



KEMPSEY
Shire Council

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

11th April 2006

DSDS1	10 PRINCE OF WALES AVENUE SOUTH WEST ROCKS FILE: T6-04-695 TJN	{ Folio No. * }
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SUMMARY:

Reporting that Council has received amended plans following Council's resolution of 13th December 2005 to rescind the approval previously granted for a mixed residential / commercial development at South West Rocks.



DESCRIPTION:

Applicant: Ross Nicastrì
Subject Property: Lot 18 DP 3588
 10 Prince of Wales Avenue
 South West Rocks
Zone: 3(v) "Business (village) V"

Description of Proposal

The proposal involves the demolition of an existing one storey structure to be replaced by a three storey building containing floor level commercial and parking. The 2nd and 3rd storeys contain four separate residential units ([Appendix A](#)).

History

10 December 2004 – Application lodged with Council.

14 June 2005 – The matter was reported to Council's meeting, where the following was resolved: -

- A. *That the applicant be advised that Council is prepared to consider supporting the variations to the number of storeys as defined by clause 25 of KLEP 1987 and the height limit as defined by DCP 34*

subject to receipt of amended plans providing for reduced impacts of overshadowing of the adjoining units whilst optimizing privacy.

B. That the applicant be further advised that: -

- a) It will be necessary to submit details on how it is proposed to limit stormwater flows to predevelopment levels;*
- b) Pedestrian access to the residential units from Prince of Wales Avenue will be required to be separated from vehicular access to comply with the BCA;*
- c) Access to the retail floor area is impractical and will require modification; and*
- d) It will be necessary to modify vehicular access to demonstrate potential conflicts between pedestrians and cars leaving the site will be managed in a safe manner.*

15 November 2005 – Following receipt of amended plans, Council reconsidered the proposal and resolved to grant approval, subject to conditions.

13 December 2006– A rescission motion was put to Council and the following resolved: -

“That the consent be revoked and the application be returned to the applicant and he be asked to design the building to conform with the objectives of the relevant standards”

March 2006 – Amended plans received with the following changes proposed: -

- Underground storage area deleted (i.e. reduced from 4 storeys to 3 storeys)*
- First floor setback to Prince of Wales Avenue increased from 4.5m to 5.1m.*
- Commercial, pedestrian and vehicle access have all been separated.*

Heads of Consideration

The relevant heads have been identified in previous reports. These are attached as.

Kempsey Local Environmental Plan 1987

Clause 33 of the Kempsey Local Environmental Plan 1987 states: -

"The Council shall not consent to the erection of a building which has a floor space ratio of more than, in the case of land within Zone No. 3(v) – 1.5:1".

The proposal as it currently stands has a floor space ratio of 1.59:1. An objection pursuant to State Environmental Planning Policy Number 1 has been provided by the applicant [\(Appendix B\)](#).

It is considered that the objection under SEPP 1 is justified having regard to the following: -

- 1 The proposal is consistent with other minor variations supported within the 3(v) zone within South West Rocks, eg the building on the corner of Paragon and Memorial Avenues which was approved with an FSR of 1.6:1.
- 2 The difference between achieving an FSR of 1.5:1 and the proposed 1.59:1 is only 29m².
- 3 The applicant states that the proposed FSR is 1.54:1. The difference between the applicants and Council's assessed FSR is that Council's assessment includes the internal courtyards on the second floor. Whilst these open courtyards do not contribute to habitable floor area, the strict interpretation of gross floor area (area within the external enclosing walls) would include these courtyards.

The applicants stated FSR also excludes (17.68m²) which is part of a Building Code of Australia alternate solution regarding fire balanced access / egress to the building which should also be included.

Council's Recision Motion

The applicant has provided a response to the issues Council raised in the recision motion of December 14th 2005 [\(Appendix C\)](#). The following comments are provided on each issue.

Floor Space Ratio

See comments under Kempsey Local Environmental Plan (KLEP) 1987

Carparking

While it is noted that there is a deficiency of 2.85 car spaces to be provided on site, a section 94 contribution plan exists which requires the payment of \$37,896.45. It is considered that Council cannot reasonably reject this proposal based on insufficient car spaces being provided on site as all required residents parking has been provided.

Height

With the deletion of the underground storage area, the proposal is now 3 storeys high and complies with Clause 25(b) of KLEP 1987. The current proposed height of the building as it presents itself at Prince of Wales Avenue is 8.5 metres, gradually increasing in height with the slope of the block to 10.4 metres at the rear of the lot. The area of non-compliance at the rear does not contribute to any adverse solar access impacts in terms of overshadowing private open space or living areas.

If Council wishes to ensure complete compliance with the height limit, particularly at the front of the building, a reduction of 700mm in height is considered achievable through reduction of ground floor ceiling height by 300mm, and reduction of the first floor ceiling height by 400mm. It is considered refusal on basis of height in this instance would be unjustifiable as the proposal complies with the General Performance Objectives of Development Control Plan. DCP 34 places the onus on the applicant to justify the proposed variation which, it is considered having been demonstrated.

Solar Access

Overshadowing has been significantly reduced since Council originally considered the development proposal.

In providing further information for Councils consideration it is advised that it was established in Pafburn versus North Sydney Council that there are five (5) themes to be used when assessing impacts of overshadowing in relation to performance based development assessment.

The first theme is that change in impact may be as important as the magnitude of impact.

The second theme is that in assessing an impact, one should balance the magnitude of the impact with the necessity and reasonableness of the proposal that creates it. An impact that arises from a reasonable or necessary proposal should be assessed differently from an impact of the same magnitude that arises from an unreasonable or unnecessary proposal. Given the zoning of the land and substantive compliance with DCP 22 and Development Control Plan 34 as well as the orientation of adjoining living areas, some adverse impact is unavoidable.

The third theme is that in assessing an impact one should take into consideration the vulnerability of the property receiving the impact.

The fourth theme is that the skill with which a proposal has been designed is relevant to the assessments of its impacts. Even a small impact should be avoided if a more skilful design can reduce or eliminate it.

The fifth theme is that an impact that arises from a proposal that fails to comply with planning controls is much harder to justify than one that arises from a complying proposal. People affected by a proposal have a legitimate expectation that the development on adjoining properties will comply with the planning regime.

The third, fourth and fifth themes are of particular relevance when assessing the impacts of this proposal on the unit in Bronte Court that faces onto Prince of Wales Avenue.

The north facing balcony on the Bronte Court unit is considered extremely vulnerable to adverse solar impacts. It is constructed on the boundary, facing onto a commercially zoned property with a 3 storey height limit. It is extremely difficult to totally alleviate overshadowing impacts on this balcony without sterilizing the potential of the subject lot. It should also be noted that the unit in Bronte Court has an area of balcony facing Prince of Wales Avenue which is largely unaffected by overshadowing from the proposal. Shadow angle diagrams showing this have been submitted to previous Council meetings.

A number of design changes have been made that have reduced the impacts. These include lowering the heights, reversing the plans, significantly stepping back the first and second storey. It must also be noted that the skylights are on the other side of the building than originally proposed and as such will not contribute to any overshadowing.

While it is acknowledged that the height is non compliant with the 9m height limit at the rear of the lot, the area that is being overshadowed is directly adjacent to the area of the building that is compliant. Given the proximity of the buildings, it is considered that even a totally compliant building will have similar adverse solar impacts.

Based on the themes set down by the Court, it is considered that the proposal is reasonable in the circumstances.

Privacy

No change in the visual privacy provisions are proposed when assessed against what was approved by Council in November 2005. It is acknowledged that some loss of privacy will occur as a result of balancing privacy with the need to maintain solar access.

Cut and Fill

The amended plans show for the deletion of the underground storage area. There is now no cut or fill proposed as part of this development.

Access

Access to the commercial premises is available from the street frontage, as well as a corridor isolated from the parking lane via a concrete wall. It is considered that there are no major access issues.

Storm water disposal

Prior to development of the Jubilee Apartment building, all storm water from this side of Prince of Wales Avenue ran over the vacant lot. When the Jubilee Apartment was built, a storm water line was put in place as well as a Section 94 contribution plan to recoup costs. It is intended to direct all stormwater from the proposal into this line as well as levying Section 94 contributions to the amount of \$3,816.40.

Development Control Plan 22

The proposal is required to comply with Development Control Plan 22 except in respect to density, setbacks and landscaping.

Given the above raised points, it is considered that the proposal complies with the performance objectives of DCP 22. A checklist is attached for Council's information.

STANDARD	REQUIRED	PROPOSED	COMPLIANCE WITH STANDARD	COMPLIANCE PERFORMANCE OBJECTIVE
Density	3(v) Zoning Density provisions do not apply 1.5:1 FSR	1.54:1	No	Yes
Setbacks - front - side - rear	3(v) Zoning, setbacks do not apply	N/A	N/A	N/A
Carparking	4 resident 1 visitor <u>2 retail</u> 7 Total	4	No	Yes – Section 94 plan applies to land and contributions to be levied.
Private open space	15m ² per unit 80% wider than 2 metres	>15m ² per unit 80% wider than 2 metres	Yes	Yes
Landscaping	No provisions due to 3(v) zone		N/A	N/A

Height	3 Storeys 9 metres	3 storeys 8.5 to 10.4 metres	No	Yes
Solar access	Section 4.7	Adjoining private open space overshadowed for more than 2 hours.	No	Yes
	3.5 Star rating	3.5 star rating achieved	Yes	Yes
Privacy	Section 4.8	No adverse impacts	Yes	Yes
Cut and fill	1.5 metre max cut/fill	Nil	Yes	Yes

Advertising

The owners of the Bronte Court unit facing Prince of Wales Avenue were renotified in accordance with Council's policy. The following points were raised in their submission.

Objection	Planning Comment
1 The building exceeds the maximum 9 metre height limit as set by DCP 34.	1 The building presents itself to Prince of Wales Avenue as less than the maximum height limit. See "Height"
2 The Floor Space Ratio of 1.54:1 exceeds the required maximum of 1.5:1.	2 The applicant has provided a SEPP 1 objection to vary this requirement. See "Kempsey Local Environmental Plan 1987".
3 The awning clearance is not the normal 3 metres.	3 A 3 metre clearance will be required.
4 Shadow diagrams demonstrate that this proposed development greatly exceeds the overshadowing requirements of DCP 22 and places my property in complete shadow.	4 It has been acknowledged that there are some adverse solar impacts arising from this proposal. Since the previous approval was granted, these impacts have been lessened by further reducing the height of the building and increasing the setback of the building from 4.5 to 5.1 metres. See "Solar Access"

Conclusion

As noted in previous reports, finding a balance between the requirements of DCP 22, DCP 34, SEPP 65 and SEPP 71 are inherently difficult given the constraints imposed on the site by the north facing balconies of the Bronte Court units. It is considered that the changes made to limit potential privacy and solar access issues meet the performance objectives of DCP 22 and DCP 34, keeping in mind that the high density nature of the site. The vulnerability of the balcony on Bronte Court means that any development that occurs will have some degree of adverse impacts on adjoining residences. These impacts have been minimized as much as practically possible.

Council's recision motion required that the proposal be undertaken in accordance with the objectives of the relevant standards. As stated previously, compliance with the performance objectives is considered to have been met given the constraints imposed by surrounding development.

Given this, it is recommended that Council support the objection pursuant to SEPP 1 and approve the application subject to conditions. This includes a condition requiring that the height of the building be dropped 700 mm.

REPORT IMPLICATIONS:

- ***Environmental***

As part of the approval the applicant will be required to treat storm water that enters the car park prior to discharge from the site. Aside from this there are no adverse environmental issues resulting from the proposal.

- ***Social***

It is considered that the final design of this proposal reaches a balance between maximizing the development potential of the site whilst maximizing social impacts upon the adjacent units.

- ***Economic (Financial)***

The proposal is expected to bring an economic benefit for the period of construction. In addition to this retail space is being provided which will consolidate the centre of South West Rocks.

- ***Policy or Statutory***

The proposal has adequately addressed the requirements of SEPP 65, SEPP 71, DCP 22 and DCP 34. Additionally the proposal requires the resolution of Council to support the SEPP 1 objection for the variation to the floor space ratio.

RECOMMENDATION:

- A** That Council resolve to support the SEPP 1 objection to vary clause 25 of Kempsey Local Environmental Plan 1987, to allow a development with a floor space ratio of greater than 1.5:1.
- B** That the proposal be approved subject to the following conditions:-

Demolition

- 1** 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.

- 2** 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

- 3** All demolition waste is to be disposed of to Council's Waste Transfer Station.

- 4** 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.

- 5 The existing structure is to be removed and a Construction Certificate obtained prior to commencement of new works.
- 6 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.
- 7 All loading and unloading in connection with the use of the subject premises shall be carried out wholly within the subject property.
- 8 Building materials are not to be stored within the road reserve or any other public place.
- 9 Excavated material from the site is not to be placed within the road reserve or any other public place.
- 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, 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.

- 14 Demolition shall be carried out in a safe manner without danger to the public.
- 15 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.
- 16 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.
- 17 Approved under s138 of the Roads Act is to be obtained for a standard layback and kerb crossing is to be provided at the front of the subject lot. Such crossing is to be constructed prior to demolition commencing.
- 18 A Traffic Control Plan prepared by a suitably qualified person is to be submitted to Council for consideration prior to commencement of works. This is to address how it is proposed to carry out demolition works whilst maintaining safe pedestrian and vehicle movement within Prince of Wales Avenue and minimal disruption to commercial activities on adjoining land.
- 19 Provision of a security deposit to Council totalling \$1500.00 to cover any damage sustained to public property including footway and kerb and gutter or road pavement during construction and to ensure satisfactory completion of any works on public property required in connection with this approval. The deposit is to be lodged with Council prior to the commencement of demolition and will not be released until after completion of construction.

Construction

- 20 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.

- 21 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.
- 22 The overall height of the building is to be reduced by 700 mm by reducing the ceiling heights of the ground and first floors.
- 23 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.
- 24 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
- 25 A plan of management for the building site is to be submitted to Council prior to release of the Construction Certificate. This is to include, but not limited to, the following information:-
- (a) A traffic control plan detailing how it is proposed to undertake works whilst minimising interruptions to the traffic flow along Prince of Wales Avenue.
 - (b) Details on how it is proposed to maintain safe pedestrian access whilst work are being undertaken.
 - (c) Details of how construction is to be undertaken given that there is only one access point to the site.
 - (d) Details on how works is to be undertaken in compliance with the Industrial Noise Policy and the Protection of the Environment Operations Act.
- 26 The plans prepared for the required Construction Certificate are to be accompanied by the following:-
- 1) Provide two specifications for the class 2,6 and 7a building detailing the appropriate clauses of the Building Code of Australia and

relevant Australian Standards for the works to be constructed.

2) The applicant's consultants with the appropriate engineering discipline are to provide BCA certified plans and specifications for the following:

- Mechanical exhaust ventilation systems for the internal laundries, ensuites and car park complying with Section F4.5 and 4.11 of the BCA and AS 1668.1 and 2
- The fire hydrants complying with Section E Clause E1.3 of the BCA and AS 2419 Part 1-1994
- The fire hose reels complying with E1.4 of the BCA and AS 2441-1998
- Portable fire extinguishers complying with Section E1.6 of the BCA and AS 2444-1995.
- Smoke Hazard Management System complying with Specification E 2.2a of the BCA
- Emergency Evacuation lighting complying with Section E and AS/NZS 2293 Part 1 – 1998
- The installation of plumbing and drainage complying with AS 3500 1,2,3 and 4 and the NSW Code of Practice: Plumbing and drainage
- Provide from Macleay Water the pressure and flow rates available from the water main servicing the proposed building.

3) Submit amended architectural drawings indicating the following:

- The location of tactile indicators complying with Part D Clause D3.7 and AS 1428 Part 4 – 1992
- The fire resistance level for each building element complying with Section C Specification C1.1 Clause 3.1 and Table 3.1 of the BCA
- Provide sound transmission and insulation levels achieved for the building elements proposed
- Provide protection to openings required to be protected in accordance with Specification C1.1 Clause 2.1 and Section C Clause 3.2 of the BCA

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- Skylights complying with Specification C1.1 Clause 3.6 (a) (b)(i)(ii)(iii)(iv) (c)
 - The terrace areas complying with Section C Specification C1.1 Clause 3.1 and Table 3.1 of the BCA
 - Amendments required by NSW Accredited Level 1 Fire Safety Engineer for alternate solutions to be provided to the proposed building
 - Disabled access and construction and car park location complying with AS 1428.1.2001
 - Indicate location of main switch board room
 - Indicate the shop, and car park swing door and roller door openings protected in accordance with Section C Clause C3.3
 - The location and method of penetration protection of walls, floors and ceilings by services complying with Specification C3.15
 - Traffic calming devices to be included within the driveway to decrease traffic velocity into and out of the subject lot.
 - Provision of a minimum 3 metre clearance under the awning.
- 4) Submission of a site survey to Australia Height Datum demonstrating that the height of the building does not exceed 9.6 metres to the top most ceiling level at the highest point.
- 27 Submission of details demonstrating that vehicles exiting the site will have unobstructed vision of pedestrians using Prince of Wales Avenue prior to a standard vehicle protruding onto the footway.
- 28 The footpath at the Prince of Wales Avenue frontage is to be replaced with a composed aggregated type. Details are to be submitted for approval prior to release of the Construction Certificate.
- 29 The new three storey commercial and residential building is 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.

- 30 Two days prior to commencing work a Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
- 31 Prior to any civil works commencing onsite, the applicant is to advise Council in writing of the following:
 - 1 Supervision is to be undertaken in accordance with the attached schedule "Construction Guidelines" - Section 4.2.3 Part 3.
 - 2 The identity and qualification of the nominated contractor and/or sub-contractors to undertake the civil works associated with the subdivision / development.
 - 3 A copy of the nominated contractor and/or sub-contractor's Certificate of Currency for Public Liability Insurance cover shall be forwarded to Council. The public liability cover shall be equal to but not less than \$5 million dollars and indemnify Kempsey Shire Council against loss.
 - 4 Roadbase gravel to be used onsite shall conform to ARRB Report No 41, Section 5. A written report is to be forwarded to Council from a registered Geotechnical Engineer certifying that the roadbase material is suitable for the intended use prior to utilising onsite.
- 32 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.

- 33 If "public entertainment" is to be or is conducted in the building or part thereof, a separate application is required to be lodged with Council's Environmental Services Department for the necessary authorisation.
- 34 A Complying Development Certificate is to be obtained for all advertising structures prior to their placement. Where proposed signs do not comply with DCP No 25 – Advertising Signs, prior development consent will be required.
- 35 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) Installing a temporary structure on land.
 - (b) Carrying out water supply work.
 - (c) Installing, altering, disconnecting or removing a meter connected to a service pipe.
 - (d) Carrying out sewerage work.
 - (e) Carrying out stormwater drainage work.
 - (f) Connecting a private drain or sewer with a public drain or sewer under the control of a Council or with a drain or sewer which connects with such a public drain or sewer.
 - (g) Swinging or hoisting goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway.
 - (h) Carrying out an activity prescribed by the regulations under the Local Government Act 1993 or an activity of a class or description so prescribed.
- 36 Compliance with the Building Code of Australia
- All building work shall 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
- 37 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.

- 38 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.
- 39 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).

- 40 Details of proposed hoarding to be submitted, in writing, prior to the commencement of building operations.
- 41 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.

- 42 Submission of a Schedule of Finishes with the plans for the required Construction Certificate indicating the colour and type of all finished surfaces.
- 43 The following survey certificates must be given to Council at the following stages:-
- On completion of floor slab framework before concrete is poured for each floor level, detailing the location of the structure to the boundaries and compliance with the floor height. Levels shall relate to the datum shown on the consent.

- 44 The building has been assessed by council under the provisions of the Building Code of Australia as a Class 2, 6 and 7a building having a rise of 3 storeys. The building is required to be constructed in Type A 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 3 of the Building Code of Australia.
- 45 Every part of the building must be constructed in a proper and workman like manner to achieve the required level of performance, using materials that are not faulty or unsuitable for the purpose for which they are used.
- 46 Structural Engineer's Details for footings, reinforced concrete slab, reinforced concrete stairwell, retaining walls and structural steel works is to be submitted prior to any work commencing on the building.
- 47 Access to the site for deliveries is to be confined to between 7.00 am and 7.00 pm Monday to Friday and 7am to 12 noon Saturdays. 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.
- 48 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.
- 49 Building materials are not to be stored within the road reserve or any other public place.
- 50 Excavated material from the site is not to be placed within the road reserve or any other public place.
- 51 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 Council's Sustainable Development Services Department for requirements before commencing construction.
- 52 Provision of a physical barrier across the full road frontage of the property suitable to prevent vehicular access at locations other than the approved driveways prior to occupation of the

premises. Details are to be provided with the plans for the Construction Certificate.

- 53 Roofwaters are to be connected to the existing stormwater disposal system.
- 54 Structural Engineer's Details and Certificate are to be submitted for the footings, certifying that the design has taken into account the effect on the structure, should excavation of the sewer line be necessary, prior to the release of the Construction Certificate.
- 55 Where the disposal of stormwater involves the provision of drains across land owned by others, drainage easements to Council Standards will be required for which documentary evidence shall be provided prior to the issuing of any Construction Certificate.
- 56 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 stabilized 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.

- 57 Construction of the footings of the building in the vicinity of Council's stormwater drain to be located outside the zone of influence or alternatively concrete encased strictly in accordance with Council's Engineering Guidelines for Subdivision and Development.

- 58 Construction of the footings of the building in the vicinity of Council's sewer drain to be located outside the zone of influence or alternatively concrete encased strictly in accordance with Council's Engineering Guidelines for Subdivision and Development.

- 59 Detailed engineering plans providing for construction of the footings of the building in the vicinity of Council's stormwater drain have been designed in strict compliance with Council's Engineering Guidelines for Subdivision and Development.

- 60 Drawing which demonstrate compliance with AS 2890.1:2004 must be prepared and certified for the relevant car parking aspects of the development (including facilities, driveways, site access / egress, vehicle movement, structural profiles and clearances) must be certified prior to issue of the construction certificate.

- 61 All roof-water and stormwater runoff from all paved areas within the allotment boundaries are to be collected, directed and conveyed off site in accordance with the submitted stormwater management plan designed for a 1 in 10 year storm recurrence interval and connected via an industry recognized outlet arrangement to the existing public stormwater drainage receival and disposal system.

- 62 Detailed construction drawings and specification 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.

- 63 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.
- 64 The plans for the required construction certificate are to include provisions of a sump or other means suitable to prevent flooding on the event of water entering the basement in excess of 300mm in depth in accordance with Australian Rainfall and Runoff without reliance on mechanical pumping. Such plans are to include the means of draining the basement in such an event.
- 65 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 \$1,256 per equivalent tenement, i.e. $\$1,256 \times 2.37 \text{ E.T} = \$2,977$. (Indexed 2005 / 2006)
- b Payment of a contribution towards the augmentation of sewerage headworks at the rate of \$3,143 per equivalent tenement, i.e. $\$3,143 \times 2.37 \text{ E.T} = \$7,449$. (Indexed 2005 / 2006)
- 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.

- 66 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 \$1,953 per additional dwelling unit, i.e. $\$1,953 \times 2.32 \text{ E.T} = \$4,531$. (Indexed 2005 / 2006)

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

- 67 Payment of a cash contribution in lieu of the provision of on-site car-parking in accordance with Council's Section 94 Plan for off street car parking at the rate applicable at the time of payment (Currently \$13,297 per space), based on 2.85 parking spaces, prior to release of the Construction Certificate i.e. $\$13,297 \times 2.85 = \$37,896.45$.

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

- 68 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 \$3,816.50. (Indexed 2004 / 2005).

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

- 69 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.
- 70 The car spaces are to be clearly labelled "Resident Car Parking Only"
- 71 Car parking and security lighting must not cast beyond the property boundary by more than 8 lux as measured 0.5 metres outside the property boundary.

ADVICE

72 Submit alternate solution for the following non-compliance with the BCA from a NSW Accredited Level 1 Fire Safety Engineer:

- Fire engineering design brief is to be formulated in consultation with Council.
- Excessive travel distance from car park area to an open space.
- Fire isolated staircase required, as concession D1.3 is only applicable to a class 2 building.
- Required fire rating for shop wall adjacent path of travel from units.
- Terrace construction as proposed.
- Skylights as proposed.
- Protection of openings as proposed.

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES