



## **DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT**

16th January 2007

<b>DSDS2</b>	<b>PROPOSED SHOPPING COMPLEX CNR BELGRAVE AND VERGE STREETS KEMPSEY FILE: T6-06-163 GAN {Folio No. *}</b>
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### **SUMMARY:**

Reporting that Council has received an application for a proposed shopping complex for which objections have been received.

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**Applicant:** Hopkins Consultants  
**Subject Property:** Lot 101 DP869040; Lot 31 DP709221; Lot 1 DP1096841 and Lot 1 DP799219  
**Zone:** 3(A)

### **Proposed Development**

The proposed development includes:

- Demolition of Tattersalls Hotel and other existing buildings on site;
- Supermarket (3873 m<sup>2</sup>);
- Mini major retail outlet (1232 m<sup>2</sup>);
- Specialty Shops (1400 m<sup>2</sup>); and
- 150 car parking spaces within a ground level car park;

### **Heads of Consideration**

The proposal has been assessed having regard to the heads of consideration identified under section 79C(1) of the *Environmental Planning and Assessment Act 1979* with the following matters deemed to be of particular relevance to the proposal.

### **Kempsey Local Environmental Plan 1987**

Clause 9 of Kempsey LEP 1987 provides that Council shall not consent to the development unless it is satisfied that the proposal is consistent with the objectives of the zone. The subject site is zoned 3(a) General Business, the objective of this zone is:-

*'to accommodate commerce, retailing and public administration development at accessible locations.'*

The subject site comprises approximately 6296m<sup>2</sup> of business zoned land.

Prior to premises being vacated for the proposed development, Council's 'Retail Commercial Study for the Kempsey CBD' (SGS 2002) identified the subject site as having a vacancy rate of 9% for existing floor space with approximately 65% (4,300sqm) remaining undeveloped. This represents a significant area of business zoned land within the Town Centre area which has been underutilised for business purposes.

The proposed development will allow the site to be more intensively developed and is considered to be consistent with the objectives of the 3(a) Zone subject to careful consideration of the traffic arrangements at the site.

## **Kempsey Town Centre Master Plan 1997 and Development Control Plan Kempsey Town Centre**

The subject site is located within the area to which the Kempsey Town Centre Master Plan and DCP Kempsey Town Centre applies.

The Town Centre Master Plan recommends that building envelopes should maintain the existing visual strength of the streetscape and acknowledge the historical significance of the precinct.

The Kempsey Town Centre DCP seeks to encourage retention and refurbishment of buildings to enhance the heritage value of the precinct.

The issues raised within these two documents are addressed within the Heritage section of this report.

## **Heritage**

The proposed development requires the full demolition of the existing buildings on the development site, including the removal of the Tattersalls Hotel.

The Tattersalls Hotel has been listed within Council's Draft Kempsey Shire Community Based Heritage Study. A copy of the assessment contained within this study is included for Council's information. ([Appendix D](#))

The draft Kempsey Shire Community Based Heritage Study has recently been exhibited. Whilst the draft study has no statutory standing, Section 79(1)(b) of the *Environmental Planning and Assessment Act 1979* provides Council with broad discretionary powers in considering the impacts of the proposal, including heritage significance of the building.

The application was forwarded to Council's Heritage Advisor(s), the Heritage Office of NSW and the Heritage Council. The applicant has provided a Heritage Impact Statement and a Structural Inspection Report.

### Council's Previous Heritage Advisor's Comments

Council's Heritage Advisor at the time the application was lodged confirms that the building has local heritage significance having been built in 1885 and 1915 which may be summarised as follows: - ([Appendix E](#))

- Further consideration should be given to the adaptive reuse of the building or part of the building (1885 wing);

- The balance of the site should be designed in keeping with the 2-storey scale of the CBD with a building of high architectural standard;
- Consideration should be given to dedicating the northern lane as part of the site provided it is integrated with the retention of the 1885 wing.

## Council's Current Heritage Advisor's Comments

Council's recently appointed Heritage Advisor was also requested to provide comment on the proposed demolition of the Tattersalls Hotel which may be summarised as follows:- *(Appendix F)*

- The building is a significant contributor to the Streetscape and has important urban landscape value as a landmark building to the Kempsey CBD located in a visually prominent location;
- Structural issues highlighted in the Engineering report and Heritage Impact Statement are likely to be reflected in many CBD buildings;
- More sensitive engagement with the Heritage fabric of the building is required; and
- The building should be retained and the proposal should integrate the heritage fabric of the existing hotel into any future design.

## Heritage Council of NSW

The application has been forwarded to the Heritage Council on three (3) separate occasions and on each occasion the Heritage Council has acknowledged the Hotel has some heritage significance but reiterates that Council must determine whether it is feasible and reasonable to retain or incorporate the building into the proposal.

The following is a summary of the key points raised by the Heritage Council:- *(Appendix G)*

- Agree with the developer's heritage architect that the Hotel has largely intact interiors from the early 20<sup>th</sup> Century and some of the exterior elements are significant at a local level.
- Does not consider the floor level being below the 1:20 year flood level a justification for demolition.
- The structural issues identified on the site are not necessarily a justification for demolition.
- The demolition of the Tattersall's Hotel would be a considerable loss to the Kempsey's Town Centre.
- The structural report identified three areas of most noticeable settlement causing deformation forces to act on the building. Kempsey Council should protect public safety where a building element is identified as being in danger of collapse.

## National Trust of Australia (NSW)

The National Trust acknowledges that the Tattersalls Hotel is not formally identified as a heritage item within the Kempsey's LEP, nevertheless, the National Trust objects to the demolition of the Hotel ([Appendix H](#)).

## Applicants Submission - Heritage Impact Statement

The applicant has acknowledged both the Masterplan and DCP in their application and a Review of the Design for Heritage and Streetscape Issues has been prepared by Jamison Architects ([Appendix I](#)).

Due to the size of the proposed shopping complex in relation to other shopfronts in the CBD, the applicant has indicated that design features have been used to reduce the bulk of the building in order to create a design that attempts to be sympathetic to the existing streetscape.

The proposed Belgrave St elevation has been amended to include:

- A covered pedestrian access with large timber posts;
- The façade on the western side is to incorporate two (2) vertical rendered masonry elements with vertical windows and flat roofs;
- Walls at the back of the walkway are fenestrated (aimed at reducing the scale of the building);
- Mid to dark Colours used to reduce the bulk of the building; and
- Eastern façade has been design to contrast with the western end to break the elevation into multiple elements.

## Applicants Submission - Structural Inspection Report

The applicant has provided and Engineering Assessment of the Tattersalls Hotel, which indicates the building is not structurally sound in three (3) key locations and provides the following conclusion:- ([Appendix J, part 1, part 2](#))

*"...the building has significant structural problems and they will be very difficult to technically correct. It seems unlikely the Hotel can re-open viably in its present configuration and viable alternative uses due to layout and flooding are also unlikely."*

Temporary measures are proposed to preserve the building however it is clearly indicated that these measures are temporary and settlement will continue to occur over time.

## Potential Heritage Incentives

In the event the building was to be listed as an Item of Environmental Heritage under KLEP 1987, the heritage incentives of the plan would apply.

Clause 28 provides that:-

28. (1) *Nothing in this plan prevents the Council from granting consent to -*

- (a) *the use for any purpose of a building within a conservation area or of the land on which that building is erected; or*

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- (b) *the use for any purpose of a building that is an item of the environmental heritage or of the land on which that building is erected,*

*where the Council is satisfied that -*

- (c) *the use would have little or no adverse effect on the amenity of the area; and*

- (d) *conservation of the building depends on the Council granting consent in pursuance of this subclause.*

- (2) *The Council, when considering an application to erect a building on land upon which there is a building which is an item of the environmental heritage, may exclude from its calculation of the floor space of the buildings erected on the land the floor space of the item of the environmental heritage -*

- (a) *for the purposes of determining the floor space ratio; and*

- (b) *for the purposes of determining the number of parking spaces to be provided on the site, but only if the Council is satisfied that the conservation of the building depends upon the Council granting consent in pursuance of this subclause.*

The feasibility of retaining the building, or at least the façade of the building, has been discussed with the developer with a view to possible listing of the building under KLEP 1987. Listing of the building would enable consideration of the heritage incentives clause as a means of offsetting the costs of retention by discounting the carparking contribution.

The developer has investigated options for retaining all or part of the building and has advised that the potential incentives are insufficient to offset the costs of retention, having regard to the structural deficiencies of the building and wishes to demolish the building.

### *Planning Comment*

Having regard to the matters relevant to Council's consideration of the proposal, it is considered that it would be difficult to justify refusal of the application for the following reasons:

1. The proposal is consistent with the current statutory planning considerations relating to the land.
2. The identification of the building in the draft Kempsey Community-Based Heritage Study as a potential item of Environmental Heritage has no binding statutory effect and Council has not provided any indication that it will support listing of the building under Kempsey Local Environmental Plan 1987.

Whilst the local heritage significance of the building is recognised, Council needs to consider this significance in the context of the overall benefits of the development and come to the conclusion that the building is of such significance as to outweigh any benefits.

## **Integrated Development (Department of Natural Resource)**

The proposed development is located within 40m of the Macleay River thereby requiring an approval for excavation from the Department of Natural Resources under the *Rivers and Foreshores Improvement Act 1948*.

The application was forwarded to the Department of Natural Resources which determined a Part 3A Permit would be required for this development and, in addition to the General Terms of Approval, have requested the following special conditions be attached to any development consent issued ([Appendix K](#)).

- A sediment and erosion control plan be prepared addressing both demolition and construction stages of the development;
- As a risk management measure, the proponent is required to prepare an Acid Sulphate Soils Management Plan to address the possibility of Potential Acid producing soils being unearthed; and
- Should excavations be found to intersect the water table the proponent will need to apply to the Department of Natural Resources for a water license to undertake dewatering.

## **Economic Impacts**

A number of cases have been heard in the Land and Environment Court in regards to negative impacts resulting from commercial competition. In matters deliberated upon over the last five (5) years, the LEC Commissioners have relied on decisions made in the following cases:

- a. Fabcot Pty Ltd vs Hawkesbury City Council (1997) 93 LGERA 373;
- b. Kentucky Fried Chicken Ltd vs Gantidis and Anor (1977-1978 140 CLR 675

These cases suggest that there are two (2) levels of economic impacts that need assessment in making a decision. The first is that of commercial competition impact between commercial premises arising from a new proposal. In the Fabcot Case, the commissioner in assessing these potential impacts stated:

*"Similarly, economic competition... is not an environmental planning consideration to which the economic effect described in (79C(1)(b) is directed...Neither the Council nor this Court is concerned with the mere threat of economic competition between competing businesses. In an economy such as ours that is a matter to be resolved by market forces, subject to the Trade Practices Act and Fair Trading Act. It is not part of the assessment of a proposal under the Environmental Planning and Assessment Act for a consent authority to examine and determine the economic viability of a particular proposal or the effect of any such proposal or the effect of any such proposal on the economic viability of a trade competitor"*

Another level of economic impact may arise from changes to the functionality of the locality. Where a proposed development requires changes to the way in which a locality functions, then it is required that the functional elements be examined. In this instance, traffic alterations require careful consideration

to ensure that any impacts upon local businesses and the general amenity of the area are acceptable. (See "Traffic and Carparking")

Consideration of the impacts on the functionality of the area resulting from increased traffic should be made in the following context: -

- The area is zoned for commercial uses and a floor area approximately 100% greater than proposed could be achieved under KLEP 1987.
- There is an approval for an eight(8) storey commercial building on the site, the consent for which is still active.
- Existing hotel, offices and retail outlets will be replaced by the development.

## **Visual Impacts**

The proposed development is located on the south eastern fringe of the Kempsey CBD. To the north and west of the site urban elements including infrastructure and commercial development dominate the landscape.

The southern and eastern landscapes are comprised of open space (River Park) and the Macleay River.

The proposed building has been designed to address the river by including a café on the north eastern corner of the complex and a kiosk located centrally within the eastern elevation are likely to benefit from river views. The remainder of the eastern elevation has no provision for windows, however, it is proposed to provide architectural relief to the elevation by means of fenestrated panels. Having regard to the functional requirements of the development, it is considered that the impacts of the visual amenity of the area are acceptable. [\(Appendix L\)](#)

## **Security and Safety**

In response to the security and safety issue, the applicant has referenced the Waverly Council DCP 9 Reducing Crime by Design and Safer by Design or CPTED principles outlined by the NSW Police Service.

### NSW Police Community Safety Officer Submission

The application was forwarded to the NSW Police Community Safety Officer (CSO) for comment with a number of issues raised in response. [\(Appendix M\)](#)

The majority of issues raised by the CSO relate to future management and specific design principles such as lighting. Where appropriate these are recommended for inclusion in conditions of consent. However, a design issue which has been raised by the CSO relates to the provision of amenities in the ground level car park.

The CSO has indicated that the area in which the amenities block is located has limited surveillance opportunities for legitimate users which in turn increases risk of assaults, steal from person, steal from motor vehicles. The CSO opposes the placement of amenities within the ground level car park and recommends that the amenities block be placed in an area with a high level of surveillance.

## Applicants Submission

The applicant has indicated the following measures will be incorporated into the design of the complex:

- CCTV throughout common areas of basement and retails levels;
- Controlled after hour access;
- Sightlines minimising unsafe areas; and
- Security Lighting will be examined in the design phase of the development.

The applicant has indicated that the proposed amenities block is located in a visually prominent and well used location being at the base of the access ramp to the level one retail area and, with the addition of CCTV, this area would not encourage criminal activities.

The applicant has also indicated that the loss of retail space associated with the relocation of the amenities block in the level one area will make the proposal financially unviable.

## *Planning Comment*

Relocation of the amenities facility would represent a significant alteration to the development which is not considered to be justified. It is considered that the intent of the guidelines will be met for the following reasons: -

- CCTV, associated signage and lighting throughout common areas of basement and retails levels will provide a deterrent;
- The amenities facility is immediately adjacent to the main entryway for people accessing the building from carparking areas, thereby being in a prominent visible location.

## **Stormwater**

The applicant has provided a preliminary analysis of the existing stormwater system and how this may be impacted upon by the proposed development.

Stormwater emanating from the development would drain to the Verge Street piped drainage system. The capacity of the Verge Street piped system is adequate for the existing development but the proposed development would overload the system. It is recommended that the existing Verge Street piped system be upgraded to service the development and incorporated in conditions of consent.

In order to prevent untreated discharge from washdown of the carpark, a suitable detention and treatment facility should be required and incorporated in conditions of consent.

## **Flooding**

As the subject land is located within the CBD Floodway identified in the Council Flood Risk Management Policy, flood storage and a Structural Engineers Certificate are required as part of Council policy.

