



KEMPSEY  
Shire Council

## DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

11<sup>th</sup> April 2006

<b>DSDS2</b>	<b>5 DWELLINGS</b>
	<b>LOT 18 DP 882876, 44 MARLIN DRIVE</b>
	<b>SOUTH WEST ROCKS</b>
	<b>FILE: T6-05-85 TJN</b> { Folio No. * }

### SUMMARY:

Reporting that Council has received amended plans for a cluster housing development at South West Rocks for which objections have been received.



### DESCRIPTION:

**Applicant:** Chris Jenkins Design Architects Pty Ltd  
**Subject Property:** Lot 18 DP 882876  
 44 Marlin Drive, South West Rocks  
**Zone:** 2(a) (Residential "A" Zone)

### Background

Council considered the matter at its meeting of December 13<sup>th</sup> 2005 ([Appendix D, Part 1, Part 2, Part 3, Part 4, Part 5, Part 6, Part 7, Part 8, Part 9](#)) and resolved the following: -

*"That this matter be listed for a works inspection"*

The works inspection was carried out on February 13<sup>th</sup> 2006. The following was resolved: -

*"That the applicant be required to submit amended plans to provide for a more suitable means for the collection of garbage from the development"*

## Heads of Consideration

The heads of consideration were addressed in the report previously submitted to Council ([Appendix D, Part 1, Part 2, Part 3, Part 4, Part 5, Part 6, Part 7, Part 8, Part 9](#)). The only matter left outstanding is the issue of garbage collection.

## Garbage Collection

It was previously proposed to collect garbage from within the development. The applicant has submitted amended plans ([Appendix E](#)) and made a submission ([Appendix F](#)) which provides for a garbage storage and collection area at the entrance to the lot. This provides for 3 bins from each dwelling to provide for additional space should Council put in place a kerb side recycling program. The nature of the construction of the storage area will mean that no bins will be visible.

The proximity of the storage area to adjacent dwellings is potentially an issue having regard for potential odour impacts. The proposed storage areas are to be fully enclosed.

The only other possible means of garbage disposal would be to require the placement of bins on the opposite side of Marlin Drive for collection, with storage taking place within the development.

On collection day, the bins will need to be placed adjacent the kerb. It is recommended that the development provide for a concrete standing area adjacent the kerb, and on each side of the access driveway of sufficient size to accommodate the bins.

## Advertising

Due to the nature of the change, the two dwellings either side of the access handle were notified and invited to comment on the proposed changes. Two (2) submissions were received which can be summarised as follows. ([Appendix G](#))

Objection	Planning Comment
1 The placement of the bins so close to our living room and bedrooms would create an eyesore.	1 The proposed storage area will be below fence height and fully enclosed. No bins will be visible.
2 The odour would be unbearable.	2 Storage areas are fully enclosed which should reduce odour problems.
3 Where are the bins going to be placed for collection?	3 Bins will be located at kerbside. It is recommended that a concrete standing area be provided.

- 4 It seems that the only solution is the provision of a large skip bin placed at the top of the driveway within a storage area.

Collection within the lot has previously been rejected by Council.

## **REPORT IMPLICATIONS:**

- ***Environmental***

*The subject lot is within a cleared subdivision meaning that there will be negligible environmental impacts. The applicant will be required to treat stormwater on-site in addition to the treatment systems that are located downstream.*

- ***Social***

*While there are some issues with overlooking, this is considered to be acceptable given the slope of the land and proposed consent conditions.*

- ***Economic (Financial)***

*The proposal is expected to bring an economic benefit for the period of construction only.*

- ***Policy or Statutory***

*All policy and statutory matters were addressed and considered by Council in the report to Council of 13th December, 2005. The only matter Council required to be amended was the means of garbage collection.*

- ***Directors Review***

*The amended bin storage area has the potential to impact on the adjoining residences by means of noise and odour. However, it is proposed to fully enclose the area which would reduce potential impacts and Council previously indicated that the disturbance caused by accessing bins by trucks within the development was unacceptable. It is considered that the loss of amenity by either method would be insufficient grounds on which to base a refusal and approval is recommended.*

## **RECOMMENDATION:**

- A That Council grant consent subject to the following conditions:-**

### **General**

- 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 Provision of the storage area for garbage bins generally in accordance with the plan submitted on 9th March 2006.
- 3 Provision of a concrete standing area adjacent to the kerb, adjoining the access driveway, of sufficient size to accommodate the garbage bins required for the development, on collection day. Details to be submitted, and approved, prior to issue of the construction certificate.
- 4 Provision of a privacy screen below the handrail of the deck of the dwellings behind No 46 and 48 Marlin Drive.
- 5 Submission of a detailed landscaping plan for Council approval prior to issue of the Construction Certificate. Such plan to provide for planting of tall shrubs along the boundary behind Nos 46 and 48 Marlin Drive, to provide for privacy screening between the lots.
- 6 Implementation of the landscaping plan to Councils satisfaction prior to issue of the Occupation Certificate.
- 7 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.
- 8 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
- 9 Two days prior to commencing work Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
- 10 The multiple dwellings 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.

- 11 Prior to any civil works commencing onsite, the applicant is to advise Council in writing of the following:
- a Supervision is to be undertaken in accordance with the attached schedule "*Construction Guidelines*" - Section 4.2.3 Part 3.
  - b The identity and qualification of the nominated contractor and / or sub-contractors to undertake the civil works associated with the subdivision / development.
  - c 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.
  - d 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.
- 12 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.
- 13 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.
- 14 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.
- 15 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.
- 16 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.
- 17 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).

- 18 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. 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.

- 19 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.

- 20 The following survey certificates must be given to Council at the following stages:-

- On completion of floor slab framework before concrete is poured, 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.
- At completion of each dwelling confirming that location is in accordance with the approval.

- 21 A minimum distance of 675mm is to be provided between the overhang of the eaves and guttering and side boundary alignment.

- 22 A minimum distance of 900mm is to be provided between the wall building and the side boundary alignment.

- 23 A Survey Report is to be submitted on completion of each dwelling to ensure the location of the building is in accordance with the approval issued.

- 24 The dwelling shall be constructed to include all of the energy efficiency requirements contained within the single residence scorecard provided.

Walls  
Roof  
Wall  
Roof  
Ceiling  
Hot-water

As per the scorecard provided with the application.

- 25 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.
- 26 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.
- 27 All loading and unloading in connection with the use of the subject premises shall be carried out wholly within the subject property.
- 28 Building materials are not to be stored within the road reserve or any other public place.
- 29 Excavated material from the site is not to be placed within the road reserve or any other public place.
- 30 All internal roads within the proposed development are to be constructed in accordance with Council's Engineering Guidelines for Subdivision and Development. Detailed plans are to be submitted for approval prior to release of the Construction Certificate.
- 31 Plans for the required Construction Certificate are to show for internal driveway layouts in accordance with AS 2890.1.2004.
- 32 The visitor car spaces nominated on the approved development plans are to be clearly marked. Details to be submitted prior to submission of the Construction Certificate.
- 33 The plans for the required Construction Certificate are to include calculations of the amount of cut and the amount of fill.

In the event additional fill material is required, details of the source of material are to be provided.

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.

- 34 The recommendations made in the "Geotechnical report – Construction erosion plan for 44 Marlin Drive South West Rocks", prepared by Engineering Geology Specialists are to be implemented during construction. Details are to be provided prior to release of the Construction Certificate.
- 35 Plans for the required Construction flows from the site to pre-development levels.
- 36 Technical details are to be provided with the information for the required Construction Certificate indicating that the recommendations made in the document entitled "Geotechnical Report – Foundation investigation" prepared by Engineering Geology Specialists Pty Ltd will be met during construction of the proposed dwellings, and to be certified as being built in accordance with the details prior to issue of the Occupation Certificate.
- 37 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 the augmentation of sewerage headworks at the rate of \$3,456.00 per equivalent tenement, i.e.  $\$3,456.00 \times 4ET = \$13824$  (indexed 2005 / 2006)
  - b Payment of a contribution towards district water supply at the rate of \$3155.00 per equivalent tenement, i.e.  $\$3155.00 \times 4ET = \$12620$  (indexed 2005 / 2006)
- 38 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 / Subdivision Certificate, at the rate prevailing at that time. The current rate is \$1953.00 per additional dwelling unit, i.e. \$1953.00 x 4ET = \$7812 (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.

## Planning for Bushfire Protection

- 39 Construction is to comply with AS 3959 – 1999 level 1 “Construction of Buildings in bushfire prone areas”
- 40 Roofing shall be gutter less or have leafless guttering and valleys are to be screened with a fire rated material that has a flammability index of not greater than 5 when tested in accordance with AS 1530.2, to prevent the build up of flammable material.
- 41 The entire property shall be managed as an “Inner Protection Area” as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.
- 42 The reversing bay shall have a minimum width of 4.5m for one bay and 6m for the other bay. The length of each bay shall be 15m measured from the centre of the road. The radius shall be a maximum of 12m and a minimum of 8m.
- 43 Parking shall be restricted to the parking bays nominated on the plans. No parking is permitted in the road.
- 44 The proposed hydrant shall be relocated to the passing bay or the reversing bay. The hydrant shall ensure that a tanker can park within a distance serviceable by a 20m hose and the habitable building must be located such that a fire at the furthest extreme of the dwelling can be attacked by the tanker using a 60m hose and 10m jet of water.
- 45 The access road shall be constructed to ensure that the capacity of the road surface and grades shall comply with Section 4.3.2 of Planning for Bushfire Protection 2001.

## Subdivision

- 46 Each newly created allotment is to be serviced by a separate water meter and sewer connection. The

applicant is to meet the full costs. Details to be submitted prior to issue of the Construction Certificate.

- 47 Submission of an application for subdivision certificate pursuant to s4A of the Environmental Planning and Assessment Act 1979 which authorises the registration of the plan of subdivision.
- 48 If it is proposed to subdivide the land prior to commencement of construction of the dwellings, Council will require creation of an appropriate Restriction-As-To-User providing that any dwelling erected on the allotment be strictly in accordance with the approved development plans (T6-05-085, drawn by "Chris Jenkins Design" File Reference 2031\_DA). Such a restriction shall nominate Kempsey Shire Council as the sole party to vary, modify or extinguish the restriction.
- 49 Applicant is to submit with the final plan of subdivision copies of any instrument under s88B or s88E of the Conveyancing Act 1919 relevant to any restrictive covenants, easements or rights of way created by this subdivision.
- 50 Where additional easements are required for stormwater or sewerage infrastructure, easements to Council standards will be required for which documentary evidence shall be required prior to release of the Construction Certificate.
- 51 Appropriate right of ways are to be put in place. Details are to be provided with the final plan of subdivision.

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