



KEMPSEY
Shire Council

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

11th April 2006

DSDS3	THREE LOT SUBDIVISION AND BOUNDARY ADJUSTMENT, DEMOLITION OF A DWELLING AND ERECTION OF TWO ADDITIONAL DWELLINGS DULCONGHI AND STEWART STREETS, CRESCENT HEAD
	FILE: T6-05-273 GGL { Folio No. * }

SUMMARY:

Reporting that Council has received a request to review its decision to refuse an application to subdivide and erect dwellings at Crescent Head.

As part of the review, the applicant submitted amended plans. The applicant asserts that the proposal now complies with the Development Standards in Development Control Plan (DCP) No 22.



DESCRIPTION:

Applicant: Witzig Schula Architects
Subject Property: Lots 2 DP 570181, 13 Dulconghi Street and Lot 180 DP 755541, 36 Stewart Street, Crescent Head
Zone: 2 (a) (Residential "A" Zone)

Background

At its meeting of 15th November 2005 Council resolved: -

"That this application be refused on the grounds it does not comply with DCP22 and the proposal has issues of concern in the following areas: -

- *area is low density*
- *car parking*
- *topography*
- *high erosion potential*
- *an undesirable precedent would be set if approved*

- *minimum lot size is not complied with*
- *possible cumulative affect on ecological sustainable development in the area."*

The application was subsequently refused in accordance with Council's decision. The applicant has requested a review of determination and a modified proposal has been submitted.

Matters for consideration

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

Kempsey LEP 1987

The land is zoned Residential "A" (Zoned No 2(a)). Dwelling-houses are permissible with consent. Clause 16 (1) (d) requires a minimum lot size of 500m². Proposed Lot 1 has an area of 402m². See SEPP1 below.

Clause 16A(3) allows subdivision of land into lots less than 500m² where each lot contains an existing building erected in accordance with a development consent. This means that if the proposed dwellings were erected, prior to subdivision, the development would be permissible under Kempsey LEP 1987. Clause 24 sets a height limit of 2 storey and an uppermost ceiling limit of 6.2m. See "Height" below.

State Environmental Planning Policy No 1

The applicant seeks Council's agreement to the use of SEPP 1 to vary the minimum lot size of 500m² to allow the subdivision of proposed Lot 1 to a size of 402m² on the following basis: The density complies with Development Control Plan 22 and as the building setbacks and roof heights are generally in accord with DCP 22. Compliance with the 500m² is considered unreasonable in the circumstances. In agreeing to the use of SEPP 1, it is recommended that a Restriction as to User be created over Lot 1 restricting any future development to the dwellings approved under this consent.

Council may assume concurrence from The Department of Planning for SEPP 1 Objections in urban areas.

Council has previously been prepared to use SEPP 1, subject to the proposed development complying with the relevant development standards contained in DCP 22.

If Council is of a mind not to support the SEPP 1, a condition could be imposed requiring completion of the dwelling on Lot 1 prior to release of the Subdivision Certificate.

State Environmental Planning Policy 71 – Coastal Protection

The proposed development is identified as being within the Coastal Zone. Council is required to consider Clause 8 matters in the SEPP, as outlined below:

- (a) the aims of the Policy set out in Clause 2.

The proposal is generally consistent with the aims of the policy.

- (b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved.

No impact on public access to coastal foreshore will result..

- (c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability.

N/A

- (d) the suitability of development given its type, location and design and its relationship with the surrounding area.

The development is suitable in terms of type and location. Design issues, in particular, height are addressed below.

- (e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore.

N/A

- (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,

Subject to amendments to the design, the proposal is considered acceptable.

- (g) measures to conserve animals (within the meaning of Threatened Species Conservation Act 1995) and plants (within the meaning of the Act), and their habitats,

No significant native vegetation exists onsite.

- (h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats,

No significant impacts. Stormwater from the site requires appropriate treatment.

- (i) existing wildlife corridors and the impact of development on these corridors,

N/A

- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

N/A

- (k) measures to reduce the potential for conflict between land-based and water-based coastal activities,

N/A

- (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,

No known cultural places will be impacted.

- (m) likely impacts of development on the water quality of coastal water-bodies,

Provision needs to be made for treating stormwater. See below.

- (n) the conservation and preservation of items of heritage, archaeological or historic significance,

No known items of significance.

- (o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,

N/A

- (p) only in cases in which development application in relation to proposed development is determined:

- (i) the cumulative impacts of the proposed development on the environment and
- (ii) measures to ensure that water and energy usage by the proposed development is efficient.

The proposal will be required to comply with the NatHers rating of 3.5 stars or better.

Clause 16 of State Environmental Planning Policy 71 – Coastal Protection requires that the consent authority must consider stormwater disposal from the site and must not grant consent to a development application if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.

The development will require consideration of water harvesting and reuse on-site, together with opportunities for onsite infiltration.

Development Control Plan (DCP) No. 22 – Local Housing Strategy (Urban Areas – 2003)

The proposal has been assessed in accordance with the provisions of DCP 22: -

Development on Proposed Lot 1 [\(Appendix H\)](#)

The amended plans do not change the plans for the dwelling-house on proposed Lot 1.

STANDARD	REQUIRED	PROPOSED	DEVELOPMENT STANDARD YES/NO	COMPLIANCE PERFORMANCE OBJECTIVE
Density Proposed Lot 1	400m ²	402m ²	Yes	Complies
Front Setbacks	Primary Street 5m Minimum with 1.5 encroachment	5m setback with 200mm encroachment	Yes	Complies
Side Setback	Eastern Elevation 900 minimum with 1.8m minimum average	900mm minimum with > 1.8m average	Yes	Complies
Rear	Western Elevation 900 minimum with 1.8m minimum average 1.8m average minimum setback	900mm minimum with > 1.8m average 4 metre setback > 1.8m setbacks	Yes Yes	Complies

Car Parking & Access	1 covered car space Comply with AS 2890.1	Double garage		Complies
Private Open Space	Minimum area of 25m ² with a 4mx4m area <1 in 8 gradient.	< 1 in 8 gradient not achieved	No	Complies
	Accessible from living areas and adequate solar access	Balcony and living area are north facing which achieves adequate solar access	Yes	Complies
Landscaping	130m ²	174m ²	Yes	Complies
Height	6.2m to Top Plate with overall height of 7.9 metres	5.8m to Top Plate with overall height, maximum of 7.7 metres	Yes	Complies
Solar Access	Min 3.5 NATHERS	ABSA Certificate received	Yes	Complies
	Adequate solar orientation	Design has maximised solar access available	Yes	
	No shading of neighbouring residential buildings	Proposal is not considered likely to result in any adverse overshadowing	Yes	
Privacy	Avoid overlooking	Does not overlook adjoining properties	Yes	Complies
Cut and Fill	Max 1.5m	Approximately 1.5m	Yes	Complies
Erosion and Sediment Control	No sediment runoff	To be conditioned		Can comply

Private Open Space (Lot 1)

Amended plans for the proposed dwelling on proposed Lot 1 indicate no change for the positioning of private open space, which is to be provided by decking. Section 4.4 of DCP 22 provides that an area of private open space is to be set aside for each dwelling with an area of 25m² and be capable of containing a rectangle of 4m by 4m not steeper than 1 in 8 in gradient. Private Open space areas are to be orientated to achieve maximum year round solar access and be

designed to enable an extension of the dwelling's living area. The DCP allows private open space to be provided as decks and balconies, but this is in respect to dwellings in residential flat buildings located wholly above ground level. The orientation and size of the deck is capable of achieving these requirements and may be considered reasonable in the circumstances being approximately 45m² in area and containing a 3.5 m x 3.5 m rectangle.

Development on Proposed Lot 2 [\(Appendix I\)](#)

The dwelling-house design for proposed Lot 2 has been substantially amended since Council's previous determination. The foot print of the building is higher up the slope, with significantly greater setback from the proposed rear boundary. The building steps down the slope to a greater extent than the original design, with the living area split across two levels.

