



**KEMPSEY**  
Shire Council

## **DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT**

14<sup>th</sup> March 2006

<b>DSDS1</b>	<b>INTERNAL SHOP ADDITIONS CREDIT UNION PLAZA FILE: T6-05-612 GGL</b>
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### **SUMMARY:**

Reporting that Council has received a development application to carry out alterations to the Credit Union Plaza to create four (4) new shops which will require a variation to Council's Flood Risk Management Policy.



**Applicant:** T Ting  
**Subject Property:** Lot 252 DP831034 No 4 Clyde Street,  
Kempsey  
**Zone:** 3(a) Business General

### **Description of proposal**

The proposal is to create additional shop floor space by closing the existing two side access points off Clyde Street to create one central access point and create two new shops in the centre of the Credit Union Plaza. ([Appendix A](#))

### **Background**

Development Consent was issued in 1980 for the construction of the Plaza in Clyde Street. The amount of leasable floor area of the building was 496.6m<sup>2</sup>. A condition of this development consent required fifteen (15) car spaces, all of which were provided on site.

In 1984 Council granted development consent for an additional 375.4m<sup>2</sup> of leasable floor space to the existing Plaza. Additions were constructed over the existing car park and the applicant was required to pay a car parking contribution for the deficiency of twenty three (23) car spaces.

In 1995 Council granted development consent for the removal of internal toilets to create additional leasable floor space. In accordance with Council's car parking code the additional leasable floor space works required one (1) car space. At its meeting in July 1995 Council resolved to waive the contribution on the basis that the centre had provided a public mothers room since 1984.

In 1997 Council granted development consent to permit the use of the Plaza for markets one (1) day per week. A condition of consent allowed a total floor area of 78.4m<sup>2</sup> for the markets in the Plaza and the applicant was required to pay a cash contribution of \$2,000 in lieu of the provision of two on-site car-parking spaces.

## **Matters for Consideration**

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

## **Kempsey Local Environmental Plan 1987**

The proposed development is defined as "Shops" under the KLEP 87 and is permissible with Council's consent in the 3(a) (BUSINESS (GENERAL)"A" ZONE). The objective of the zone is to accommodate commerce, retailing and public administration development at accessible locations.

It is considered that the proposal satisfies the zone objective, as the additions and alterations to the commercial premises allow for more retail service that will provide a benefit to the local economy.

## **Council's Car Parking Code**

The proposed increased amount of in leasable floor area is 181m<sup>2</sup>. Council's car parking code requires an additional 5 off street parking spaces at the rate of 1 space/35m<sup>2</sup>. Council previously granted Development Consent for the markets and required a contribution of \$2000 in lieu of 2 off street parking spaces. On this basis, the proposal will generate an additional three (3) car spaces.

The applicant requested that Council consider waiving the car parking contribution [\(Appendix B\)](#) based on:

- No additional shops are proposed, only additional shop floor space.
- Existing public car parks are underutilised.
- Use of the Plaza for exhibition and markets has not created congestion.
- The contribution would be prohibitive to development proceeding.

## **Planning Comment**

Council's previous decision to allow the payment of only \$2,000 for the area occupied by the markets was a concession that Council is obliged to honour in respect to that part of the extensions previously occupied by the markets. The additional three (3) spaces are required under Council's code and any further concession is likely to create a precedent for any future or existing developments where contributions are payable. It should also be noted that the contribution is required to recoup money already spent by Council.

## **Flood Risk Management Policy**

The subject premises are located in the Kempsey Central Business District Floodway. Clause 6.2.2 of Council's Flood Risk Management Policy applies. The current 1 in 100 flood level from the Macleay River at the site is 8.9m AHD. The velocity is estimated at being 2m/sec and the depth of flooding at the site is approximately 2.92 metres.

Clause 6.2.2.3 of the Flood Risk Management Policy requires new development (commercial and commercial extensions greater than 10%) to provide flood storage at a minimum of 500mm above the 1 in 100 year flood level. However, the proposal is considered to be consistent with the Policy as no additional floor area (as defined in the Flood Policy) is proposed. While there is an additional leasable floor area, which does increase the flood risk, it is considered unreasonable to require the provision of flood storage in the circumstances as the building was constructed prior to Council adopting the Flood Risk Management Policy and none of the existing shops provide for flood storage. A flood evacuation plan for the entire building should be submitted with the application for the Construction Certificate which would also reduce potential impacts on the existing development.

## **REPORT IMPLICATIONS:**

- *Environmental*

*The development is unlikely to have a significant environmental impact.*

- *Social*

*The additional floor area will provide additional commercial services for the community.*

- *Economic (Financial)*

*The development will create a demand for additional car parking in the locality. Council's Section 94 Plan provides for the collection of money in lieu of the provision of off-street parking.*

*Section 94 Contributions Plan for Off-Street Carparking*

*The Contributions Plan provides for development to pay for parking in lieu of the provision of parking on site. The current rate is \$6,272 per space. The development generates a demand for an additional three (3) spaces.*

**RECOMMENDATION:**

**A. That consent be granted subject to the following conditions:**

- 1** The development referred to in this application is to be carried out substantially in accordance with the approved development plans dated 23 December 2005 (Drawing No.51078-21 DA) as modified by any conditions of this consent.
- 2** 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.
- 3** 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.

- 4 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
- 5 The new shops are not to be occupied prior to the issue of an Final 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.

- 6 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 signage in prominent, visible position including - "Unauthorised site entry is prohibited"
- 7 Name and Details of proposed hoarding to be submitted, in writing, prior to the commencement of building operations.
- 8 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 Erection of a hoarding on land.
- 9 Details of proposed hoarding to be submitted, in writing, prior to the commencement of building operations.
- 10 The removal of any asbestos, material containing asbestos including asbestos cement cladding, is to

be carried out and disposed of in accordance with the requirements of WorkCover NSW.

- 11 In the event that the building's façade or parapet is modified the design details and colour are to be submitted to Council for approval prior to the modification of the building's façade or parapet being carried out.
- 12 A separate development application must be submitted to Council prior to the erection of new signage on the building's façade.
- 13 No table and chairs are to be placed on Council's pedestrian path without prior consent of Council.
- 14 Access to the site for construction works 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.
- 15 The hours of the construction works 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.
- 16 All loading and unloading in connection with the construction works of the subject premises shall be carried out within the designated delivery bay on the subject property.
- 17 Building materials are not to be stored within the road reserve or any other public place.
- 18 Any necessary alterations to or relocations of public utility services to be carried out at no cost to Council.
- 19 A Flood Evacuation Plan is to be prepared by the applicant. Details are to be submitted to Council for approval prior to release of the Construction Certificate

- 20 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.

- 1. All works shall comply with the Building Code of Australia.
- 2. The building shall be upgraded to conform with the current provisions of the Building Code of Australia 2005.
- 3. Fire Safety Measures within the building shall be upgraded to conform with the current provisions of the Building Code of Australia 2005.

- 21 Payment of a contribution towards district water supply at the rate of \$1256 per equivalent tenement, i.e.  $\$1256 \times .181 \text{ E.T} = \$227$ . (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.

- 22 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, based on 3 (three) parking spaces. (Currently \$6,272.00 per space = \$18,816). Payment is required prior to release of the Construction Certificate.

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