder's toilet complying with Clause 78I of the Environmental Planning and Assessment Regulation, and connected directly to the sewer is required on site throughout the entire building operation.*

Note: Clause 78 I requires that the toilet must be provided before any work is commenced.

- 23 *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 footings, reinforced concrete slab, structural steel work is to be submitted prior to any work commencing on the building.*

- b** *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.*
- c** *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.*
- d** *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. The builder is to certify the windows have been installed in accordance with AS2048.*
- e** *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*

(1) D2.16

of the Building Code of Australia.

Note: Spacing of rails not to exceed 125mm.

- f** *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:*

<i>Riser(R)</i>		<i>Going (G)</i>		<i>Quantity (2R + G)</i>	
<i>max</i>	<i>min</i>	<i>max</i>	<i>min</i>	<i>max</i>	<i>min</i>
<i>190</i>	<i>115</i>	<i>355</i>	<i>240</i>	<i>700</i>	<i>550</i>

Note: Any openings between treads not to exceed 125mm.

- g Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.**
 - h 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.**
 - i Kitchen exhaust fans are to be ducted externally of the building or a recirculating hood type be provided.**
 - j 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.**
 - k The walls immediately adjacent or behind a bath, basin, sink or trough, shall be finished to a height of not less than 300mm above the fixture or in the case of a shower, to a height of 1.8 metres above the floor with cement render ceramic tiles or other approved finish impervious to water.**
 - l 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.**
- 24 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 4 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.**
- 25 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.**

- 26 ***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.***
- 27 ***A survey certificate prepared by a registered surveyor is to be 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. All levels are to be based on a fixed datum point in Australian Height Datum.***
- 28 ***A survey certificate prepared by a registered surveyor is to be submitted to Council to verify that the work is being constructed at the level shown on the building approval. The work is not to proceed beyond the designated stage until a written release has been given by Council. The survey is to be submitted when the formwork is completed for each of the floor slabs before concrete is poured. All levels are to be based on a fixed datum point in Australian Height Datum.***
- 29 ***Floors of balconies shall be graded and drained to a grated inlet connected to the stormwater drainage system.***
- 30 ***Clothes drying facilities must comply with Part F, Clause F2.1 of the Building Code of Australia.***
- 31 ***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.***
- 32 ***Emergency lighting requirements must comply with Part E, Clause E4.2 of the Building Code of Australia.***
- 33 ***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.***

- 34 *Lintels must comply with Clause 2.3 of Specification C1.1 of the Building Code of Australia.*
- 35 *Brick cavities shall be cleaned in accordance with the requirements of AS3700 – Masonry in Buildings.*
- 36 *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.*
- 37 *Provisions shall be made for the installation of telephone and television services by installation of conduits during construction for each sole-occupancy unit.*
- 38 *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.*
- 39 *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.*
- 40 *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.*
- 41 *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.*
- 42 *Upon completion and prior to occupation of the building, 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.*
- 43 *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.

- 44 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".*
- 45 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.*
- 46 Building materials are not to be stored within the road reserve or any other public place.*
- 47 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.*
- 48 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.*
- 49 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 upslope 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.*

50 *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, to existing pipe storm system in McIntyre Street.*
- ii Any material spilled or deposited on the road reserve or in the gutter is to be removed immediately.*

51 *Information to be submitted with the Construction Certificate:-*

- a Provide two specifications for the Class 2 and 7a building detailing the appropriate clauses of the Building Code Of Australia and Australian Standards for the works to be constructed.*
- b Indicate location of the following Fire Safety Services in the Building.*
 - Fire hose reels*
 - Portable Fire Extinguishers*
 - Emergency Lighting*
 - Exit Signs*
- c Provide Mechanical Engineer's detail and certificate Certifying that the car parks permanent natural ventilation complies with Section F clause F4.11 of the BCA and AS 1668.2.*

52 *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 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.

- 53** *All stormwater drainage from the development site is to be piped and connected to Council's stormwater drainage system. Such plans are to include a suitable onsite detention system designed to ensure that discharge of stormwater during a 1 in 100 year storm event will not increase pre-development flow rates. A detailed plan is to be submitted for approval prior to Council issuing the Construction Certificate.*
- 54** *All internal parking areas, access ways, turning areas, driveways and ramps are to be constructed in accordance with Council's Parking Code, Engineering Guidelines for Subdivision and Development and Australian Standard 2890.1 – Off Street Car Parking before occupation of the building or commencement of the proposed land use. All such areas to be concrete paved.*
- 55** *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.*
- 56** *The plans prepared for the required Construction Certificate are to provide for a concrete footpath across Baker Drive and Killuke Crescent 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.*
- 57** *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 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 \$1,211 per*

equivalent tenement, i.e \$1,211 x 9.58 E.T = \$11,601 (Indexed 2004/2005).

- b Payment of a contribution towards the augmentation of sewerage headworks at the rate of \$2,028 per equivalent tenement, i.e \$2,028 x 9.58 E.T = \$19,428. (Indexed 2004/2005)*
 - c Payment of a contribution towards sewerage reticulation works at the rate of \$1,495 per equivalent tenement, i.e \$1,495 x 9.58 E.T = \$14,322. (indexed 2004/2005)*
 - d Provision of separate sewer junctions, with a maximum of two connections per junction to the existing sewer main.*
 - e Details of separate water meter for watering service to be included prior to the release of the construction Certificate.*
- 58** *The applicant is to pay a contribution towards the outdoor recreation 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 \$395 per additional dwelling unit, i.e \$395 x 9.58 E.T = \$3,784. (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.*
- 59** *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 with Council's Sustainable Development Services Department for requirements before commencing construction.*
- 60** *Engineering details of all retaining walls to be submitted to Council prior to release of Construction Certificate.*
- 61** *Security lighting be provided in the carpark, between the units and in the internal void areas. Lighting is to be designed and directed to minimise impacting upon adjoining residences.*
- 62** *Construction should comply with AS3959 – 1999 level 1 'Construction of Buildings in bushfire prone areas'.*

- 63** *Where the rear of the proposed structure is greater than 70 metres from the nearest hydrant, a new hydrant is required to be installed as per AS2419. Locations of fire hydrants are to be delineated by blue pavement markers offset 100mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.*
- 64** *Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, an approval under Part 5 of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.*
- 65** *An approval will only be granted to be occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.*
- 66** *When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.*
- 67** *All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.*
- 68** *All works involving soil vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.*
- 69** *The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.*
- 70** *All vegetation clearing must be authorised under the Native Vegetation Conservation Act, 1997, if applicable.*
- 71** *The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.*

- 72 *A licence fee calculation in accordance with the Water Act 1912 must be paid before a licence can be granted.*
- 73 *Any licence so issued, from the date of issue, will be subject to Annual Cost Recovery Water Management Charges as set by the Independent Pricing and Regulatory Tribunal.*
- 74 *A transfer of an entitlement shall be subject to the provisions of the Water Act 1912 the regulations made thereunder and the transfer rules applying at the time of application as determined by the Department.*
- 75 *The authorised annual entitlement will not exceed 5 megalitres.*
- 76 *Extraction of water under the approval to be issued shall be subject to conditions with regard to availability of supply and such restrictions as are deemed necessary to the Department from time to time to ensure an adequate flow remains for other water users and the environment.*
- 77 *If and when required by the Department, suitable devices must be installed to accurately measure the quantity of water extracted or diverted by the works.*
- 78 *All water measuring equipment must be adequately maintained. It must be tested as and when required by the Department to ensure its accuracy.*
- 79 *The use of water shall be conditional on no tailwater drainage being discharged into or onto –*
any adjoining public or crown road
any crown land
any river, creek or watercourse
any groundwater aquifer
any area of native vegetation
any wetlands
- 80 *Works for construction of bores must be completed within such period as specified by the Department.*
- 81 *Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.*

- 82 *Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.*
- 83 *Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.*
- 84 *The work shall be managed in accordance with the constraints set out in the "Water Quality Management Plan – Revision 1" report produced by Douglas Partners dated October 2004, submitted as part of this development application.*
- 85 *The volume of groundwater extracted as authorised must not exceed 5 megalitres.*
- 86 *The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent adverse impacts on the aquifer.*
- 87 *The licence shall lapse within six (6) months of the date of issue of the licence.*
- 88 *Submission of an application for Subdivision Certificate pursuant to Section 4A of the Environmental Planning and Assessment Act 1979 which authorises the registration of the plan of subdivision.*
- 89 *Applicant is to submit with the final plan of subdivision any instruments under Section 88B or E of the Conveyancing Act 1979 relevant to any restrictive covenants, easements or rights of way created by or affected by this subdivision. Kempsey Shire Council is to be listed as the sole party to modify or remove such instruments.*
- 90 *The plans for the required Construction Certificate are to include the means of protecting the basement area from groundwater seepage.*
- 91 *The plans for the required Construction Certificate are to include a Plan of Management prepared by a qualified engineer indicating the means of detaining and/or treating tailwater during dewatering operations, suitable to ensure the water discharging from the site into Councils drainage system meets relevant DEC criteria.*

B. That the objectors be advised of Councils decision.

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COUNCILLOR JAC HAYES

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COUNCILLOR BR SOWTER

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COUNCILLOR JH BOWELL

If the rescission motion is adopted it is proposed to move the following motion:

“That the application be referred back to the applicant to provide further justification in respect to proposed variations to Councils requirements in respect to height and cut and fill”.