



## DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

13 March 2007

<b>DSDS2</b>	<b>PROPOSED HOTEL ADDITIONS LOT2 DP1006067 NO.2-12 FITZGERALD AVENUE, SMITHTOWN</b>	
<b>FILE: T6-06-553</b>	<b>PRJ</b>	<b>{ Folio No. * }</b>

### SUMMARY:

Council is in receipt of an application to install improved access and sanitary facilities and extend the existing covered dining area of the Smithtown Riverview Hotel which requires a variation to Council's Parking Code.

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**Applicant:** S Wetzler C/- Hadlow Design Services  
**Subject Property:** Lot 2 DP 1006067, No 2-12 Fitzgerald Avenue Smithtown  
**Zone:** 2(v) Village

### Description

The proposal involves the erection of an additional open plan undercover dining area of approximately 63m<sup>2</sup> located at the rear of the Smithtown Riverview Hotel. This area will incorporate two (2) disabled toilets and an access ramp providing improved access for persons with disabilities from the car park level into the hotel.

The applicant has indicated that they intend to place an additional forty (40) seats within the new dining area and as a trade off have offered to reduce the number of existing BBQ tables by seven (7) that equate to 56 seats. [\(Appendix K – Page G25\)](#)

### Background:

Council approved additions to the Hotel under Development Application in 1999 and permitted a variation to the Parking Code on the basis of a parking survey. At the time, the survey indicated a peak parking requirement of twenty six (26) spaces and an actual proportional parking requirement for the hotel of 36 spaces. This equates to 51% of the requirements of Council's Code which was estimated to have been accounted for by the effects of RBT and proximity to Smithtown residents.

Council accepted a 32 parking space requirement for the hotel in 1999 on the basis that the Hotel owner entered into an appropriate lease for use of Council's land to provide car parking.

Council records indicate that outdoor dining was limited to "a couple of tables in 1998" that have since grown to 14 tables or 112 seats @ 8 seats per table.

## **Heads of 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 with the following matters considered to be of particular relevance to the proposal.

## **Zoning**

The subject land is zoned 2(v) Village pursuant to the Kempsey Local Environmental Plan 1987. The objective of the zone is to allow for a wide range of land uses in smaller settlements. The proposed additions are permitted within the zone and are ancillary to an existing hotel that has existed on the site since 1957.

## **Notification**

The proposal was advertised in accordance with Council's Public Notification with no objections received.

## **Statutory**

### Rivers and Foreshores Improvement Act 1948

The Department of Natural Resources (DNR) - have confirmed in writing that there is no requirement for an approval from the Department under Part 3A as the facility is currently operating at the location and the proposed works are of a minor nature with little to no impact on the foreshore.

## **Development Control Plans**

DCP 24 – Access and Mobility – the proposed development will improve access and sanitary facilities for persons with disabilities and will be conditioned for compliance of the relevant standards.

## **Council Policies**

### Parking Code C23:12

The applicant has indicated that they intend to place an additional forty (40) seats within the new dining area.

As a trade off to the additional undercover seating, the applicant has also offered to surrender seven (7) BBQ tables that equate to fifty six (56) seats for a net reduction of sixteen (16) seats.

Council does not have a Section 94 Parking Contributions Plan for the Smithtown area and as such council must consider the following issues under the Parking Code:

1. *Ensure that adequate provision is made for off-street parking commensurate with the volume and turnover of traffic generated by the particular development.*
2. *Ensure that the parking requirements of the community are met without imposing an undue burden on developers.*
3. *To ensure that parking areas and access ways are designed to facilitate ready access by the aged, disabled and the general public.*

The applicant conducted a new parking survey in February 2007 that identified a peak parking requirement of thirty four (34) car spaces focussed around Friday and Saturday evenings. The average parking rates from 12.00pm to 8.00pm ranges from 12-14 vehicles.

Whilst the study was of limited duration, the results were similar to the 1999 survey. The new survey indicates that the peak parking rate for the survey period has increased from twenty six (26) spaces to thirty four spaces (34) whilst the peak parking times focus around Friday-Saturday evenings and individual functions on other days.

Using the 51% proportional basis from the 1999 survey results the combined parking requirement for the facility would be forty three (43) car spaces.

A review of the existing parking area revealed that with an improved layout plan an additional six (6) cars could be accommodated giving a total of thirty eight (38) parking spaces. This would provide for a net shortfall of five (5) spaces.

Council is aware of individual functions which have occurred where parking was well in excess of thirty eight (38). However, Council's Parking Code only requires regularly occurring peaks to be met and Council has no reason to doubt the data which has been supported by photographs.

Given a peak parking rate of thirty four spaces (34) and the potential to accommodate thirty eight (38) spaces in the existing car park (after redesign and marking), the proposed additions are not likely to impose any significant increase to the peak on-street parking demand for the area.

#### Flood Plain Management Strategy Policy C23:6

The proposed additions include an open covered verandah and disabled toilet and ramp facilities. This area is exempt from floor area calculations under Council's Flood Plain Management Strategy Policy (6.3.4) however, the structure would have to be certified by a Structural Engineer's Certificate indicating that the structural design and construction can withstand the force of flowing floodwaters including debris and buoyancy forces appropriate for the location.

#### **REPORT IMPLICATIONS:**

- ***Environmental***

***Nil***

- *Social*

*Council has not received any complaints about parking from the hotel from the residents of Smithtown in the past seven (7) years.*

*The hotel provides a recognised social venue for the residents of Smithtown and surrounding areas that is located centrally within the village that permits residents to walk or ride bikes between the hotel and their homes.*

*With the addition of disabled toilet and ramp, access to the facility will be improved for the disabled.*

- *Economic (Financial)*

*Approval of the increased undercover dining area would improve the viability of the hotel to enable the occupier to afford further improvements to the business.*

*The Hotel is an employer of Smithtown residents.*

#### RECOMMENDATION:

That the application for improved access and sanitary facilities and extension to the existing covered dining area of the Smithtown Riverview Hotel and variation to Council's Parking Code be approved subject to the following conditions of consent. [\(Appendix L – Page G26\)](#)

1. The development referred to in this application is to be carried out substantially in accordance with the approved development Plan No Ref 51 3120 Sheets 1-3 & 51210P and as modified by any conditions of this consent.

Dinning numbers are limited to 174 seats for the premises at any one time.

2. 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.
3. A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
4. Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
5. The area confined to new work 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.

6. 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 1-4.
  - (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.
7. 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.

## Section 68

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:-
  - 1) Carrying out sewerage work.
  - 2) Carrying out stormwater drainage work.

- 3) Operating a public car park.
  - 4) Amended Place of Public Entertainment (POPE)
9. The applicant shall line mark the existing bitumen sealed council owned parking area in accordance with AS/NZS 2890.1: 2004 to accommodate a minimum of 38 parking spaces. (Refer to Condition Number 5 of Development Consent T6-99-277 for car park lease requirements).

#### Prescribed Conditions

10. 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.
11. Details of proposed hoarding to be submitted, in writing, prior to, the commencement of building operations.

#### BCA Requirements

12. 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.

13. 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.
14. Should the verandah, patio or landing exceed 1 metre in height above the ground then a suitable balustrade is to be provided 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) D2.16

15. Artificial lighting and mechanical ventilation is to be provided to the W.C. compartment.
16. The walls immediately adjacent or behind a bath, basin, sink or trough, shall be finished to a height of not less than 300mm above the fixture or in the case of a shower, to a height of 1.8 metres above the floor with cement render ceramic tiles or other approved finish impervious to water.

17. Access and facilities for people with disabilities are to be provided in accordance with Part D3 and Part F2 of the Building Code of Australia and Australian Standard 1428.1.

Note: Council requests that the minimum width of doors for access and to facilities be 860mm.

18. 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 plan and specifications comply with the BCA.

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 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 incorporate with the scope of works covered by the Construction Certificate.

A Fire Safety Schedules 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 Schedules shall identity each Fire Safety measures 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 measure.

## Amenity of Neighbourhood

19. 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.
20. The hours of operation of the activity 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.
21. Building materials are not to be stored within the road reserve or any other public place.

## Public Utilities

22. Roofwaters are to be connected to the existing stormwater disposal system.

#### Contributions

23. (a) Payment of a sewage developer charge in accordance with the Development Servicing Plan adopted by Council at the rate of \$6,300 per equivalent tenement, i.e. \$6,300 x 0.63 E.T = \$3969 total for 2006/2007 (Indexed).
- (b) Payment of a Water Supply developer charge in accordance with the Development Servicing Plan adopted by Council at the rate of \$7,468 per equivalent tenement, i.e. \$7,468 x 0.63 E.T = \$4705 total for 2006/2007 (Indexed).

#### Critical Stage Inspection required for Class 5, 6, 7, 8 and 9 Buildings:-

- a) At the commencement of the building work.
- b) Prior to coving any stormwater drainage connections.
- c) After building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

#### Other Inspections

- Strip of Pad Footings
- Fire Rated Wall, Ceiling or Other Elements

#### Advices

The applicant/owner should note that the Commonwealth Disability Discrimination Act 1992 provides opportunity for public complaint possibly leading to legal action if access to premises by people with disabilities or their carers is precluded. This may require action to provide or improve access in addition to the minimum requirements of the Building Code of Australia.

The Human Rights and Equal Opportunity Commission can provide further information on this issue (tel: 088-021-199 toll free).

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R B Pitt

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES