



**KEMPSEY**  
Shire Council

## **DIRECTOR SUSTAINABLE DEVELOPMENT REPORT**

12<sup>th</sup> December 2006

<b>DSDS6</b>	<b>PROPOSED MODIFICATION OF CONSENT</b>
	<b>FILE: T6-06-175 RBP F</b>

### **SUMMARY:**

Reporting that conditions of consent have been prepared in respect to a modification to conditions of consent for a bottle shop at South Kempsey.

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**Applicant:** LM Ducat  
**Subject Property:** Lot 1 DP 337328 Lachlan Street South Kempsey  
**Zone:** 3(a) General Business

### **Background**

At its meeting of 14<sup>th</sup> November 2006, Council considered a request to modify conditions of consent relating to a storage building associated with a bottle shop at South Kempsey. Council resolved that the matter be the subject of a Works Inspection.

A Works Inspection was held on 6<sup>th</sup> December 2006 whereby it was resolved that a report be presented to Council providing for modified conditions to permit access to the building via Tighes Lane, including submission of a Risk Assessment by the carrying company that services the development.

The following conditions of consent incorporate the Committee's request: -

*The following conditions have been imposed in accordance with the requirements of Section 80A of the Environmental Planning and Assessment Act 1979 having regard to the relevant matters identified under Section 79C of the Act.*

*The following is a "deferred commencement" consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act. This consent shall not operate until the following matters have been satisfied: -*

*(a) An engineer's certificate certifying the unauthorised footings and reinforced concrete slab as constructed shall be submitted to Council.*

*(b) An application for a building certificate under Section 149D of the Environmental Planning Assessment Act combined with a recent surveyor certificate produced by a registered surveyor shall be submitted to Council with the prescribed fee.*

*Upon the above matters being satisfied, the consent may commence, 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. *This consent does not permit's 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.*

*The building is not to be occupied until all conditions of Council's consent have been complied with and an Occupation Certificate has been obtained from Council or an accredited certifier and submitted to Council.*

3. *This consent permit the use of the building for storage purposes only. The storage area is not to be accessible to the public and is not be used for the display of any good for retail purposes.*
4. *Prior to the release of the Construction Certificate Council be provided, copies of any instruments under section 88b of the Conveyancing Act 1919 relevant to any restrictive covenants, easements or right of way created by or affected by the approved development. Kempsey Shire Council is to be nominated on the plan of Subdivision as the sole party to modify or extinguish the restriction unless otherwise specified in conditions.*
5. *All Building work shall be carried out in accordance with the requirements of the Building code of Australia (BCA). A Construction Certificate shall not be issued until the Principle Certifying Authority (PCA) is satisfied that the plans and specifications comply with the BCA.*
6. *BCA Assessment Report Building upgrade – A Building code of Australia Assessment Report shall be submitted with the Construction Certificate. This shall be prepared by an appropriately qualified person and shall provide recommendations regarding what upgrading is proposed to the entire building to bring it into conformity with the Building Code of Australia. The report shall address how it is proposed to protect persons using the building, egress from the building and restriction of the spread of fire from the building to other buildings nearby. Further, all recommendations contained within this report shall be incorporated with the scope of works covered by the Construction Certificate.*
7. *A Fire Safety Schedule shall be issued by an appropriately qualified person and provided to Council as part of a Construction Certificate in accordance with the Environmental Planning and Assessment Regulation 2000.*

*This schedule shall distinguish between current proposed and required safety measures. The Fire Safety Schedule shall identify each Fire Safety measure that is/are Critical Fire Safety Measures and the intervals at which supplementary fire safety statements shall be given to the Council in respect to each such measure.*

8. *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*
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- *"Unauthorised site entry is prohibited"*
- *Name and phone number of builder or other responsible person for contact outside working hours.*
9. *Building materials are not to be stored within the road reserve or any other public place.*
10. *All loading and unloading in connection with the use of the subject premises shall be carried within the subject property to an extent that is practical.*
11. *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 upsite runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed.*
  - b) *sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent unwanted sediment and other debris escaping from the land.*
  - c) *maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.*

*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.*
12. *The applicant is to apply separately in accordance with Section 138 of the Roads Act 1993 for consent to undertake*

*the following Engineering Work within Tighes Lane prior to the issue of the Construction Certificate: -*

*a) The pavement area in Tighes Lane where it is intended to run Service Vehicles is to be upgraded to accommodate the anticipated turning movements and associated pavement loading ( $5 \times 10^7$  ESA). These areas are to receive a 50mm thick AC14 (PMB) wearing surface. The applicant is to submit detailed engineering plans and pavement design for this work.*

*b) Submit details identifying the method to be employed to ensure that the service vehicle exit into the Tighes Lane is kept clear at all times.*

13. *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 issue of the Final Occupation 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 matter being complied with: -*

14. *Details on the location and adequacy of the existing internal piped stormwater drainage system to accommodate the proposed increase in stormwater flow is to be submitted with the plans for the Construction Certificate.*
15. *All internal parking areas, access-ways (including the right of carriageway), turning areas, driveways and ramps are to be designed and constructed in accordance with AS/NZ2890.1, AS/NZ2890.2, Council's Parking Code and Development Control Plan No. 36 Engineering Guidelines for Subdivision and Development. These areas are to be concrete paved and drainage provided to capture all surface flows. The applicant is to submit detailed engineering plans with the application for construction certificate.*
16. *Submission of a Worksite Risk Assessment from the trucking company servicing the development indicating that the access arrangements off Tighes Lane are satisfactory prior to release of the Construction Certificate*

#### **REPORT IMPLICATIONS:**

- **Environmental**

**Nil**

- **Social**

**Nil**

- **Economic (Financial)**

*Nil*

- *Policy or Statutory*

*Nil*

**RECOMMENDATION:**

**For Council's determination.**

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