

## DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

14<sup>th</sup> December 2004

**DSDS2      ERECTION OF A RESIDENTIAL FLAT BUILDING  
CONTAINING 15 UNITS - CNR BAKER DRIVE AND  
KILLUKE CRESCENT, CRESCENT HEAD  
FILE: T6-04-75      DEC**

### SUMMARY:

Reporting that Council has received a Development Application for the erection of a Residential Flat Building containing 15 units, for which objections have been received.



**Applicant:** Architects H & B Pty Ltd  
**Subject Property:** Lot 5 DP 40088 Killuke Crescent, Crescent Head  
**Zone:** 2(b2) (Residential "B2" Zone)

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

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

The proposed development is defined as a "residential flat building" under the KLEP and is permissible with Council's consent in the 2(b2) (Residential "B2" Zone). The objectives of the zone are

- (a) *To allow higher residential densities in areas with good accessibility to services, employment and recreation facilities*
- (b) *To allow the provision of holiday rental accommodation.*
- (c) *To restrict the height and bulk of residential and holiday accommodation buildings so that they remain in character with existing development.*

It is considered that the proposal satisfies objective (a) as the locality is in walking distance to the services and facilities provided within Crescent Head.

Objective (b) is not applicable to the proposal as the proposal is for a residential building.

To determine whether the proposal is consistent with objective (c), the issue of height and bulk of the building as well as consistency with existing development is discussed further below.

Pursuant to Special Provision 24 (3) of the KLEP 1987:

*'Council shall not consent to the erection of a building on land within Zone 2(b2) which contains more than 3 storeys.'*

As the building incorporates a below ground carpark, the proposed building is 4 storeys. The applicant has submitted a SEPP 1 – Development Standard objection, requesting Council consider varying Provision 24(3) and permit the 4-storey building. (See SEPP 1 Objection)

### **North Coast Regional Environment Plan (NCREP) 1988**

It is considered that the proposal is not contrary to the NCREP 1988 as the building is not greater than 14m in height and hence does not require the concurrence of DIPNR.

### **State Environmental Planning Policy 6 – Number of Storeys in a Building**

Pursuant to SEPP 6 the height of building exceeds the 3-storey limit under Provision 24 of KLEP 1987. Under SEPP 6 the building is defined as a four (4)-storey building having regard to the proposed basement carpark.

### **State Environmental Planning Policy 1 – Development Standards Objections**

The applicant seeks council's agreement to the use of SEPP 1 to vary the 3-storey height limit to permit a 4 storey building on the following basis:

1. *There are a number of buildings in the same condition with 3 storeys above ground level in the area.*
2. *Under SEPP 6 the basement is counted as a storey but under the BCA the basement is not counted as a storey.*
3. *Most definitions count the number of storeys above natural ground level and we therefore seek Council's support for the three storeys above natural ground level as shown on the drawings.*
4. *We believe that strict compliance with the Council Development standards in relation to the number of storeys in this case is not necessary or reasonable.*

Council has 'assumed concurrence' from Department Infrastructure Planning and Natural Resources for SEPP 1 Objections in urban areas.

Council has consistently been prepared to use SEPP 1 to allow an additional storey, provided the height limit applying in the area is met.

Whilst there is no height limit applying to the 2(b2) zone, Council previously considered the use of a SEPP 1 objection for a 4-storey building in South West Rocks provided that the overall height above natural ground level (inclusive of any roof structure or any architectural devices) was not more than 10.5m at any point, there would not be any adverse shadowing and any consent would require submission of a plan by a registered surveyor prior to the pouring of each floor to confirm that the specified levels have been met.

[\(Appendix F\)](#) illustrates the height of the proposed building. It is noted that the lift tower has a maximum height of 10.8m whilst the rest of the roofline is at or below 10.5m.

Given that the proposal:

- is consistent with the density requirements of Council's Development Control Plan (DCP) 22 – Local Housing Strategy;
- represents a typical 3-storey building;
- provides adequate setbacks;
- complies with overshadowing provisions;
- provides additional setback along the primary street frontage; and
- is in a planned medium to high density area

it is considered that the SEPP 1 Objection is justified in this instance.

It is also noted that Killuke Crescent already contains two 3-storey residential flat buildings, one of which is over 12 metres in height.

### **SEPP 65 – Residential Flat Development**

As the proposal contains more than 3 storeys and is in excess of 4 units, the provisions of SEPP 65 apply. SEPP 65 specifies matters Council must consider, including; context, scale, built form, density, resources, energy and water efficiency, landscape, amenity, safety and security, social dimensions, aesthetics.

The applicant has addressed the SEPP 65 principles (included in [\(Appendix G\)](#)). The principle of 'landscape' was not specifically addressed by the applicant in their SEPP 65 assessment. However, after assessment of the plans provided it is considered that the proposal has been designed providing for adequate landscaping on all boundaries and main courtyard. The area of landscaping provided exceeds that provided by DCP 22. A detailed landscaping plan should be required with the plans for the required Construction Certificate providing for endemic species.

It is considered that all SEPP 65 principles and requirements have been adequately incorporated and addressed in the proposed development. The

residential flat building is representative of a medium-high density development and it is considered that the design provides effective and efficient use of open space areas, natural surveillance and solar access. It is considered that the bulk and height of the building is not out of character for the existing and planned development in the area. The impact of any bulk attributed to the building has been countered with provision of relatively large setbacks and open space, particularly that provided on the corner of Killuke Crescent and Baker Drive in the expansive 'courtyard'.

At this stage, a Design Review Panel has not been appointed to advise Council in respect to buildings that fall under SEPP 65.

### **State Environmental Planning Policy 71 – Coastal Protection**

The proposal is within the mapped Coastal Zone. Pursuant to SEPP 71 Council is required to consider Clause 8 matters. Relevant matters are outlined below:

It is considered that the proposal satisfies Clause 8 matters and is unlikely to compromise the aims of SEPP 71. Relevant matters include: –

- The proposal is unlikely to adversely public access to and along the coastal foreshore. Provision has been made for disabled access.
- The site is unlikely to adversely impact ion cultural heritage – The site is cleared and there is no known significant aboriginal sites on the block.
- The proposal is unlikely to adversely effect the visual amenity of the coast – the proposal is on a level block in a built-up area, the proposal is consistent with the planned and existing development in the area and is not located in a visually prominent and/or significant position. The proposal is unlikely to result is loss of significant views from any public place.
- The proposal is unlikely to negatively affect the beach environment or amenity of Crescent Head.
- The proposal does not require the removal of any significant vegetation.
- It is considered that the proposal is consistent with the principles of ecologically sustainable development.
- The proposal is not expected to result in any adverse overshadowing. To the south of the proposed building lies two public roads and it is considered that overshadowing of the neighbouring units will be minimal.

- The proposal is unlikely to have any adverse impact on threatened species, populations, communities or critical habitat as listed and defined under the Threatened Species Conservation Act 1995. The proposal is unlikely to adversely affect any wildlife corridors - The site is a cleared block in an urban area.
- It is considered that the proposal will not result in any significant impacts on the water quality of coastal waterbodies. It is noted that the proposal will require a dewatering licence during the construction phase, having regard to the basement carpark and relatively high watertable. This issue is further discussed below.

It is noted that the concurrence of the Director is required for buildings within the coastal zone that are 13m or greater. The proposal is to have a maximum height of 10.8m (lift tower).

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

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

<b>STANDARD</b>	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
Density	1495m <sup>2</sup>	1500m <sup>2</sup>	<b>Yes</b>
Setbacks	Primary = 5m  Side = not less than 2m with min average 4.6m  Secondary = 3m	Main building is setback 5m however a structure at the main entry (garbage area, wc and gate) is only 1.1m at edge of roof.  Min 2m with min average > 4.6  3m	<b>No*</b>  Yes  Yes
Car Parking	Resident = 15 Visitor = 5 AS 2890.1	Resident = >15 Visitor = 5	Yes Yes <b>Concern *</b>
Private Open Space	Each balcony to have a minimum area of 15m <sup>2</sup> with a width > 2m for 80%  Accessible from living areas and adequate solar access	All units with 15m <sup>2</sup> or greater and with width greater than 2m for 80% of area.  Considered adequate	Yes  Yes

Landscaping	630m <sup>2</sup>	768m <sup>2</sup>	Yes
Height	Clause 24 of KLEP = 3 storey	4-storey	<b>No</b> *- also refer to SEPP 1 and KLEP comments
Solar Access	Min 3.5 NATHERS	3.5 or greater NATHERS	Yes
	Adequate solar orientation	Design has maximised solar access available	Yes
	No shading of neighbouring residential buildings or primary open space for more than 3hrs between 9am and 3pm on 22 <sup>nd</sup> June	Proposal is not considered likely to result in any adverse overshadowing. To the south of the building is a public road.	Yes
Privacy	Section 4.8 of DCP	Generally considered adequate	Some Concern *
Cut and Fill	Max 1.5m	Approximately 2m	<b>No</b> *
Infrastructure		Section 94 Contributions	
Erosion and Sediment Control		To be conditioned.	

\* = see Planning Comment

### Setbacks

It is considered reasonable in this instance to permit a 3m setback on the secondary street frontage. (Killuke Crescent). The 3m setback is unlikely to interfere with sight distance on the intersection or adversely impact upon the streetscape. It is noted that a large proportion of both the primary and secondary street frontage (corner) is well in excess of the minimum required.

The area of non-compliance with the setback requirements of DCP 22 is the predominantly unenclosed garbage area, gate and single toilet (toilet is enclosed). This area is approximately 40m<sup>2</sup> and setback 1.1m at closest point (edge of roof) from Baker Drive boundary. Under DCP 22, Council will consider a 1.5m encroachment into the primary setback for unenclosed structures and could request the applicant to position this structure at a setback of 3.5m (and permit the enclosed toilet or have it deleted) from Baker Drive. However, it is considered that a variation to the standard is warranted. Having regard to the large setback provided for the main residential building

(5-20m), it is considered that the structure improves the architectural relief of the overall development by providing increased texture and depth. This effectively gives the impression of a 'lower' main building. It is not considered that the structure will result in any adverse impacts on road user sight distance and/or safety.

Bin storage areas are normally provided within the front setback and the proposed structure is more aesthetically pleasing than a simple screen.

## **Car Parking**

The applicant has indicated that the proposed basement carpark ([Appendix E](#)) complies with Australian Standard 2890.1 – Off Street Car Parking. However, concern is raised in relation to the potential for increased conflict that may be associated with the 3.5 –3.7m common entry and exit over a distance of approximately 15m. This width would not facilitate vehicles to pass each other in and out of the park, leading to the possibility of vehicles reversing back out on to Baker Drive to allow a car to exit. Under AS2890.1 the proposal is a Category 1 Access Facility requiring a width of 3-5.5m (depending on case by case). In this instance it is considered that the proposal warrants a 5.5m access width to facilitate vehicles to pass and thus reduce the potential for traffic conflict.

It is noted that the proposal is categorised as a Class 1A Parking Facility (i.e. residential) and under the Standard, 3-point entry and exit into car parks is acceptable. The Standard indicates that larger vehicles (station wagons 4wds etc.) may even require a 5-point turn. With these tight vehicle-manoeuving situations to be expected, it is considered reasonable to require the wider access.

Concern is also raised in relation to the tandem car park provided. However, it is noted that there are two surplus resident spaces and that these may be removed to allow wider access.

Whilst it is considered that the carpark can be designed to satisfy the Standard and minimise the potential for conflict it is considered reasonable to impose a condition on any approval requiring plans to be submitted with the required Construction Certificate providing for a 5.5m access and details demonstrating that all areas of the car park comply with AS2890.1 – Off Street Car Parking.

The overall impact of the proposed development having regard to overshadowing is considered minimal as the site is bound by a public road to the east and south and provides adequate setbacks from units to the north and west.

## **Privacy**

Units 1,2,3,6,7,8,11,12, and13 all have primary living areas (balconies) facing the neighbouring units and pool on Killuke Crescent All other units have an elevation facing town houses on Baker Drive. The applicant was requested to address concerns associated with potential privacy impacts and responded:

*'The neighbouring dwelling in Killuke Crescent is more than 20 meters from the proposed development and there is a lot of large vegetation on the adjoining property, which will form a natural barrier to loss of privacy. In addition to the existing trees it is proposed to provide screen planting along the whole boundary with the neighbouring property.....to provide screening for the adjoining property and swimming pool'*

It is considered that in a medium to high density area where 3 storeys are permitted some loss of privacy is unavoidable. The building has been designed in manner to maximise northerly aspect, thus the majority of primary living areas are located on this elevation. Whilst Council could consider requesting screening devices, elevated windows sills, large window sills or similar, it is considered that the current design would not result in any adverse privacy impacts and is consistent with a medium to high density development.

### **Cut and Fill**

To accommodate the basement, approximately 2m of cut will be required, which exceeds the maximum allowable of 1.5 metres under DCP 22. Council has permitted additional cut in similar instances so as to reduce overall building height whilst still facilitate a justifiable SEPP 1 objection.

It is noted that the site is not steep and the cut will not result in any slope destabilisation, which is the primary intention of the standard. A condition should also be imposed requiring details of the means of protecting the adjoining properties during excavation.

### **Groundwater**

Due to the relatively high watertable in the area and the proposed cut of approximately 2m, the proposal is Integrated Development, requiring the applicant to apply for a de-watering licence pursuant to Part 5 of the Water Management Act 1912.

After subsequent completion of a geotechnical evaluation and a Water Management Plan, the information was forwarded to the DIPNR for consideration. The DIPNR have agreed to issue a temporary de-watering licence during the construction phase only, subject to a number of General Terms of Approval. Council must include these conditions in any approval.

Having regard to the potential discharge of silt-laden tailwater during dewatering of the site, the plans for the required Construction Certificate should include a detailed Management Plan, prepared by a qualified engineer indicating the means of treating water to discharge so as to meet relevant DEC criteria.

## **Stormwater**

The basement car park is at a level that prevents water to drain via gravity. As such, the applicant has provided preliminary plans detailing the proposed basement pump out stormwater system. It should be noted that potential for water to enter the basement car park is relatively low and would only result if the interceptor drain on the driveway was blocked.

However, reliance on mechanical pumping during such events is not acceptable and it should be a condition of any approval that the plans for the required Construction Certificate are to include provision of a sump or other means suitable to prevent flooding in the event of water entering the basement in excess of 300mm in depth during a 1 in 10 year stormwater in accordance with Australian rainfall and Runoff without reliance on mechanical pumping. Such plans are to include the means of draining the basement following such an event.

The means of dealing with groundwater so as to prevent seepage into the carpark should be provided with the plans for the required Construction Certificate and may include mechanical pumping.

## **Bushfire**

As the proposal is in a bushfire prone area and is a residential subdivision, the proposal is Integrated Development pursuant to Section 100B of the Rural Fires Act 1997. Accordingly, the applicant prepared a Bushfire Risk Assessment that was subsequently referred to the Rural Fire Service (RFS) for consideration.

The RFS has agreed to grant a Bushfire Safety Authority subject to two (2) conditions. Such conditions are required to be included in any approval.

## **Safety and Security**

The proposed residential flat building facilitates natural surveillance with the open courtyard and relatively large building setbacks. The building would also be fitted with an electronic entry.

A mechanical security gate is fitted to the residential and storage section of the carpark with the visitor parks open. It is considered reasonable to impose a condition in any approval for the provision of security lighting in the car park, storage and any void areas.

## **Public Exhibition**

The proposal was advertised in accordance with Council's Advertising Policy with twenty (20) submissions having been received (one marked private and confidential) ([Appendix G2 - Part 1, Part 2, Part 3, Part 4, Part 5 and Part 6](#))

The submissions can be summarised as follows:-

Submission	Planning Comment
1 My enjoyment of my land will be detrimentally affected by the development.	1 The proposal is not expected to result in any adverse shadow impact or be visually obtrusive from public viewpoints.
2 The proposal is inconsistent with the existing development in Crescent Head.	2 Refer to Privacy comments. The proposal is in a planned medium to high density area and complies with DCP 22's density standards. It is noted that there are two existing 3-storey residential units on Killuke Crescent that are of a similar height to the proposal.
The proposal is totally inappropriate	Refer to SEPP 71, KLEP and DCP 22 comments.
3 The visual impact of the proposal needs to be taken into account	3 Refer to SEPP 71, SEPP 65, Privacy and Planning Comment 1.
4 The proposal will result in unacceptable privacy impacts on my residential property and the neighbouring public park.	4 The setbacks of the building from neighbouring residential properties and the public park are relatively large. Whilst some losses in privacy is noted, it is considered that this will not be unacceptably adverse and that the proposal is consistent with the medium to high density area.
5 The proposal will significantly compromise the amenity of the area and the character of the village will be lost.	5 Refer to Privacy comment. Refer to SEPP 71, SEPP 65, Privacy and Planning Comment 1 and 4.
6 It would appear that a significant proportion of the proposed developments private open space does not have a northern or easterly aspect.	6 It is considered that the proposal has been designed to maximise solar orientation so as all primary private open space areas have a northerly or eastern aspect to receive maximum winter sunlight.
7 The drainage demands of the development are not clear and	7 7. The potential for water to enter the basement is

may result in pollution.

The carpark will be a swimming pool after rain and concern is raised as to whether Council's system can cope.

Flooding is a real concern.

- 8 The proposal will result in excessive demands of electricity, leading to potential noise impacts.

- 9 It would appear that the proposed development's ground floor units do not have private open space capable of containing a rectangle 4m by 4m. If these units are not at ground floor then it cannot be argued that the building is only 3-storeys high.

- 10 The proposal is 4-stories under SEPP 6 and does not comply with the KLEP.

- 11 The proposal will exceed the maximum 1.5m of cut allowable under DCP 22.

- 12 The basement carpark will intersect the watertable.

- 13 School children will be at risk of being hit by the increase in vehicles in the area. Many

considered to be relatively low.

Refer to Groundwater and Stormwater comments.

- 8 Electricity is available to the lot. Council has no information that suggests that the proposal will not be able to be serviced adequately. Any noise associated with an increase in electricity consumption is difficult to quantify and it is considered would be a responsibility of the supplier to maintain transformers etc.

- 9 9. It is considered that the flats are wholly above ground level (max 1.3m). Council could request that private open space areas are made available via stairs for the 1<sup>st</sup> floor of units as there is adequate setback available that would permit a 4m by 4m rectangle. However, this is not considered practical.

As there is only 2.7m from floor to floor, it is considered that the overall height of the building does represent that of a typical 3-story building.

It would be undesirable to have a 'deeper' basement carpark.

- 10 Refer to KLEP, SEPP 1 and SEPP 6 comments.

- 11 Refer to Cut and Fill comments.

- 12 Refer to Groundwater comments.

- 13 The proposal will result in increased vehicle movements. However, it is considered that

children play and ride bikes in the area.

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| <p>14 The village of Crescent Head is not large enough for this building as services such a sewerage are already strained.</p> <p>15 My property will be detrimentally overshadowed.</p> <p>16 Excessive noise will result from occupants of the units.</p> <p>17 The underground carpark is a security concern.</p> <p>18 The proposal requires the concurrence of DIPNR as it is greater than 10m.</p> <p>19 Whilst 22 car parks are available, on-street car parking will still result from the development.</p> <p>20 The units will become holiday rentals and used by tourists – leading to added pressures.</p> | <p>this increase will not be out of character with the area. The building has been adequately setback of the corner of the intersection, driveway is greater than 9m from corner and the issue of increasing the access way has been included in recommended conditions of consent. Is.</p> <p>Refer to Car parking comments.</p> <p>14 The applicant is required to pay contributions for sewerage, water and outdoor recreation. It is considered that the catchment area can cope with the anticipated increase in water sewage loads which has been factored into the design of existing infrastructure. Any necessary modification to any infrastructure services should be paid for by the applicant.</p> <p>15 Refer to height comments.</p> <p>16 Any other noise associated with the proposal and future use is subject to the provisions of the Protection of Environment (Operations) Act 1997 and associated regulations.</p> <p>17 Refer to safety and Security comments.</p> <p>18 Refer to SEPP 71, and NCREP comments.</p> <p>19 It is agreed that on-street car parking will result in certain instances. However, It is considered that the underground carpark can be amended to comply with relevant standards. It is considered that adequate off-street car parking will be made available.</p> <p>20 The proposal if for residential units only. The use for tourist purposes would require a further DA. Pursuant to SEPP 71</p> |
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<p>21 DCP 22 does not represent the needs of the Crescent Head community.</p>	<p>21 DIPNR would be the consent authority. The Local Housing Strategy applies to all urban areas in the Shire. It is noted that Council is currently in the process of developing specific performance criteria for Crescent Head. At present, all the relevant provisions of DCP 22 are applied to the development.</p>
<p>22 The proposal is not ecologically sustainable.</p>	<p>22 It is considered that with appropriate conditions of consent the proposal could proceed without having any adverse environmental, social or economic impact</p>
<p>23. The use of clothes dryers is not sustainable</p>	<p>Refer to entire planning report. 23. Clothes dryers are often the only practical solution for medium to high density developments of this nature. Large clothes drying areas on the balconies could be visually obtrusive. It is considered reasonable that smaller clothes drying horses could be used on the balconies without leading to adverse visual impacts.</p>
<p>24 The proposal will restrict the opportunity for wildlife movement.</p>	<p>Council could consider requiring a common clothes drying area in one of the setbacks on the ground. The practicality of this would be considered difficult to justify. 24 The current site is clear of any substantial or significant vegetation and is in an established urban area.  With appropriate landscaping, the proposal will increase the amount of transient habitat and resources available for fauna.  All landscaping is to be comprised of indigenous species.</p>

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| <p>25 A road safety audit needs to be undertaken</p> <p>Killuke Crescent needs to be a 40km/p/h school zone.</p> <p>The driveway needs to be appropriately positioned.</p> <p>The proposal does not allow adequate sight distance and visibility.</p> | <p>25 It is considered that the proposal is consistent and would not result in traffic movements that would adversely impact on the area. An in depth traffic study is not considered necessary.</p> <p>The altering of speed zones requires consultation with Council's Traffic Committee and approval of the RTA.</p> <p>The access way has been positioned on the secondary road (Killuke Crescent = less vehicle movements) and as such should be used in preference to Baker Drive. Additionally, the current proposed driveway is further away from the school crossing than would be available if it were on Baker Drive.</p> <p>The intersection is more than 9m away from driveway, complying with council's Parking Policy.</p> <p>It is considered that the courtyard on the corner assists in maintaining adequate visibility.</p> <p>Refer to Car Parking comments.</p> |
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## ESD IMPLICATIONS

### Environmental Implications

The primary environmental implications of the proposal are associated with the need to 'de-water' the site to construct the basement carpark. As DIPNR is willing to issue a De-watering licence pursuant to the Water Management Act 2000 (subject to conditions), it is considered that the proposal could proceed without having any likely adverse impact on coastal water bodies.

There is expected to be no nuisance or unmanageable emissions of any kind.

The proposal does not require the removal of any substantial or significant vegetation and is unlikely to have any significant impact on ecosystems within the Shire.

It is considered that all relevant environmental considerations are addressed within the Planning Report.

## **Social Implications**

Provided that the applicant can demonstrate the proposed stormwater management system complies with Australian Rainfall and Runoff, it is considered that it would be unlikely to result in adverse risk to life and property (as well as any potential environmental impacts).

It is considered that the proposal positively contributes to the range of housing available in Crescent Head and that the building has been designed to minimise any security and safety threat. It should be noted that it is recommended here that the applicant be requested to provide amended plans for the car parking and access arrangements with the required Construction Certificate.

Whilst the proposal has drawn a number of objections and some privacy impacts have been identified. It is concluded that the proposal is consistent with the medium high density zoning and that any impacts are unlikely be adverse and inconsistent with a medium to high density development.

## **Economic Implications**

The proposal is considered to be of economic benefit to the applicant, current and future owners of the property/units.

The proposal is likely to generate economic activity and work during the construction phase of the development. It is considered that the 15 units will be of a small economic long-term benefit to the wider community through the demand for goods and services. It is considered unlikely that there will be any adverse economic impacts as a result of the proposal.

## **RECOMMENDATION**

**A That Consent is 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 as modified by any conditions of this consent.**
- 2 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.
- 3 The hours of construction are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
- 4 The applicant is to nominate the haulage route for disposal of overburden, including where it is proposed to place the material, and submit details to Council prior to release of Construction Certificate.
- 5 Lodgement to Council of a cash bond to the value of \$10,000 as surety against any damage to the nominated haul route prior to release of the Construction Certificate.
- 6 Details are to be submitted from a practising structural engineer on the measures, which are to be used to protect the adjoining properties, including Council's road reserve as a result of proposed excavations. Details are to include engineering designs and certificates to cover the work. The details are to be submitted for approval with the Construction Certificate.
- 7 If the excavation is to extend below the level of the base of the footings on an adjoining allotment, the person causing the 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.
- 8 If the soil conditions require stabilisation:-

- a Retaining walls or other approved methods of preventing movement of the soil must be provided; and
  - b Adequate provision must be made for drainage.
- 9 This consent has been issued on the basis that it is intended to appoint Council as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.
- 10 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.
- 11 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
- 12 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.
- 13 The building is not to be occupied until all conditions of Council's consent have been complied with and an Occupation Certificate has been obtained from Council or an accredited certifier and submitted to Council.
- 14 A schedule of the fire safety measures which are to be installed in the building is to be submitted with the required Construction Certificate for approval together with the minimum Standard of Performance as identified in Clause 80B and C of the Environmental Planning Assessment Regulation 1994.
- Detailed plans of each measure prepared by a suitably qualified person are to be submitted for approval with the required Construction Certificate.
- 15 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 Carrying out water supply work.
  - b Carrying out sewerage work.
  - c Carrying out stormwater drainage work.
  - d installing a temporary structure on the land.

**16 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.

**17 The plans for the required Construction Certificate are to provide for a 5.5m width access way from the property boundary to the furthest most point of the basement car park driveway. Details are to be provided demonstrating that all parking areas comply with Australian Standard 2890.1-Off Street Car Parking.**

**18 Submission a BCA Assessment Report for the proposed building by an appropriately accredited certifier with the Construction Certificate.**

**19 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.**

**20 Hoarding/fence is to be provided to the, details of which are to be included with the plans for the required Construction Certificate. The hoarding/fence is to be erected prior to commencing any other work onsite.**

**21 A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours.**

**22 A builder's toilet complying with Clause 78I of the Environmental Planning and Assessment Regulation, and connected directly to the sewer is required on site throughout the entire building operation.**

**Note: Clause 78 I requires that the toilet must be provided before any work is commenced.**

**23 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.**

- a **Structural Engineer's Details for footings, reinforced concrete slab, structural steel work is to be submitted prior to any work commencing on the building.**
- b **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.**
- c **That the floor surface of the wet areas are properly graded and drained and the junctions of the floor with the walls are treated to prevent the penetration of moisture into the walls. An inspection of the treated area is to be arranged with Council or suitable certification is to be submitted prior to the issue of an occupation certificate.**
- d **The windows and glass installations within the building shall comply with AS 1288, Part 3.6 BCA Housing Provisions and AS2047. The applicant shall furnish Council with a report from the supplier upon completion of the window and glass installation indicating compliance with the requirements of AS1288 and AS2047. The builder is to certify the windows have been installed in accordance with AS2048.**
- e **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**
  - (1) **D2.16****of the Building Code of Australia.**

**Note: Spacing of rails not to exceed 125mm.**
- f **Riser and Going dimensions for stairs shall be in accordance with Clause D2.13 of the Building Code of Australia. In Class 1 and 10 buildings the following will apply:**

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

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

- g Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.
  - h Details of wall bracing to be carried out in accordance with Australian Standard 1684-1999 are to be submitted to Council prior to commencement of work.
  - i Kitchen exhaust fans are to be ducted externally of the building or a recirculating hood type be provided.
  - j All glass in shower doors, shower screens, bath enclosures and associated windows (the lowest sight line of which is less than 1500mm above the floor or bottom of the bath or shower base) shall be Grade A Safety Glass.
  - k 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.
  - l The door to all fully enclosed sanitary compartments must open outwards, or slide, or be readily removable from the outside, in accordance with the requirements of the Building Code of Australia.
- 24 The proposed building has been assessed by Council under the provisions of the Building Code of Australia as a Class 2 & 7 building, having a rise of 4 storeys. The buildings are to be constructed in Type B fire resistance construction. It is the builder's responsibility to ensure that all building elements have the minimum fire resistance level specified in Specification C1.1, Table 4 of the Building Code of Australia.
- 25 Every part of the building shall be constructed in a proper and workmanlike manner to achieve the required level of

performance using materials that are not faulty or unsuitable for the purpose for which they are used.

- 26 A “Smoke Hazard Management System” shall be designed and installed within the building in accordance with the relevant provisions of Section E2.2a of the Building Code of Australia.
- 27 A survey certificate prepared by a registered surveyor is to be submitted to Council to verify the siting of the building in relation to adjacent boundaries, and work is not to proceed beyond that stage until a written release has been given by Council. The survey is to be submitted at completion of floor slab formwork before concrete is poured. All levels are to be based on a fixed datum point in Australian Height Datum.
- 28 A survey certificate prepared by a registered surveyor is to be submitted to Council to verify that the work is being constructed at the level shown on the building approval. The work is not to proceed beyond the designated stage until a written release has been given by Council. The survey is to be submitted when the formwork is completed for each of the floor slabs before concrete is poured. All levels are to be based on a fixed datum point in Australian Height Datum.
- 29 Floors of balconies shall be graded and drained to a grated inlet connected to the stormwater drainage system.
- 30 Clothes drying facilities must comply with Part F, Clause F2.1 of the Building Code of Australia.
- 31 All materials used in the building shall comply with the provisions of Clause C1.10 of Building Code of Australia. A list of all the proposed construction and finishing materials detailing their early fire hazard properties (i.e. spread of flame and smoke development indexes) shall be compiled then submitted to Council for approval prior to their use in the Building.
- 32 Emergency lighting requirements must comply with Part E, Clause E4.2 of the Building Code of Australia.
- 33 Where protection is required, doorways, windows and other openings must be protected in accordance with Part C, Clause C3.4 of the Building Code of Australia.
- 34 Lintels must comply with Clause 2.3 of Specification C1.1 of the Building Code of Australia.

- 35 Brick cavities shall be cleaned in accordance with the requirements of AS3700 – Masonry in Buildings.
- 36 Full details of the means of damp-proofing all garages below or partly below ground level shall be submitted to Council with the Construction Certificate.
- 37 Provisions shall be made for the installation of telephone and television services by installation of conduits during construction for each sole-occupancy unit.
- 38 No service installations shall be installed in exits or paths of travel leading to an exit except as conceded in D2.7 of the Building Code of Australia.
- 39 Walls and floors separating sole-occupancy units and separating sole-occupancy units from a plan room, lift shaft, stairway, public corridor or the like must have Sound Transmission Class (STC) not less than 45.
- 40 A wall separating a bathroom, laundry or kitchen in one sole-occupancy unit from a habitable room (other than a kitchen) in an adjoining unit must have a Sound Transmission Class (STC) not less than 50 and must comply with F5.5 of the Building Code of Australia. Details of the proposed method of complying with F5.5 must be submitted to Council for approval prior to the commencement of construction.
- 41 Soil and waste pipes passing through more than one sole-occupancy unit must be separated from rooms in any sole-occupancy unit by construction complying with F5.6 of the Building Code of Australia.
- 42 Upon completion and prior to occupation of the building, certificate from a practising Structural Engineer shall be submitted to Council certifying that the building has been erected in accordance with the approved structural drawings and is structurally adequate for the loads imposed.
- 43 Where structural reinforced concrete members are required to have a fire resistant rating, the practising Structural Engineer shall certify that the requirements of the relevant SAA Concrete Structures Code have been satisfied. This is to be submitted prior to occupation.
- 44 A certificate shall be submitted by a practising Structural Engineer certifying that the building has been designed in

compliance with the requirement as detailed in AS 1170.4 "SAA Earthquake Loads".

- 45 Openings in floors, walls and shafts for services must comply with Section C, Clauses C3.12, C3.13 and C3.14 of the Building Code of Australia.
- 46 Building materials are not to be stored within the road reserve or any other public place.
- 47 The following information to be submitted with the Construction Certificate:-
  - a Two sets of specifications for the Class 2 & 7 building detailing the appropriate clauses of the BCA and Australian Standards for the work to be constructed.
- 48 The applicant's consultants are to provide certified plans and specifications with the Construction Certificate for the works to be constructed.
  - a The installation of the hydrants complying with Clauses E1-3 of the BCA and AS2419.
  - b The installation of portable fire extinguishers.
  - c The installation of the smoke management system complying with NSW, Part E Tables E2.2. of the Building Code of Australia.
  - d The installation of emergency lighting and exit signs complying with Part E4 and AS/NZS 2293 Part 1-1998.
  - e The installation of plumbing and drainage complying with the requirements of the Local Government Act and Regulation, Australian Standard 3500 and New South Wales Code of Practice Standard 3500.
- 49 Runoff and soil erosion controls shall be installed in accordance with the approved Erosion Control prior to work commencing on the site. The controls shall incorporate:-
  - a diversion of uncontaminated upsite runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed.

- b sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent unwanted sediment and other debris escaping from the land.
- c maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.

50 Protection of any kerb inlet pit located downstream of the site in accordance with Council's Engineering Guidelines for subdivision and development (drawing No SW20).

**Note:**

- i Any roof drainage system is to be connected to the required discharged point at the building frame inspection stage, to existing pipe storm system in McIntyre Street.
- ii Any material spilled or deposited on the road reserve or in the gutter is to be removed immediately.

51 Information to be submitted with the Construction Certificate:-

- a Provide two specifications for the Class 2 and 7a building detailing the appropriate clauses of the Building Code Of Australia and Australian Standards for the works to be constructed.
- b Indicate location of the following Fire Safety Services in the Building.
  - Fire hose reels
  - Portable Fire Extinguishers
  - Emergency Lighting
  - Exit Signs
- c Provide Mechanical Engineer's detail and certificate Certifying that the car parks permanent natural ventilation complies with Section F clause F4.11 of the BCA and AS 1668.2.

52 The plans for the required Construction Certificate are to include provision of a sump or other means suitable to prevent flooding in the event of water entering the basement in excess of 300mm in depth during a 1 in 10 year stormwater in accordance with Australian rainfall and Runoff without reliance on mechanical pumping. Such plans are to include the means of draining the basement following such an event.

- 53 All stormwater drainage from the development site is to be piped and connected to Council's stormwater drainage system. Such plans are to include a suitable onsite detention system designed to ensure that discharge of stormwater during a 1 in 100 year storm event will not increase pre-development flow rates. A detailed plan is to be submitted for approval prior to Council issuing the Construction Certificate.
- 54 All internal parking areas, access ways, turning areas, driveways and ramps are to be constructed in accordance with Council's Parking Code, Engineering Guidelines for Subdivision and Development and Australian Standard 2890.1 – Off Street Car Parking before occupation of the building or commencement of the proposed land use. All such areas to be concrete paved.
- 55 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.
- 56 The plans prepared for the required Construction Certificate are to provide for a concrete footpath across Baker Drive and Killuke Crescent frontage of the property strictly in accordance with Council's Engineering Guidelines for Subdivision and Development. All works are to be carried out strictly in accordance with the plan.
- 57 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 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 contribution towards District Water Supply at the rate of \$1,211 per equivalent tenement, i.e  $\$1,211 \times 9.58 \text{ E.T} = \$11,601$  (Indexed 2004/2005).
- b Payment of a contribution towards the augmentation of sewerage headworks at the rate of \$2,028 per equivalent tenement, i.e  $\$2,028 \times 9.58 \text{ E.T} = \$19,428$ . (Indexed 2004/2005)

- c Payment of a contribution towards sewerage reticulation works at the rate of \$1,495 per equivalent tenement, i.e  $\$1,495 \times 9.58 \text{ E.T} = \$14,322$ . (indexed 2004/2005)
  - d Provision of separate sewer junctions, with a maximum of two connections per junction to the existing sewer main.
  - e Details of separate water meter for watering service to be included prior to the release of the construction Certificate.
- 58 The applicant is to pay a contribution towards the outdoor recreation for each additional dwelling unit after the first unit in accordance with Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Construction Certificate, at the rate prevailing at that time. The current rate is \$395 per additional dwelling unit, i.e  $\$395 \times 9.58 \text{ E.T} = \$3,784$ . (Indexed 2004/2005)
- A copy of Council's Section 94 Plan may be inspected at Council's offices, Corner Elbow and Tozer Streets, West Kempsey.
- 59 Construction of a vehicular access from the road formation to the property boundary in accordance with Council's Standard for Access to Urban Properties. Applicant is to consult with Council's Environmental Services Department for requirements before commencing construction.
- 60 Engineering details of all retaining walls to be submitted to Council prior to release of Construction Certificate.
- 61 Security lighting be provided in the carpark, between the units and in the internal void areas. Lighting is to be designed and directed to minimise impacting upon adjoining residences.
- 62 Construction should comply with AS3959 – 1999 level 1 'Construction of Buildings in bushfire prone areas'.
- 63 Where the rear of the proposed structure is greater than 70 metres from the nearest hydrant, a new hydrant is required to be installed as per AS2419. Locations of fire hydrants are to be delineated by blue pavement markers offset 100mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.

- 64 Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, an approval under Part 5 of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
- 65 An approval will only be granted to be occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
- 66 When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.
- 67 All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
- 68 All works involving soil vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
- 69 The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
- 70 All vegetation clearing must be authorised under the Native Vegetation Conservation Act, 1997, if applicable.
- 71 The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
- 72 A licence fee calculation in accordance with the Water Act 1912 must be paid before a licence can be granted.
- 73 Any licence so issued, from the date of issue, will be subject to Annual Cost Recovery Water Management Charges as set by the Independent Pricing and Regulatory Tribunal.
- 74 A transfer of an entitlement shall be subject to the provisions of the Water Act 1912 the regulations made

thereunder and the transfer rules applying at the time of application as determined by the Department.

- 75 The authorised annual entitlement will not exceed 5 megalitres.
- 76 Extraction of water under the approval to be issued shall be subject to conditions with regard to availability of supply and such restrictions as are deemed necessary to the Department from time to time to ensure an adequate flow remains for other water users and the environment.
- 77 If and when required by the Department, suitable devices must be installed to accurately measure the quantity of water extracted or diverted by the works.
- 78 All water measuring equipment must be adequately maintained. It must be tested as and when required by the Department to ensure its accuracy.
- 79 The use of water shall be conditional on no tailwater drainage being discharged into or onto –
  - any adjoining public or crown road
  - any crown land
  - any river, creek or watercourse
  - any groundwater aquifer
  - any area of native vegetation
  - any wetlands
- 80 Works for construction of bores must be completed within such period as specified by the Department.
- 81 Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.
- 82 Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
- 83 Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.
- 84 The work shall be managed in accordance with the constraints set out in the “Water Quality Management Plan – Revision 1” report produced by Douglas Partners dated October 2004, submitted as part of this development application.

- 85** The volume of groundwater extracted as authorised must not exceed 5 megalitres.
- 86** The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent adverse impacts on the aquifer.
- 87** The licence shall lapse within six (6) months of the date of issue of the licence.
- 88** Submission of an application for Subdivision Certificate pursuant to Section 4A of the Environmental Planning and Assessment Act 1979 which authorises the registration of the plan of subdivision.
- 89** Applicant is to submit with the final plan of subdivision any instruments under Section 88B or E of the Conveyancing Act 1979 relevant to any restrictive covenants, easements or rights of way created by or affected by this subdivision. Kempsey Shire Council is to be listed as the sole party to modify or remove such instruments.
- 90** The plans for the required Construction Certificate are to include the means of protecting the basement area from groundwater seepage.
- 91** The plans for the required Construction Certificate are to include a Plan of Management prepared by a qualified engineer indicating the means of detaining and/or treating tailwater during dewatering operations, suitable to ensure the water discharging from the site into Councils drainage system meets relevant DEC criteria.

**B** That the objectors be advised of Council's decision.

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