STANDARD	REQUIRED	PROPOSED	DEVOP- MENT STANDARD YES/NO	COMPLIANCE PERFORMANC E OBJECTIVE
Density Proposed Lot 2	500m ²	555m ²	Yes	Complies
Front Setbacks	Primary Street 5m Minimum with 1.5 encroachme nt	5m setback with 200mm 1.2m encroachment	Yes	Complies
Side Setback	Eastern Elevation 900 minimum with 1.8m minimum average	900mm minimum with > 1.8m average	Yes	Complies
2 storey dwelling on lot 2	Western Elevation 900 minimum with 1.8m minimum average	900mm minimum with > 1.8m average	Yes	Complies
Rear	1.5m Minimum with 4.1m average	1.5m Minimum setback is provided with an average minimum setback of 4.1m on both elevations > 1.8m	Yes	Complies

	1.8m average minimum setback	setbacks	Yes	Complies
Car Parking & Access	1 Covered space Comply with AS 2890.1	Double garage – Complies with AS 2890.1	Yes	Complies Complies
Private Open Space	Minimum area of 25m ² with a 4mx4m area <1 in 8 gradient. Accessible from living areas and adequate solar access	< 1 in 8 gradient not achieved Balcony and living area are north facing which achieves adequate solar access	No Yes	See comment.
Landscaping Lot 2	130m ²	200m ²	Yes	Complies
Height Lot 2	6.2m to Top Plate with 1.7 metres for raked ceilings.	Highest point is 6.2m to Top Plate. Top of rake of ceiling does not exceed 1.7m.	Yes	See comment.
Solar Access	BASIX Adequate solar orientation No shading of neighbouring residential buildings	Design has maximised solar access available Proposal is not considered likely to result in any adverse overshadowing.	Yes	Complies
Privacy	Avoid overlooking	No significant overlooking of adjoining properties	Yes	Complies
Cut and Fill	Max 1.5m	1.5m	Yes	Complies

Erosion and Sediment Control	No sediment runoff	To be conditioned.		Can comply
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Private Open Space (Lot 2)

Amended plans for the proposed dwelling on proposed Lot 2 indicate no change for the positioning of private open space, which is to provide decking as private open space. Section 4.4 of DCP 22 provides that an area of private open space is to be set aside for each dwelling with an area of 25m² and be capable of containing a rectangle of 4m by 4m not steeper than 1 in 8 in gradient. Private Open space areas are to be orientated to achieve maximum year round solar access and be designed to enable an extension of the dwelling's living area. The DCP allows private open space to be provided as decks and balconies, but this is in respect to dwellings in residential flat buildings located wholly above ground level. The orientation and size of the deck is capable of achieving the requirements of Section 4.4 of DCP 22 and may be considered reasonable in the circumstances. Proposed dwelling on proposed lot 2 incorporates two decks, the larger being approximately 30 m² and 3.5 metres wide.

Draft Development Control Plan – Crescent Head

The proposal does not comply with the following standards of the draft Development Control Plan:

- 3m side setback for 2 storey buildings
- Density of 1 dwelling per 500m²
- Overall height limit of 7.9m above natural ground level

However, the application was lodged in June 2005, and the draft DCP has not yet been adopted by Council. It is considered unreasonable to require it to comply.

Response to Reasons for Refusal

The applicant has made a submission in respect to Councils reasons for refusal as follows: [\(Appendix J\)](#)

- Area is low density

The development complies with the density requirements of the Development Control Plan. The lot size does not comply with the minimum lot size in Kempsey Local Environmental Plan 1987. However, consent could be granted to 2 dwellings on the land, without subdivision and without contravening the LEP. Once the dwelling on proposed Lot 1 was built, consent could be granted under Clause 16A (3) of LEP 1987 which allows subdivision into any size where the building has been erected in accordance with Council consent. If Council did not wish to support the SEPP 1 objection, it

could insist that the dwelling be erected before the subdivision can be carried out.

- Car Parking

Both dwellings provide a double garage for off street parking. Dwelling 1 provides sufficient area in the driveway to facilitate 2 "stacked" visitor spaces off street. The development more than complies with Councils requirements.

- Topography

The site is steep, however, the amended plans comply with the height limit and maximum cut limitations of the Development Control Plan.

- High Erosion Potential

The majority of the design of both dwellings incorporates pole construction, avoiding extensive site works for footings. Provided a soil erosion management plan is implemented during construction, impacts can be minimised.

- Undesirable Precedent

Every application is required to be assessed on merit. This application has demonstrated compliance with the performance objectives of the Development Control Plan.

- Minimum Lot Sizes is Not Complied With

As noted above, this can be overcome by requiring the dwelling on proposed Lot 1 to be erected prior to allowing the subdivision to proceed.

- Possible Cumulative Impact on ESD in the Area

The land has been zoned to allow development. Cumulative impacts need to be addressed at a strategic level, not an application by application basis.

Public Exhibition

The amended plans were readvertised in accordance with Council's Public Notification Policy with three (3) submissions having been received [\(Appendix K, Part 1, Part 2\)](#). The submissions can be summarised as follows: -

Objection	Planning Comment
1 Lot 1 is under the minimum lot size of 500m ² .	1 The applicant has submitted a SEPP 1 objection to

		development KLEP 87 Clause 16 (1) d.
2	The development is oversized and will cause a loss of views, light, air flow and will impact on community amenity.	2 The proposed development complies with setback and height requirements of DCP 22. The proposed development is not expected to impact on views from adjoining properties. The proposal is not expected to impact on the amenity of the area.
3	Development on the steep site will impact on drainage and water quality will affect Killick Creek.	3 Site drainage is required to be treated in compliance with the requirements of SEPP 71 Clause 16.
4	The proposal will impact on our views.	4 The proposed development is not expected to impact on views from adjoining properties.
5	The development will also impact on traffic movements in Dulconghi Street which will be a safety issue.	5 The development is not expected to impact on traffic movements or road safety on Dulconghi Street.

The initial proposal was advertised in accordance with Council's Advertising Policy with four (4) submissions having been received, one being confidential. [\(Appendix L\)](#) The submissions can be summarised as follows: -

Objection	Planning Comment
1 My concerns are in regards to an old date palm tree which is indicated on the plans for 2 rainwater tanks. If the tree was removed I would lose all my privacy. My house is used for holiday letting which could be impacted upon during construction works / deliveries.	1 Deletion of part of the southern deck and screening of the living room and western side of the northern verandah of dwelling 2 will address privacy issues.
2 The proposed dwelling at Stewart Street is under the minimum allowable lot size and exceeds the height limit.	2 The applicant has submitted a SEPP 1 objection to development standard KLEP 87 Clause 24 (1) d.
3 The proposal is not	3 The proposal complies with

consistent with the existing Stewart Street streetscape.

4 Lot 1 is only 400m². The dwelling on Lot 2 exceeds Council height limits it comprises 4 levels and is as high as a full 3 storey house. The deck on dwelling at lot 2 will overlook a number a neighbouring properties.

5 The proposal will result in loss of sea, coast and village views to the north of our residence 36 Dulconghi Street. The proposed development will cause additional traffic problems in Dulconghi Street which is already extremely dangerous.

the setback requirements of DCP 22. Height reduction is required to be consistent with the streetscape.

4 Refer to SEPP 1 objection. Height will need to be reduced.

5 Given that 36 Dulconghi Street is located on the high side of the street the proposal is not expected to impact on views. The reduction in height will lessen any impacts. Driveway gradients will need to comply with Council standards. Parking provision complies with Council's Parking Code, however, the shared driveway for Dwelling 2 limits the ability to provide off street visitor parking and Dulconghi Street does not provide kerbside parking.

REPORT IMPLICATIONS

- ***Environmental***

The proposal does not require the removal of any substantial or significant vegetation.

- ***Social (Financial)***

The proposal will provide additional housing in Crescent Head.

- ***Economic (Financial)***

No significant economic impacts.

- ***Policy or Statutory***

The application has been assessed under Section 79(c) of the Environmental Planning & Assessment Act 1979.