Under Council's Policy, the Flood Planning Level for the development is 9.3mAHD. The final floor level of the Supermarket is 9.6mAHD well above the minimum requirement specified.

## **Traffic**

Pursuant to State Environmental Planning Policy No. 11 Traffic Generating Developments (SEPP 11), the proposal was referred to the RTA and Regional Development Committee (RDC) for consideration.

The initial response from the RDC indicated that a number of issues related to traffic and unloading were required to be addressed.

Given the complex nature of the traffic arrangements surrounding the proposed shopping complex, Council engaged an expert Traffic Consultant to oversee the application in regards to traffic issues. The consultant had discussions with the RTA to ensure their concerns were appropriately addressed by the applicant.

The applicant provided an amended traffic assessment which was forwarded to the RTA with additional information that was then reviewed by the RDC at a meeting dated 20 October 2006.

At the request of the RTA, further supplementary traffic information was forwarded to an RDC meeting held on 16 November 2006. The RDC requirements have been incorporated recommended conditions of consent which RTA staff has advised satisfying their requirements. ([Appendix N](#))

### Traffic Flow at Smith Street and Belgrave Street

The applicant's consultant has supplied modeling results that compare the performance of the existing intersection with the proposed upgraded intersection when the Coles development is operational as follows: -

1. *With Coles Development and existing Smith / Belgrave configuration:*
  - additional delay on the southern approach based on current year 2006 delays = 50 seconds (on average per vehicle)
  - additional queue on the southern approach based on current year 2006 queues = 20 vehicles (on average per cycle)
  - additional delay on western approach based on current year 2006 delays = 30 seconds (on average per vehicle)
  - additional queue on the western approach based on current year 2006 queues = 6 vehicles (on average per cycle)
  
2. *With Coles Development and proposed upgraded Smith / Belgrave configuration:*
  - additional delay on the southern approach based on current year 2006 delays = 35 seconds (on average per vehicle)
  - additional queue on the southern approach based on current year 2006 queues = 12 vehicles (on average per cycle)
  - additional delay on western approach based on current year 2006 delays = 30 seconds (on average per vehicle)
  - additional queue on the western approach based on current year 2006 queues = 6 vehicles (on average per cycle)

Modeling shows that the development would cause the intersection to function worse than the existing conditions for both options. It also shows that the upgraded intersection performs better than the existing geometry with a 15 second per vehicle difference and a reduced average queue length of about 50metres ([Appendix O](#)).

## Traffic Flow at Smith and Lower Belgrave Street

Traffic exiting Lower Belgrave Street onto Belgrave Street is currently controlled by traffic signals. This movement currently runs in conjunction with the right turn phase into Belgrave Street from Smith Street. Whilst current volumes using Lower Belgrave Street are low, they are certain to increase with the development because of service vehicles, passenger drop off near the front entry, taxis and increased traffic flows in the locality.

The RTA has proposals to either remove the right turn phase into Belgrave Street from Smith Street or to at least reduce the green time to a minimum. The objective of such measures is to obtain additional green time for the Highway or Belgrave Street.

Lower Belgrave Street would need to remain signalised under the current intersection geometry because of pedestrian flow across the road and conflicts with traffic coming off the bridge slip lane. Retention of the signalised exit from Lower Belgrave Street would avoid the need to remove the right turn phase into Belgrave Street from Smith Street.

Given the timing of the Pacific Highway Bypass, growth in traffic volumes and the additional traffic generated by the development, it would be desirable to retain the option of squeezing some additional performance out of the intersection if necessary by retaining the signals in lower Belgrave Street, however, the final decision is a matter for the RTA to determine.

## Pedestrian Safety

It is reasonable to conclude that there will be a significant increase in pedestrians across Belgrave Street to and from the development which raises the obvious issue of safety.

The left turn slip lane off the Bridge is aligned in a way that allows high speeds into Belgrave Street. Activation of the existing pedestrian crossing requires that flow to be stopped. This is an infrequent occurrence at present due to low pedestrian volumes and the requirement for vehicles to stop coming off the Bridge is rare. The proposed development would see this signal activated on most signal cycles, thereby increasing pedestrian exposure to this traffic stream. Desirably, traffic should be required to slow before turning especially where there are pedestrians. The proposed intersection upgrade provides new kerb works to achieve this.

The existing crossing is very long, thereby requiring a long 'Walk' and 'Don't Walk' period. A high number of pedestrians would be subject to long exposure on the long crossing. The proposed intersection upgrade significantly reduces the period that pedestrians spend on the roadway.

The pedestrian movement across Belgrave Street between Clyde Street and the Highway is an existing safety issue. "J" Walking is common and is likely

to increase even with new traffic signals at John Street. Reducing travel speeds off the bridge by way of the proposed changes would improve safety for pedestrians

### *Planning Comment*

The applicant has acknowledged that some marginal traffic delays will occur during peak periods and the proposed intersection layout will further impact on traffic during the holiday period.

The applicant has also demonstrated that should the proposed development proceed then the proposed arrangement creates a marginally more efficient and safe design than the retention of the existing arrangement with approval of the proposed development.

The RTA has not objected to the proposed intersection improvements should the development be approved.

The subject land is zoned commercial and should this application not be approved the land may be subject to minor incremental developments which would not justify these sorts of traffic modifications. If this was to occur the existing traffic arrangements, which are at their capacity, would be required to accommodate increases in pedestrian and vehicular traffic resulting in congestion in the precinct.

### Elringtons Lane Pedestrian Access

Due to potential conflict between pedestrians and reversing movements of delivery vehicles servicing the proposed Mini-Major Store, the RDC has recommended that Elringtons Lane be closed to pedestrian movements.

### *Planning Comment*

The Elringtons Lane pedestrian access way to Belgrave St provides for the most direct route for pedestrian movements from the Verge Street parking area into the CBD.

In the event this accessway was closed, it would be necessary to provide an alternative route which would substantially disrupt existing users of the carpark. Furthermore, Council would be left with a non accessible void / alley which may encourage criminal activity.

Council's Traffic Consultant has indicated that potential conflict between delivery vehicles and pedestrians can be minimised by implementing various treatments to ensure safety of pedestrians including:

- Widening of the footpath on the western side of Elringtons Lane;
- The construction of a masonry separation barrier or wall between the service area and the walkway; and
- Appropriately place pedestrian crossings on Verge Lane.

Council should be aware that the RDC recommendation in respect to Elringtons Lane is not binding and no approvals from the RTA are required.

### Intersection upgrade at Belgrave Street / Sydney Street

To assist in the efficient dispersal of vehicles from the development, an intersection upgrade including appropriate signalling has been proposed for the Belgrave / Sydney Street. The RDC (RTA) have no preference to an intersection upgrade at either John St or Sydney St, although the need for one of these to be upgraded was highlighted.

### *Planning Comment*

Whilst John Street is positioned closer to the proposed development than Sydney Street and is therefore likely to be more inviting for patrons of the retail complex, Sydney Street provides less conflict with the Smith Street and Belgrave Street intersection.

Service and patrons vehicles would also require a signalised intersection in order to depart the precinct. The entrance to John Street is narrow and attracts considerably more pedestrian traffic and would require significant works to cater for semi trailers which is not desirable.

In the event Council decides to reopen the Mall to permit restricted vehicular access, it would not be desirable to have a signalised intersection at John Street.

It is recommended that the development be conditioned to upgrade the Sydney Street intersection in preference to John Street.

### Service Vehicle Routes

Due to the less than desirable turning movements required for service vehicles from Verge Street into John Street and John Street into Verge Lane, a route which avoids these turning movements by turning left from Sydney Street directly into Verge Lane and travelling the full length of Verge Lane to Elringtons Lane is recommended. *(Appendix P)* This route minimises the number of turning movements required to access the development, reduces potential for pavement damage and loss of onstreet parking. It is envisaged that Verge Lane may need to become a oneway street.

This route will require the upgrading of the cross intersection at John Street and Verge Lane to reduce the considerable crown on John Street.

To access the service area in lower Belgrave Street the kerb return and corner of the building in lower Belgrave St will need to modify to accommodate the turning vehicles and a condition to achieve this is recommended.

Conditions are also recommended to require pavement strengthening where turning movements are proposed.

### **Servicing Areas**

The proposed servicing of the supermarket is off Verge Lane via Elringtons Lane. Given only a single loading dock is available to the supermarket, should more than one service vehicle arrive on site at the same time, queuing would occur in Verge Lane resulting in traffic conflicts.

The proponent has indicated a Traffic Management Plan will designate an appropriate holding position and communication system to inform service

vehicles of the availability of the loading docks and is recommended as a condition of consent.

## Carparking

In accordance with Council's Car Parking Code, the proposed development requires the provision of 214 car parking spaces, including 12 on-street car parking spaces required to be removed as part of this development.

Council's Car Parking Code allows for car parking credits for development existing on the site. In accordance with Council's Car Parking Code, the number of credits available is 34, thereby reducing required parking to 180 spaces.

The applicant proposes to provide 150 spaces on site.

Although subject to confirmation by the required Traffic Management Plan in accordance with Council's Section 94 Contributions Plan for Off-Street Carparking, a contribution of \$193,260 is payable in lieu of providing 30 spaces on site.

The Council car park on the southern side of Verge St has 150 spaces available. Based on surveys Council's parking area has an average of 40 spaces utilised during normal business hours.

In accordance with Council's Car Parking Code it is expected that overflow carparking can be accommodated in the existing Council car park area without impacting on existing users.

Whilst payment of the contribution is required prior to release of the Construction Certificate, in accordance with Council's policy the contribution may be reviewed on the basis of a detailed study which documents actual parking requirements and an advice to this effect has been included in recommended conditions.

## Public Notification

The proposal was publicly notified in accordance with the requirements of Council's policy with eight (8) objections received which may be summarised as follows. [\(Appendix Q, part 1, part 2\)](#)

Objection		Planning Comment	
1	Is the proposed development proposed to be serviced via Eden St and what impact will the proposal have on residences in Eden St?	1	The proposal does not intend on using Eden St to service the site.
2	Existing drive through on No. 12 Verge Lane should be considered in Councils deliberations.	2	The existing access to the drive through will not be affected, however increased traffic movements are likely to result in indirect impacts.
3	Transport Vehicles will have	3	The access route for delivery

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| <p>difficulties using John Street to Access the site, Sydney Street should be used instead.</p>  | <p>vehicles has been altered to avoid potential impacts on John Street. (See Traffic)</p>   |
| <p>4 The access route for delivery vehicles has been altered to avoid potential impacts on John Street. (See Traffic)</p>                          | <p>4 The current parking restrictions identify the entire northern length of Verges Lane as a no standing zone. Therefore the proposal will not require the removal of any additional parking from Verge Lane.</p> <p>Verges Lane currently provides unrestricted access to service vehicles for other businesses in the area which would continue to be utilised.</p> <p>The use of Verge Lane is the preferred option for access to the site.</p> |
| <p>5 How will the proposed service vehicle holding patterns be ensured?</p>  | <p>5 As part of a conditional consent the applicant will be requested to prepare a Traffic Management Plan which addresses this issue among other items.</p> <p>Regulatory action will be taken for any non-compliance with consent conditions.</p>   |
| <p>6 How will service vehicles be restricted to the proposed service routes?</p>   | <p>6 As part of a conditional consent the applicant will be requested to prepare a Traffic Management Plan which addresses required signage and intersection treatments.</p> <p>Vehicles would find it impractical to manoeuvre through any alternative routes.</p>   |
| <p>7 The Tattersalls Hotel should be preserved.</p>  | <p>7 Refer to previous planning comment under "Heritage".</p>   |
| <p>8 Hours of operation of all shops within the development should be limited to</p> <p>Mon–Sat: 7:00am–9:00pm;<br/>and<br/>Sun: 8:00am-8:00pm</p> | <p>8 Having regard to the central location of the development and the lack of residences in close proximity, such a restriction is considered to be unnecessary.</p>  |
| <p>9 Hours of operation for waste removal should occur prior to 6:00pm 7 days a week.</p>  | <p>9 An appropriate condition is proposed to address this concern.</p>  |

10	Excess parking requirement should not be reliant upon the Council car parking area to the south of the site. All parking shall be provided on site.	10	Council's policy permits the use of Council's carpark, subject to payment of a contribution in lieu of providing parking onsite.
11	Additional truck movements along Verge Street will be likely to detrimentally impact on adjoining residences.	11	Impacts will be reduced by the recommended service vehicle route, whereby vehicles exiting the site only will use Verge Street. Having regard to the commercial zone applying to the precinct, impacts by service vehicles are to be expected. Any increase as a result of the proposed development relative to existing and anticipated levels would be marginal, particularly in the context of the restricted number of residences affected.
12	Signage should be limited to one location per building elevation.	12	Any signage approved will be in accordance with Council's DCP 25 and SEPP 64 Advertising and Signage.

## ***Report Implications:***

- ***Environmental***

***Subject to appropriate conditions of consent, the proposed development will not adversely impact the local environment.***

***Alterations to the existing traffic situation in the local area has required careful consideration and assessment. Based on advice from Council's Traffic Consultant and favourable consideration by the Regional Traffic Committee it is considered that the proposed shopping complex can be accommodated on site subject to conditions of consent without causing detrimental safety or functionality impacts to the local traffic environment.***

- ***Social***

***Goal 1 of Council's corporate strategic plan is to facilitate sustainable economic development in the shire. A performance indicator of this goal is to ensure a positive employment growth. The proposed development will provide a significant number of employment opportunities within the Kempsey Shire.***

***Goal 3 of the Corporate Strategic Plan is to Ensure that Kempsey Town is a viable and Vibrant Economic Hub. The primary measure to ensure this is the utilisation of the business capacity of Kempsey through occupation of retail / commercial / industrial land or premises. The proposed development shall substantially contribute to the effective use of existing commercially zoned land.***

*The proposed development provides the community with an alternative retail resource in the CBD.*

*The proposed development has generally been designed in accordance with Crime prevention through environmental design guidelines and recommendations. Design, management and functional features incorporated through conditions of consent will ensure that patrons using the complex can do so in safe manner.*

- *Economic (Financial)*

*The economic impacts associated with the development have been addressed previously in this report.*

- *Policy or Statutory*

*The application is an integrated development under the Environmental Planning and Assessment Act 1979, and requires a part 3A permit from the Department of Natural Resources.*

*Given the traffic requirements associated with the proposal, the proposed development is subject to the provisions of SEPP 11 Traffic Generating Developments and requires referral to the Regional Traffic Committee through the Roads and Traffic Authority. Under SEPP 11 Council concurrence is not required from this committee nevertheless Council and the applicant have made strong commitment to satisfy the committee of its concerns. The application was forwarded to the committee on three (3) occasions until the committee was satisfied the proposal could proceed.*

## **RECOMMENDATION:**

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 Prepared by the Buchan Group (DA1.01 issue; DA3.02 issue C; DA1.03 issue H; DA1.02 Issue K) and as modified by any conditions of this consent.
2. In the event of any inconsistency between conditions of this consent and the drawings / documents referred to above, the conditions of this consent prevail.
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. A Construction Certificate may be obtained from Council upon application being made or from an accredited certifier.
4. A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
5. Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations,

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Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.

6. 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 not less than \$10 million dollars and indemnify Kempsey Shire Council against loss for public liability claims arising out of works under this approval.
  - 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.
7. The retail shopping facility is not to be occupied prior to the issue of an Occupation / Interim Occupation Certificate by Council or an accredited certifier.

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.

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) Installation of builder's toilets
  - d) Installation of signage in prominent, visible position including -
    - "Unauthorised site entry is prohibited"

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- Name and phone number of builder or other responsible person for contact outside working hours.
9. 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) Drawing water from a Council water supply or a standpipe or selling water so drawn.
    - d) Installing, altering, disconnecting or removing a meter connected to a service pipe.
    - e) Carrying out sewerage work.
    - f) Carrying out stormwater drainage work.
    - g) 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.
  10. 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.
  11. 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.
  12. 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).
  13. a) A hoarding or fence must be erected between the building premises and the public place prior to commencement of any building or demolition work, and removed immediately when no longer required if:

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- i) the erection or demolition of a building will cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
    - ii) the erection or demolition of a building involves the enclosure of public place.
  - b) If necessary, a sufficient awning is to be erected to prevent any substance from, or in connection with the work, falling onto the public place, prior to commencement of any building or demolition work.
  - c) The site of the building is to be provided with adequate lighting between sunset and sunrise if it is likely to be a source of danger to persons using the public place prior to commencement of work.
14. Details of proposed hoarding to be submitted, in writing, prior to the commencement of building operations.
15. A builders toilet connected directly to the sewer is required on site throughout the entire building operation.
16. 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.

A construction certificate shall not be issued until the Principal Certifying Authority (PCA) is satisfied that the plans and specifications comply with the BCA.

- 17. All loading and unloading in connection with construction shall be carried out wholly within the subject property unless otherwise agreed to in writing by Council.
- 18. Building materials are not to be stored within the road reserve or any other public place unless otherwise agreed to in writing by Council.
- 19. Excavated material from the site is not to be placed within the road reserve or any other public place.
- 20. Closet accommodation is to be provided at the work site at all times at the rate of one closet for every 20 persons or part of 20 persons employed at site.

Each temporary closet must comply with the following requirements:-

- a) it must be at least 1050 mm wide, 1350 mm long and 2100 mm high, measured internally,

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- b) it must have a hinged door capable of being fastened from both the inside and the outside.
- c) it must have sufficient walls and a roof to ensure privacy, each constructed of material that is weatherproof,
- d) it must have a floor constructed of a material that is rigid and impervious,
- e) it must be provided with a suitable receptacle for, and an adequate supply of, deodorising or fly-repelling fluid,
- f) it must comply with any relevant requirements of the Building Code of Australia.

21. The Accredited Certifier must be notified in advance – 48 hours in writing or 24 hours by phone, to inspect the following:-

*a) Pre-Commencement*

Before the commencement of site works, demolition or building, the following activities must be completed:-

- i) Installation of soil erosion and sedimentation control devices;
- ii) Installation of safety fencing / hoardings between the property and the street;
- iii) Installation of builder's toilets;
- iv) Installation of signage in prominent, visible position including –
- v) "Unauthorised site entry is prohibited"
- vi) - Name and phone number of builder or other responsible person for contact outside working hours
- vii) warning sign regarding soil or other pollutants leaving the site.

*b) Progress and Completion*

- i) Placement of piers or foundation before placing footings;
- ii) Steel reinforcing before pouring concrete;
- iii) Framework of structure before lining or cladding is fixed;
- iv) Stormwater drainage and on-site detention before backfilling;

- v) Wet areas treated before lining or tiling;
  - vi) Completion of the building before occupation.;
  - vii) Compliance certificates verifying a satisfactory level of compliance must be lodged with Council for each required inspection.
22. Any site works, demolition or building work must be carried out between 7.00 am and 6.00 pm, Monday to Friday and 7.00 am to 5.00 pm Saturdays, excluding public holidays. No site works, demolition or building works are permitted on Sundays until such time as the external walls have been erected.
23. The accredited certifier shall provide Kempsey Shire Council with all information as required under the *Environmental Planning and Assessment Act*.
24. Where any aspect of the approved Construction Certificate plans are at variance to the approved Development Application plans other than in any minor respect or involve the use of any public lands, it will be necessary to submit an application for Council pursuant to Section 96 of the Environmental Planning and Assessment Act prior to issuing of the Construction Certificate.
25. Consolidation of the subject land into one allotment prior to occupation of the premises.
26. A sediment and erosion control plan be prepared addressing both demolition and construction stages of the development.
27. As a risk management measure, the proponent is required to prepare an Acid Sulphate Soils Management Plan to address the possibility of Potential Acid producing soils being unearthed;
28. Should excavations be found to intersect the water table the proponent will need to apply to the Department of Natural Resources for a water license to undertake dewatering under Part 5 of the Water Act 1912.
29. The full details of the hydraulic analysis for the water supply is required to ensure adequate supply is available for the proposed developments compliance with the Building Code of Australia. The existing water mains in Belgrave Street and Verge St are required to be linked for this development, which may involve a link through the development, with all costs borne by the developer. All design and construction to be as per Councils DCP 36 and WSA03, approval will be required from Macleay Water prior to construction. Complete construction drawings for the water supply are required for approval of the construction certificate.

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30. Due to the existing sewer main being unsuitable for the proposed development a new main is to be constructed as far as practicable outside the building envelope, with all costs borne by the developer, to ensure easy access for future maintenance and repairs. Macleay water will consider all designs including gravity or pressure, although evidence will be required to ensure that various options have been investigated. All design and construction to be as per Council's DCP 36 and WSA02, and approval will be required from Macleay Water prior to construction. Complete construction drawings for the sewer are required for approval of the Construction Certificate.
31. CCTV cameras shall be installed at appropriate locations within the basement carpark.
32. CCTV cameras shall be installed at appropriate locations within the plaza area ensuring coverage of all public spaces.
33. Signage stating that CCTV is in operation shall be installed at the entrances to the premises.
34. Lighting shall be designed to the Australian and New Zealand Lighting Standard 1158.1. Lighting engineer or designer shall consider crime risk when selecting lamps and lighting levels. Vandal resistant materials are encouraged by Council.
35. The entrances to the plaza areas should be clearly defined and the entrances secured to prevent unauthorised access after operation hours.
36. Unauthorised access to the basement car park after hours shall be prohibited via the installation of security gates.
37. A maintenance / management policy shall be prepared and submitted to Council for approval prior to the occupation of the premises. This plan shall address such items including but not limited to lighting, graffiti, CCTV, and other general maintenance requirements as they related to security of the premises.
38. Prior to demolition of the Tattersalls Hotel, the structure shall be recorded in plan, photographs, and identified in drawings with two bound copies of such record being submitted to Council and the Macleay River Historical Society.
39. Prior to demolition of the Tattersalls Hotel all significant historical features / fabric suitable for salvaging shall be carefully removed. Where suitable these items may be used as design / artistic features within the proposed shopping complex. The owner is encouraged to offer / donate items to Macleay River Historical Society / Council or alternatively offer these items for sale within appropriate media.

40. Prior to commencement of construction, a detailed façade analysis shall be provided to and approved by Council. The detail to be included in this analysis shall include:
- Paint / Material Colours;
  - Signage dimensions, locations and colours;
  - Materials / Treatments to be used in accordance with the requirements and themes identified in the Kempsey Town Centre Master Plan.
41. The plans for the required Construction Certificate are to include calculations of the amount of cut and fill, prepared by a suitably qualified person.
- 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 excess, Council will require lodgement of a cash bond to cover the cost of any damage to Council's road system caused by haulage.
42. Retaining walls (>600mm) and or other approved methods necessary to prevent the movement of excavated or fill ground, together with associated stormwater drainage measures are to be designed and certified by an appropriately qualified person. Details are to be included with the plans and specifications to accompany any Construction Certificate.
43. A Structural Engineers Certificate shall be submitted to Council prior to the issuing of the Construction Certificate, certifying that the proposed building has been designed to withstand the forces created by floodwaters and debris loadings for a 1% AEP event anticipated for that area, and indicate any impacts on adjoining buildings and land.
44. The plans and specifications to accompany the Construction Certificate application are also to indicate the use of flood compatible materials, fixtures and power outlets where used in the building below the flood planning level. The flood compatible materials, fixtures and power outlets must be certified by an appropriately qualified person as flood compatible prior to the issue of the construction certificate.
45. All wiring, power outlets, switches etc., must to the maximum extent possible, be located above the flood planning level. All electrical wiring installed below the flood planning level must be suitable for continuous submergence in water and must contain no fibrous components. Only submersible-type splices are to be used below flood planning level. All conduits located below flood planning level are to be installed so that they will be self draining if subjected to flooding.
46. A Survey Certificate is to be submitted once the formwork is in place for the first floor but prior to pouring of the concrete to ensure that the finished floor level is at or above the flood planning level for this locality at 9.2 metres A.H.D.

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47. The plans for the required Construction Certificate are to be accompanied by a report certified by a practising Civil Engineer and approved by Council indicating that the stormwater system connecting the development to the Macleay River has sufficient hydraulic capacity to cater for the development.
48. A *Soil and Water Management Plan* incorporating a Site Inspection and Maintenance Program with associated Engineering Details and Plans is to be prepared by a suitably qualified person who is currently working in this field in accordance with the Landcom *Publication Soils and Construction* Volume 1, 4 Edition 2004. This *Soil and Water Management Plan* is to be submitted to the Department of Natural Services for approval prior to the issue of the Construction Certificate.
49. The plans lodged with the application for construction certificate are to include a Plan of Management for the Treatment of any Runoff from the paved car parking area, prepared by a suitably qualified person(s) and having regard for the following: -
  - a) Identify pollutants and treatment measures;
  - b) Selection of appropriate treatment measures and hydrologic design standards;
  - c) Methods of disposal of captured pollutants.
  - d) Incorporate details for ongoing maintenance and repair.
50. Applicant is to have in place a site Inspection and Maintenance Program for the following work prior to work commencing onsite: -
  - Soil and Water Management Plan.
51. The applicant is to Submit Work as Executed Plans to Council for the following civil engineering works:-
  - i) The internal piped stormwater drainage system including the connection to Kempsey Shire Council's pipe system in Belgrave and Verge Streets.
  - ii) The Stormwater detention and water quality systems.
52. Submission of a Certificate from your Consultant Engineer (including all supporting documentation) prior to issue of the final Occupation Certificate certifying that the internal stormwater drainage system including the carpark washdown detention and water quality systems has been constructed in accordance with the Construction Certificate Plans and Specifications, and is suitable for the intended use.
53. The applicant is to submit to Kempsey Shire Council for approval a Service Vehicle Management Plan from an appropriately

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qualified person(s) addressing, but not limited to the following points and where appropriate contain a restriction on the use of the subject land prior to release of the Occupation certificate being issued:

## Coles Supermarket

- a) Only one service vehicle at a time is to be permitted to service the Supermarket (Coles).
- b) Delivery vehicles associated with deliveries for the Supermarket are not permitted to wait in Verge Lane, Verge Street and or Elringtons Lane. The applicant's consultant is to liaise with Kempsey Shire Council to ascertain an appropriate remote site location.
- c) The manoeuvring area adjacent to Elringtons Lane is to be kept clear at all times to ensure delivery vehicles for the supermarket have adequate area to manoeuvre clear of the roadway.

## Target

- a) Provide information on how it is intended to safely manage servicing of this dock.
- b) If the Service Dock Operation is changed in the way it is proposed to operate including frequency of operation then a new Development application is to be lodged.

## Specialty Stores

- a) Three double parking bays are to be provided in the basement car parking area in close proximity to the proposed lift for vehicles delivering to Speciality Shops.
- b) Provision of one (1) functional Loading Zone Space in Lower Belgrave Street solely for Speciality Shops.
- c) Investigate options at the intersection of Lower Belgrave and Verge Street to improve the turning path into Lower Belgrave Street for service vehicles.
- d) Ensure that there is minimal impact on Pedestrians in Lower Belgrave Street by investigating options such as avoiding the need to reverse into lower Belgrave Street and that there is ample room for traffic to pass.
- e) An Entrance into the complex is to be constructed adjacent to the loading zone.

## Truck Routes

Investigate and provide details showing how it is intended to ensure the following restriction on truck movements are adhered to:

- a) Trucks associated with this development proposal shall access the site via Sydney Street, Verge Lane and Elrington Lane.
- b) Under no circumstance should delivery trucks associated with this development use Clyde Street Mall should it be reopened at a future date.

- c) Truck movements in Lower Belgrave Street are to be restricted to pickups and deliveries for the Speciality Shops only and not serve as through routes for other trucks in this development.
  - d) The proposed development has not been designed to accommodate "B" Double traffic, therefore this type of truck configuration shall be prohibited from servicing this development.
  - e) The main entry, offset "T" intersection, off Verge Street shall not be used for service activity, such as loading.
  - f) The trafficked routes are to allow service vehicles to enter and leave in a forward direction, no on-street reversing.
  - g) When trucks are leaving the site they must use Verge Street and Sydney Street to Belgrave Street.
54. Submission of a detailed Pavement Evaluation Assessment having regard for the AustRoads Guide to Structural Design of Road Pavements from an appropriately qualified person(s) identifying areas where the existing road wearing surface needs to be strengthened at the intersections of Belgrave Street / Sydney Streets, Sydney Street / Verge Lane, Verge Lane / John Street, Verge Lane / Elringtons Lane, Elringtons Lane / Verge Street and Verge Street / Sydney Street intersections particularly in respect to turning paths.
55. Prior to the commencement of any works on the site, a Traffic and Pedestrian Management Plan prepared by a suitably qualified person must be submitted to and approved by the Council.

The Plan must address, but not be limited to, the following matters:

- ingress and egress of vehicles to the site,
- loading and unloading, including construction zones,
- predicted traffic volumes, types and routes,
- pedestrian and traffic management methods.

The traffic management plan is to be designed in accordance with the Roads and Traffic Authority's Manual Traffic Control at Work Sites Version 2 and AS 1742.3: 1985 – *Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'*. The traffic management plan must be prepared by a suitably qualified and RTA accredited Work Site Traffic Controller.

56. The applicant is to apply separately under Section 138 of the Roads Act 1993 to Kempsey Shire Council as the Roads Authority to undertake intersection upgrading works where necessary in accordance with the required Pavement Evaluation Assessment relating to the wearing surface at Sydney / Belgrave Streets (to be signalled) Sydney Street / Verge Lane, John Street / Verge Lane, Verge Lane / Elrington's Lane, Elrington's Lane / Verge Street, Verge Street("T" intersection with development) and associated

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pedestrian links. In preparing the design plans the applicants Engineering Consultant is to have regard to the following requirements and lodge the following details with Council for approval prior to issue of the construction certificate:

- a) Detailed engineering plans providing for design and construction of an Offset "T" intersection in Verge Street with provision to be made to accommodate the existing council car parking entrance is to be prepared having regard for the Aust Roads Guide, Intersections at Grade Part 5 any NSW Roads and Traffic Authority requirements and Councils Development Control Plan No 36 Engineering Guidelines for Subdivision and Development. Details of pedestrian linkages and treatments are to be incorporated into this design.
- b) A Traffic Control Plan is to be incorporated for all road and associated work in strict compliance with the requirements contained in AS 1742.3 (Traffic Control Devices for Works on Roads)
- c) Preparation of a separate Soil and Erosion and Sediment Control Plan for the proposed intersection work in Verge Street and other work identified in this section.
- d) Detailed engineering plans providing for replacement of the wearing surface described in the Pavement Evaluation Assessment is to be prepared having regard for the minimum requirements of Councils Development Control Plan No 36 Engineering Guidelines for Subdivision and Development and associated industry guidelines.
- e) Provision of approved Anti-slip surface treatments must be applied to the surfaces of footpaths and ramps on the subject site and having regard for the contents of AS / NZS 4586- 1999.
- f) Provision of a Pedestrian refuge and access crossing in Verge Street in accordance with HB 69.13-1995.
- g) Provision of a defined pedestrian path from the existing Verge Street car parking area linking with the Verge Street pedestrian treatment leading to the development. The concrete footpath is to be constructed in accordance with Kempsey Shire Council's Development Control Plan No. 36 Engineering Guidelines for Subdivision and Development and HB 69.13-1995 Guide to Traffic engineering Practice- Pedestrians.
- h) Construction of a defined pedestrian path through the proposed shopping centre car parking area linking the Verge Street pedestrian crossing with the developments access point at the proposed travolator in accordance with HB 69.13-1995 Guide to Traffic engineering Practice- Pedestrians.

- i) The existing footpath on the western side of Elrington Lane is to be widened to 1.5metres and associated 150mm kerb and gutter and pavement reinstated strictly in accordance with councils Development Control Plan No. 36 Engineering Guidelines.
  - j) Provide pedestrian warning signage in Verge Lane to alert service vehicles of the presence of pedestrians using the existing laneway linking through to Belgrave Street in accordance with AS 1742.1 - 1999.
  - k) Adjacent to the proposed Country Target Dock a suitable masonry fence is to be erected to separate pedestrians from service vehicles. Engineering details are to be provided by an appropriately qualified person.
  - l) Provision of additional clearance warning signage to be erected in York Lane and on the Kempsey Traffic Bridge in accordance with AP-T47 / 06 and AS / NZS 1742.1.
  - m) Provision of additional street, intersection and pedestrian lighting adjacent to the development in accordance with AS / NZS 1158 as required.
  - n) Provision of a concrete footpath in Lower Belgrave Street in strict compliance with Council's development Control Plan No. 36 Engineering Guidelines for subdivision and Development and finished in compliance with the Kempsey CBD Master Plan.
  - o) Detailed engineering plans providing for design and construction of an signalised urban intersection at Belgrave Street and Sydney Street are to be prepared having regard for the Aust Roads Guide, *Intersections at Grade Part 5, traffic Signals part 7, AS / NZS 1742.14 and any NSW Roads and Traffic Authority requirements and Councils Development Control Plan No 36 Engineering Guidelines for Subdivision and Development.* Details of pedestrian linkages and treatments are to be incorporated into this design.
  - p) The applicant is to provide details of the proposed signposting of parking restrictions in accordance with the Bitzios Traffic Study and no stopping and loading zone signage in Lower Belgrave Street.
  - q) Any redundant footpath crossings or access culverts to be removed and reconstructed at the applicant's expense, and footway access restored to the satisfaction of Council, prior to occupation of the premises.
57. Prior to the issuing of the required Occupation Certificate detailed plans are to be prepared and duly endorsed by the RTA with all works completed in accordance with such plans providing for the upgrading of the existing signalised urban

intersection at Smith / Belgrave and any proposed changes to the traffic signals at the intersection of Forth Street and Smith Street.

In preparing the design plans the applicants Engineering Consultant is to have regard to the following requirements:

- a) Detailed engineering plans providing for design and construction of the existing intersection and including pedestrian links are to be prepared having regard for the Aust Roads Guide, Intersections at Grade Part 5, traffic Signals part 7, AS / NZS 1742.14 and any NSW Roads and Traffic Authority requirements. The applicant is to liaise with the NSW Roads and Traffic Authority during the preparation of the design.
  - b) The applicant is to apply separately to the NSW Roads and Traffic Authority seeking concurrence pursuant to Sections 61, 87 and 138 of the Roads Act 1993 for the Design and Construction of the proposed modified Urban Intersection, prior to issue of the Occupation Certificate.
  - c) The applicant is to apply separately to the NSW Roads and Traffic Authority to obtain a Works Authority Deed (WAD) to carry out the proposed intersection upgrading work prior to issue of the Occupation Certificate.
  - d) A Traffic Control Plan is to be incorporated into the detailed intersection design plans for all work to be carried out within this area in strict compliance with the requirements contained in AS 1742.3(Traffic Control Devices for Works on Roads)
  - e) Written evidence is to be obtained from the NSW Roads and Traffic Authority demonstrating that all the necessary liaison and approvals and consents have been obtained prior to the issue of the Occupation Certificate.
  - f) Preparation of a separate Soil and Erosion and Sediment Control Plan for the proposed intersection work.
58. Prior to the issuing of the required Occupation Certificate detailed plans are to be prepared and duly endorsed by the RTA with all works completed in accordance with such plans providing for construction of a signalised urban intersection at Belgrave Street and Sydney Street is to be prepared having regard for the Aust Roads Guide, Intersections at Grade Part 5, traffic Signals part 7, AS / NZS 1742.14 and any NSW Roads and Traffic Authority requirements and Councils Development Control Plan No 36 Engineering Guidelines for Subdivision and Development. Details of pedestrian linkages and treatments are to be incorporated into this design.
59. The plans for the required construction certificate are to include the design and construction details of all new internal parking areas, access-ways, turning areas, driveways, dock

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areas and ramps and complying with the following standards and guidelines:

- a) Council's Parking Code, AS / NZ 2890.1 Off Street car parking, AS / NZ 2890.2 Off Street Commercial vehicle facilities and Development Control Plan 36 Engineering Guidelines for Subdivision and Development.
  - b) All pavement areas to be concrete paved and parking space line-marked.
  - c) Access and facilities for people with disabilities must be provided in accordance with AS 1428.1 – Design for Access and Mobility and Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority
60. The design and management of facilities for the storage and handling of waste including the specialty shops must be to the satisfaction of Kempsey Shire Council. A Refuse Disposal Management Plan is to be submitted to and approved by Council prior to the issue of a Occupation Certificate.
61. Details on the method(s) to be employed by the Contractor to dispose of cleared vegetation shall be lodged with Council for approval prior to Council issuing the Construction Certificate. Council will not approve of disposal by burning off onsite.
62. Provision of a security deposit to Kempsey Shire Council totalling \$80,000 to cover any damage sustained to public property including footway and kerb and gutter or road pavement during construction. Kempsey Shire Council shall deduct from the Security Bond the reasonable cost of rectification of the works.

Evidence is to be provided to Council indicating the pre-development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible for the repair of any damage to roads, kerbs and gutters, footpaths, driveway crossovers or other assets. Such bond will be held until Council is satisfied that the infrastructure is maintained / repaired to pre-development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths etc.

The deposit is to be lodged with Council prior to the issuing of the required Construction Certificate and will be released upon submission of documentary evidence indicating that the development is complete and Final Occupation Certificate has been issued.

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63. Submission of a Construction Waste Management Plan to be lodged with Kempsey Shire Council for approval prior to issue of the Construction Certificate.
64. Prior to the commencement of any works on the site, a Dust Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Council. The Plan must address the measures to be implemented to control dust and include, but not be limited to, the following measures:
  - a) Physical barriers must be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
  - b) Earthworks and scheduling activities must be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
  - c) All materials must be stored or stockpiled at the best locations,
  - d) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
  - e) All vehicles carrying spoil or rubble to or from the site must at all times be covered to prevent the escape of dust or other material,
  - f) All equipment wheels must be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
  - g) Gates must be closed between vehicle movements and must be fitted with shade cloth, and
  - h) Cleaning of footpaths and roadways must be carried out regularly.
65. Prior to the commencement of any works on the site, a Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Council.
66. Inspections for the intersection upgrading are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.

The following inspections are required:

- (i) Council is to inspect all Telstra and Country Energy cables where they cross existing and or new Council sewer or water mains prior to the contractor back filling the trench.
- (ii) The inspections for the required civil engineering works are listed in Section 6.3 of Council's Engineering Guidelines for Subdivision and Development (DCP 36) and must be undertaken prior to the appointed contractor proceeding to the next stage of the construction.

**Note:** Accounts will be forwarded for inspections that are required and / or undertaken in addition to those inspections for which a pre-payment has been made.

- 67. The applicant is to obtain in writing a clearance letter from the NSW Roads and Traffic Authority that all the intersection upgrading work undertaken in Smith / Belgrave and Lord Streets has been carried out in accordance with the Works Authority Deed issued for this work.
- 68. A Work as Executed Plan is to be submitted to Kempsey Shire Council upon completion of all the civil engineering work located within Verge Street, Verge Lane, Elringtons Lane, Lower Belgrave Street, intersection work at Sydney / Belgrave Streets by either a Professional Engineer or Registered Surveyor and duly certified prior to the issue of the Occupation Certificate. This plan is to be submitted in PDF format.
- 69. 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 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.  $\$7,468 \times 1.92 \text{ E.T} = \$14,339$  total for 2006 / 2007(Indexed).
- b) Relocation of the existing town sewer main(s) is necessary to serve the proposed development, at full cost to the applicant. The applicant's Consultant Engineer is to liaise with Macleay Water seeking details of council's minimum requirements prior to finalising the detailed engineering plans for this work. Detailed plans are to be submitted to Kempsey Shire Council for approval prior to issue of the Construction Certificate.

- c) A Work as Executed Plan is to be submitted to Kempsey Shire Council upon completion of the work associated with the sewer main relocation at the development site by either a Professional Engineer or Registered Surveyor and duly certified prior to the issue of the Occupation Certificate. This plan is to be submitted in PDF format.
  - d) An approval under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained.
70. Payment of a cash contribution in recognition of loss of on-street and off street public carparking identified in the final Traffic Management Plan in accordance with Council's Section 94 Plan for off-street carparking at the rate applicable at the time of payment (currently \$6,442 per space, indexed), prior to issue of the Construction Certificate.

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

In this regard, Council is prepared to review the contribution following submission of a report prepared by a qualified Traffic Engineer. Where, in the opinion of Council, the report justifies a reduction in required parking, Council will refund the difference at the above specified rate.

#### DNR General terms of Approval

- Irrespective of the granting of consent or approval by any other Authority, work is not to commence in, or within a horizontal distance of 40m from the top of the bank of the watercourse, without the prior issue of a Part 3A permit by DNR.
- The Part 3A permit will be issued upon written application to DNR comprising:
  - A copy of Council's development consent including all conditions of approval;
  - Plans and / or other documentation (1 copy) that satisfy DNR's General Terms of Approval and recommendations which are included in Council's consent conditions
- Work is to be carried out in accordance with drawings submitted with the request for the 3A permit and any management plans required by these conditions and approved by DNR.
- Any Part 3A permit issued is to be renewed on an annual basis until all works and all rehabilitation, including maintenance provisions, have been satisfactorily completed in accordance with the permit conditions. Any application for renewal will be lodged at least 1 month prior to the permit expiry date.

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- Work shall not cause damage to, or increase erosion of, the streambed or banks. The permit holder shall carry out any instructions given by DNR with a view to preventing degradation of the streambed or banks.
- Any vegetation or other material removed from the area of works shall be disposed of so that the material cannot be swept back into the stream during a flood.
- Any stormwater outlet to the watercourse is to be designed and constructed to minimise any erosion or scour of the banks or bed of the watercourse.
- All works proposed must be designed, constructed and operated so they do not cause erosion or sedimentation and do minimise adverse impacts on aquatic and riparian environments.
- No plastic netting is to be used for any purpose, in the stream or within the riparian zone unless such netting is of a rapidly biodegradable variety.
- Erosion and sediment control measures are required to be implemented prior to any works commencing, and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the river system. These measures are to be in accordance with Council's requirements and follow best management practices as outlined in the NSW Department of Housing's "Managing Urban Stormwater: Soils and Construction" (1998) manual (the "Blue Book").
- The excavation of soil / spoil and its removal is the responsibility of the permit holder and the owner or occupier of the land.
- These conditions are issued with the proviso that operations shall be carried-out on freehold land. Should operations be on Crown Land, these conditions are rendered null and void and the occupier of Crown Land should contact Department of Lands.
- Work is to be carried out in accordance with any conditions imposed by other government agencies, provided such conditions do not conflict with these conditions or the conditions on the Part 3A permit.
- The permit holder and the owner or occupier of the land are responsible for any works undertaken by any other person or company on this site.
- The rehabilitation of the area in accordance with the Part 3A permit conditions is the responsibility of the permit holder and the owner or occupier of the land.

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- Any Part 3A permit granted is not transferable to any other person or company without the written approval of DNR and does not authorise works at any other site.
- Any Part 3A permit granted does not give the holder the right to occupy any land without the owner(s) consent nor does it relieve the holder of any obligation which may exist to also obtain permission from local government and other authorities who may have some form of control over the site and / or the activities proposed.
- Work-as-executed survey plans of a professional standard shall be provided to DNR upon request.
- If, in the opinion of a DNR officer, any activity is being carried out in such a manner that it may degrade the riparian zone, stream, lake or foreshore environment, all work shall cease immediately upon oral or written direction of such an officer.
- If the permit conditions have been breached, the permit holder shall restore the site in accordance with the permit conditions and / or as directed by DNR. If any breach of the permit conditions requires a special site inspection by DNR, then the permit holder shall pay a fee prescribed by DNR for this inspection and all subsequent breach inspections.
- If works are to cease prior to completion DNR must to be notified in writing one month in advance of the cessation of the operation.

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R B Pitt  
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES