



**KEMPSEY**  
Shire Council

## **DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT**

10<sup>th</sup> October 2006

**DSDS1 PART DEMOLITION OF OLD BUTTER FACTORY  
PACIFIC HIGHWAY, FREDERICKTON  
FILE: T6-06-320 TJN {Folio No. \*}**

### **SUMMARY:**

Reporting Council has received an application to demolish part of a building, known as the "Old Butter Factory", which is listed within the draft Kempsey Shire Community Heritage Study as a potential item of environmental heritage.

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**Applicant:** E Walker and M Hurley  
**Subject Property:** Lot 1 DP 586074  
 1-5 Pacific Highway, Frederickton  
**Zone:** 1(a3) (Rural "A3" Agricultural Protection Zone)

### **Description of Proposal**

The applicant initially proposed to demolish three existing storage buildings on the site known as the "Old Butter Factory" in Frederickton. ([Appendix A](#)). It is now proposed to demolish two storage buildings.

### **Heads of Consideration**

The proposal has been assessed having regard for the Heads of Consideration 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 land is zoned 1(a3) (Rural "A3" Agricultural Protection Zone). The proposed demolition is permissible within the zone with development consent.

There are no draft Local Environmental Plans or Development Control Plans that affect the proposal.

## **Heritage**

The Kempsey Shire Community Based Heritage Study which recently finished exhibition recommends the Old Butter Factory as an item of environmental heritage to be included within KLEP 1987 [\(Appendix B\)](#). It is also included within the proposed Frederickton Conservation Area as identified within the Study [\(Appendix C\)](#). The study states that the factory is of a high level of heritage significance due to the role it played in the early economic development of the district.

Whilst the draft study has no statutory standing, Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979 provides Council with broad discretionary powers in considering the impacts of the proposal, including the heritage significance of the building.

Council's Heritage Advisor has made an assessment of the proposed demolition and offers the following advice: -

1. The timber buildings listed for demolition do not contribute significantly to the heritage value of the site and demolition is an acceptable option.
2. The brick enclosure and furnaces are considered highly significant heritage items on the site and are worthy of retention.

The applicant was advised of this assessment and subsequently amended the application to only allow for the demolition of the timber structures.

## **Planning Comment**

Having regard to the matters relevant to Council's consideration of the proposal, it is considered that it would be difficult to justify refusal of the application for the following reasons: -

1. The proposal is consistent with the current statutory planning considerations relating to the land.
2. The identification of the Frederickton Conservation Area and the "Old Butter Factory" within the Draft Kempsey Shire Community Based Heritage Study has no binding statutory effect.
3. Council's Heritage Officer has assessed the proposal and has advised that demolition of parts of the structure are able to occur without eroding the heritage significance of the site and

the broader conservation area. The applicant has amended the application accordingly.

## **REPORT IMPLICATIONS:**

- ***Environmental***

*There will be no adverse environmental outcomes as a result of this application provided appropriate measures are put in place to prevent erosion once demolition has taken place. The consent will be conditioned accordingly.*

- ***Social***

*The proposal will result in the loss of buildings identified within a nominated heritage item and conservation area. However this is not considered to be a significant social impact.*

- ***Economic (Financial)***

*Nil*

- ***Policy or Statutory***

*Nil*

## **RECOMMENDATION:**

That the proposal be approved 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 permits only the demolition of the timber structures as marked red on the approved plans. Demolition of the brick enclosures and furnaces is not permitted.
3. 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.

4. The following inspections are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.

**Inspections required:**

- (a) Pre Commencement inspection
  - (b) Final inspection
5. All demolition waste is to be disposed of to Council's Waste Transfer Station.
6. All material in the building which contains asbestos shall be removed in accordance with the guidelines of the WorkCover Authority and the requirements of the Environmental Protection Authority.
7. The existing structure is to be removed and a Construction Certificate obtained prior to commencement of new works.
8. 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.
9. All loading and unloading in connection with the use of the subject premises shall be carried out wholly within the subject property.
10. Building materials are not to be stored within the road reserve or any other public place.
11. Excavated material from the site is not to be placed within the road reserve or any other public place.
12. 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.

- 13. 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.
- 14. 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).

- 15. Hoarding/fencing is to be provided to the site in accordance with the assessment provided to Council, prior to commencement of site works.

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.

- 16. Demolition shall be carried out in a safe manner without danger to the public.
- 17. Prior to demolition commencing, the person causing the demolition to be carried out shall give written notice of intention to the owners of any adjoining allotment of land seven (7) days prior to commencement of demolition works.
- 18. The demolition process and associated temporary structures are not to interfere with the day to day running of adjacent business, car parking areas, and pedestrian access.
- 19. Prior to demolition occurring details are to be submitted outlining how it is proposed to stabilise soil on the site post demolition to ensure that no soil erosion occurs on the vacant lots.

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