RECOMMENDATION:

- A. That Council agree to the use of State Environmental Planning Policy 1 to permit the proposed subdivision.
- B. That Consent be granted subject to the following conditions:
 - 1 Submission of three (3) sets of plans with the Construction Certificate indicating the following:
 - i) Dimension natural ground to top plate heights not exceeding 6.2m.
 - ii) Dimension natural ground to ceiling not exceeding 7.9m.
 - iii) Provide cross section detailing the stairwell's staircase construction and room heights complying with part 3 of volume 2 of BCA or alternatively provide performance Based Alternative Report with cross sections demonstrating compliance with the Performance requirements set out in Part 2 of volume 2 of the BCA.
 - 2 Submit a survey Certificate prepared by a registered surveyor to Council verifying the siting of the building in relation to adjacent boundaries, and work is not to proceed beyond that stage until Council has given a written release. The survey is to be submitted at completion of floor slab formwork before concrete is poured.
 - 3 Submit a survey certificate prepared by a registered surveyor to Council, to verify that the work is being constructed at the levels shown on the approved drawings. The works are not to proceed beyond the designated stages until Council has given a written release. The surveys are to be submitted at the following designated stages:
 - a) Ground floor slab formwork
 - b) First floor sheet flooring.
 - c) Ridge and top plate at completion of wall and roof frame prior to lining.
 - 4 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.

- 5 The building or portion of the building is not to be used or adopted for use as a residential flat building.
- 6 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.
- 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 building is not to be occupied until all conditions of Council's consent have been complied with to the satisfaction of Council and an Occupation Certificate has been obtained.
- 11 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.
- 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 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 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.

- 15 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.

- i) Structural Engineer's Details for footings, structural steel work, retaining walls is to be submitted prior to any work commencing on the building.
- ii) 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.
- iii) Drainage lines are to be located 600mm clear of the building.
- iv) 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.
- v) Should the verandah, patio or landing exceed 1 metre in height above the ground then a suitable balustrade is to be provided

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to the verandah, patio or landing and steps for safety and convenience.

Such balustrade to conform with the requirements of the Building Code of Australia:-

(1) Part 3.9.1. and 3.9.2 of BCA Housing Provisions

Note: Spacing of rails not to exceed 125mm.

- vi) 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:

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

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

- vii) Kitchen exhaust fans are to be ducted externally of the building or a recirculating hood type be provided.
- viii) Class 1(a) and 1(b) Buildings

An automatic fire detection and alarm system is to be installed in the building. Such system to conform with Specification E1.7 of the Building Code of Australia or be a smoke alarm system complying with AS 3786 or listed in the SSL Register of Accredited Products.

The system is to be provided with mains electrical power, have a stand by power supply and installed in each storey to comply with Clause E1.7 (N.S.W. Variation). Details of location of the units are to be provided for approval prior to installation.

- ix) 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.

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- x) Any sarking used in the roof of the dwelling must have a flammability index not more than 5.
 - xi) The sub floor ventilation must comply with Part 3.4.1.2 a) b) c) d) e) f) and g) of the Building Code of Australia (Housing Provisions).
 - xii) Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
 - xiii) Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
- 16 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.
- 17 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.
- 18 All roof-waters and stormwater runoff from all paved areas within the allotment boundaries are to be collected, directed and conveyed off-site by means of a sealed pipe system designed for a 1 in 10 year storm recurrence interval and connected via an industry recognised outlet arrangement to the existing public stormwater drainage receival and disposal system.
- 19 Plans for the required construction certificate are to show means for limiting all stormwater flows to pre-development levels.
- 20 Plans for the required construction certificate are to show means for the treatment of stormwater to an acceptable level prior to discharging from the site.
- 21 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 stabilised beyond the completion of construction.

Protection of any kerb inlet pit located downstream of the site in accordance with Council's Engineering Guidelines for Subdivision and Development (Drawing No SW20).

Note:

- i) Any roof drainage system is to be connected to the required discharged point at the building frame inspection stage.
 - ii) Any material spilled or deposited on the road reserve or in the gutter is to be removed immediately.
- 22 Access to the site for deliveries is to be confined to between 7.00 am and 5.00 pm Monday to Friday. 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.
- 23 Building materials are not to be stored within the road reserve or any other public place.
- 24 Before the commencement of site works, demolition or building, the following activities must be completed:
- a) Installation of safety fencing / hoardings between the property and the street
 - b) Protection barriers for existing trees
 - c) Installation of builder's toilets
 - d) 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.
- 25 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) Disposing of waste into a sewer of the Council.
- 26 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.
- 27 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).
- 28 Hoarding / fence is to be provided to the site in accordance with the assessment provided to Council prior to commencement of site works.
- 29 A temporary sanitary facility connected to Councils sewer main or a non flushing chemical closet shall be provided on the site throughout the course of building operations. Chemical closets must

comply with standards required to facilitate accreditation by the NSW Department of Health (NSW Health). Closets shall be emptied and recharged with deodorising chemicals on a regular basis not exceeding 7 days by persons approved to do so by Kempsey Shire Council.

- 30 Access from the street to the property boundary to be via a standard layback and full width concrete paving. Paving to be 125mm thick unreinforced with construction joints to suit service trenches. Details are to be to be provided and approved prior to the release of the construction certificate.
- 31 All internal accessways and parking spaces are to be designed and constructed in accordance with Council's Engineering Guidelines for Subdivision and Development to at least concrete paved standard. Details are to be to be provided and approved prior to the release of the construction certificate.
- 32 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.
- 33 Submission of a report prepared by a suitably qualified engineer certifying that all footings have been designed to withstand expected loadings, having regard to the conditions of the site prior to release of the required Construction Certificate.

Contributions

- 34 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.
- 35 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 cash contribution prior to the issuing of the required Construction Certificate towards Council's District Water

in accordance with Council's Section 94 Plan for Stormwater Drainage at the rate of \$1,256.00 per equivalent tenement, i.e. $\$1,256.00 \times 1 \text{ E.T.} = \$1,256.00$ (Indexed 2005 / 2006).

- b) Payment of a cash contribution prior to the issuing of the required Construction Certificate towards the augmentation of sewerage headworks at the rate of \$2,028.00 per equivalent tenement, i.e. $\$2,103.00 \times 1 \text{ E.T.} = \$2,103.00$. (Indexed 2005 / 2006).
 - c) Payment of a cash contribution prior to the issuing of the required Construction Certificate towards sewer reticulation works at the rate of \$1,550.00 per equivalent tenement, i.e. $\$1,550.00 \times 1 \text{ E.T.} = \$1,550.00$. (Indexed 2005 / 2006).
- 36 Payment of a cash contribution towards the provision of additional open space in accordance with Council's Section 94 Plan for Outdoor Recreation at the rate of \$410 per additional tenement i.e. $\$410.00 \times 1 = \410.00 (Indexed 2004 / 2005) prior to issuing of the Construction Certificate. The Plan may be inspected at Council's Offices, Cnr Elbow and Tozer Streets, West Kempsey.

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

Subdivision

- 37 The means for conveyance of all stormwater from the site to Council's stormwater line via a standard type converter strictly in accordance with Council's Engineering Guidelines for Subdivision and Development. Details to be submitted prior to issuing the Construction Certificate, such works to be completed prior to issue of the subdivision certificate.
- 38 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 the issuing of the Construction Certificate. Meters and connections are to be installed prior to issue of the subdivision

certificate.

- 39 Piping of the existing stormwater drainage easement within the property. Details to be submitted for approval prior to the release of the Construction Certificate. Such piping to be completed prior to issue of the subdivision certificate.
- 40 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.
- 41 Applicant is to submit with the final plan of subdivision copies of any instrument under 88B or S88E of the Conveyancing Act 1919 relevant to any restrictive covenants, easements or rights of way created by the this subdivision.
- 42 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 the release of the Construction Certificate.
- 43 Creation of an appropriate 88E Instrument specifying that no dwelling may be erected on Lot 1 other than in accordance with the terms of this consent and nominating Kempsey Shire Council as the sole party to vary or modify.

Bushfire

- 45 In recognition of the substantial amount of vegetation in the vicinity of the subject site and the expected ember attack, the existing dwelling on proposed Lot 3 should be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen.
- 46 Construction of the dwelling on Lot 2 shall comply with AS3959-1999 Level 1 'Construction of Buildings in bushfire prone areas'.
- 47 The entire property shall be managed as an 'Inner Protection Area' as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.

48 Where the rear of the dwelling is greater than 90 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 be indicated on which side of the road the hydrant is located.

C. That if Council is of a mind not to agree to the use of State Environmental Planning Policy 1 to permit the proposed subdivision that the following condition replaces proposed condition 43.

43 A Subdivision Certificate shall not be issued until an Occupation Certificate has been issued for the dwelling on proposed Lot 1.

D. That the objectors be advised of Councils decision.

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES