

### Appendix 3 – Draft conditions of consent

#### DA-108-2011 / JRPP 2011 NTH 013

<b>JRPP No:</b>	2011NTH013
<b>DA No:</b>	Armidale Dumaresq Council DA-108-2011
<b>PROPOSED DEVELOPMENT:</b>	<p><b><i>Development:</i></b> New Courthouse Building.</p> <p><b><i>Address:</i></b> Part of property known as 96-98 Faulkner Street being Part Lots 7 &amp; 8, Section 2 DP 758032.</p>
<b>APPLICANT:</b>	NSW Department of Attorney General and Justice c/- Thinc Projects.
<b>REPORT BY:</b>	Stephen Gow, FPIA, Director Planning and Environmental Services, Armidale Dumaresq Council.

## **PRESCRIBED CONDITIONS**

The following conditions are prescribed in relation to this development consent:

### **Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989**

- (1) The following conditions are prescribed in relation to a development consent for development that involves any building work:
  - (a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
  - (b) in the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (2) This clause does not apply:
  - (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
  - (b) to the erection of a temporary building.
- (3) In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

### **Erection of signs**

- (1) For development that involves any building work, subdivision work or demolition work, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the work site is prohibited.
- (2) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 116G of the Act, to comply with the technical provisions of the State's building laws.

### **Condition relating to shoring and adequacy of adjoining property**

- (1) For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (a) protect and support the adjoining premises from possible damage from the excavation, and
  - (b) where necessary, underpin the adjoining premises to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

### **GENERAL CONDITIONS**

1. The development must take place in accordance with the approved plans (bearing the Council approval stamp) and documents submitted with the application, including plans drawn by Suters Architects, numbered N22080 / DA102D, DA103E, DA201D, DA202D, DA203D, DA301D, DA302D, DA303D, DA401D, DA402D, DA601C and McGregor Coxall plans 01C and 02A, all subject to the conditions in this notice, to ensure the development is consistent with Council's consent.

*ADVISING: The development will need to comply with the recommendations of the submitted Disability Access report and should fully comply with the relevant provisions of the Building Code of Australia and Access to Premises Standards under the Commonwealth Disability Discrimination Act 1992, in relation to access to and use of the building by people with disabilities.*

2. The developer is to submit relevant designs to Council's Engineering and Works Division for its acceptance as the Water and Sewerage authority of proposed activities in connection with the development relating to water supply, sewerage and stormwater drainage, before the commencement of such work.

In addition, application being made to Council, as the local water and sewer authority, for a Certificate of Compliance, pursuant to s.64 of the Local Government Act 1993, and Chapter 6 of the Water Management Act 2000, in connection with approved works, and such Certificate being issued before the use of the proposed development commences.

All sewer and drainage works associated with the approval are to comply with the requirements of AS 3500 and completed only by a licensed plumber and drainer.

3. All Engineering works in connection with the project to be designed by a competent person and carried out in accordance with Council's Engineering Code, unless otherwise indicated in this consent, to ensure that these works are of a sustainable and safe standard.

4. The proposed rationalisation of the current land title arrangements on the site as part of the project, which is intended to be pursued through the State Property Authority Act 2006, should ensure that the following outcomes are achieved:
- (i) The relationship between buildings and title boundaries is in accordance with the requirements of the Building Code of Australia;
  - (ii) Provision is made for necessary easements to benefit relevant utility services providers, as advised by those providers and including where required by Council as the water, sewer and road authority for the land and adjoining road reserves, pursuant to the Local Government and Roads Acts 1993;
  - (iii) Provision is made for a necessary stormwater drainage easement(s) to benefit the site of the proposed development, in conjunction with an approved connection between the development and the public stormwater drainage system;
  - (iv) Proposed connections between the development and adjacent property (eg the proposed link between the development and the adjacent Police Station) are legally effective and recognised.
5. Provision of a heritage interpretive strategy for the development, which also encompasses the history of the existing Courthouse in Beardy Street. The strategy should include the history of Courthouses and the Legal system in Armidale and should be illustrated with plans / photographs / artefacts.

Details to be provided for the approval of the Council's Heritage and Urban Design Advisor before works on the development commence.

Implementation of the strategy as part of the development should be completed before the proposed building is occupied.

**ADVISING:**

*The developers may also wish to give consideration to the inclusion of public art installations as part of the project, in which case liaison should be undertaken with Council's Public Art Advisory Panel in the first instance.*

6. Given the location of the site within the area of Armidale which has been subject to significant development and land use activity since European settlement in the district, the developers should retain the services of a consultant archaeologist to maintain a watching brief on the project during work that involves excavation below current ground levels.

In the event that any relics, being any deposit, artefact, object or material evidence that:

- a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- b) is of State or local heritage significance,

are identified on the site during development through earthworks or construction, the applicant/developer shall notify the NSW Heritage Council as required under s.146 of the Heritage Act 1977, as well as the Armidale Dumaresq Council, of the find and await further advice before proceeding with the development.

In addition, in the event that any Aboriginal artefacts are identified on the site during development through earthworks or construction, the Applicant shall contact the National Parks and Wildlife Service (NPWS – part of the Office of Environment and Heritage) and cease work in the relevant location pending investigation and assessment of its heritage value by NPWS and the relevant local Aboriginal groups.

For further information see the NPWS Code of Practice for Archaeological Investigations in NSW:

<http://www.environment.nsw.gov.au/licences/archinvestigations.htm>

7. The proposed secure car parking area on the lower ground floor is to be designed to comply with the relevant provisions of Australian Standards AS/NZS 2890.1 - 2004 : Off-street car parking, AS/NZS 2890.2 - 2002 Off-street commercial vehicle facilities and AS/NZS 2890.6 - 2009 Off-street parking for people with disabilities, to ensure functional and accessible design, including adequate headroom, manoeuvring turning areas and marking/signage for users.

Because of the proposed single lane ramp access to the lower ground floor, the development shall to incorporate traffic lights or an alternative vehicle management system to prevent vehicle conflicts between vehicles entering or leaving the building. Priority should be given to incoming vehicles.

## BEFORE WORKS COMMENCE

8. The submission of a detailed Construction Management Plan for the approval of the Council's General Manager or nominee, prior to commencement of work on the project, to ensure that work is undertaken safely and to minimise nuisance to the surrounding area during all construction/work on site. This Plan shall include, as a minimum, provision for:
- (i) Parking arrangements for employees, contractors, sub-contractors and visitors to the site (this will require prior consultation with Council's Local Traffic Committee and Ranger Unit Team leader if current on street parking restrictions in the vicinity of the site require adjustment).
  - (ii) Site access and construction traffic management for construction vehicles and equipment.
  - (iii) Storage and removal strategies for construction materials and wastes\*.
  - (iv) Provision of sanitary amenities and ablution facilities for employees, contractors, sub-contractors and visitors to the site\*.
  - (v) Fire precautions during construction.
  - (vi) Dust suppression.
  - (vii) Control of noise arising from the works in accordance with the requirements of the Protection of the Environment Operations Act 1997 and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual\*.
  - (viii) Fencing and security details, including site hoardings to be provided, safeguarding both contractors and the public while works are being carried out. Contractor should endeavour to minimise disturbance to pedestrian / vehicle traffic in the vicinity of the site\*.
  - (ix) Public footpath and Council infrastructure including street trees being protected from any damage while work is being carried out\*.
  - (x) Details of all construction-related signs.
  - (xi) Careful management of construction activities to prevent any contaminant discharge from the site (including oils, fuels, paints or chemicals), particularly with respect to excess concrete or concrete truck washings\*.
  - (xii) Location of all public utility facilities and methods of protecting them
  - (xiii) Method of support to any excavation adjacent to adjoining properties, or the road reserve.

*\*Note - see issues subject of further conditions of consent regarding activity "During Construction" including use of Council road reserves, toilets, hoarding and hours of construction activity, etc.*

9. For all construction work required on Council's road reserves (eg. vehicular footpath crossings utilities and stormwater work, footpath paving, kerb and gutter etc.), the developer is to submit an application to Council as the roads authority pursuant to s138 of the Roads Act 1993 and obtain approvals for all such proposed work before it commences. This is to ensure that pedestrian and vehicular safety during construction has been addressed and that the work meets Council's relevant Engineering Code and other design standards for work in Council road reserves.

**ADVISINGS:**

*Council's Civic and Recreation Services staff have provided the developers' consultants with specifications for paving, tree planting in paved areas and tree species as identified in CBD Masterplan. Also, details of the preferred street furniture including rubbish bins and seats.*

*The proposed pedestrian crossing in Moore Street and any related parking restrictions will require the separate approval of Council's Armidale Local Traffic Committee, including the concurrence of the RTA. Consideration should be given in the final design to the incorporation of pedestrian barriers (eg bollards and chains) to prevent the potential for accidents between vehicles and pedestrians where the proposed footpath widening is to occur in Moore Street.*

*Council is not intending to contribute to any work in Moore Street beyond new kerbing and guttering on the northern side of Moore Street adjacent to the site and reconstruction of the road pavement, which is part of Council's programmed works to be completed in conjunction with the Courthouse construction works.*

Where the proposed development involves work/activity over public land, it is to be protected by public liability insurance with a minimum cover of \$10 million, or such other amount as may be advised by Council. Evidence of adequate cover (including duration of cover) to be submitted before work over any public land commences.

## DURING CONSTRUCTION

10. Non-slip materials complying with AS 3661 and AS 4586 are to be used for the paving of public areas within the development, to ensure safe public use of these areas.
11. Waste pipes, stack work and vents (below the roof line) are to be concealed to prevent their deterioration and in order to avoid any adverse impact on the aesthetics of the building.
12. Effective dust control measures to be maintained during construction to maintain public safety/amenity and construction activities are to be restricted solely to the subject site.  
*ADVISING:*  
*Failure to take effective action may render the developer liable to prosecution under the NSW Protection of the Environment Operations Act.*
13. Tree removal should be carried out by an appropriately qualified person (e.g. tree surgeon) to avoid any risk to life or damage to property. This person should have adequate public liability insurance cover.
14. Materials must not be burned on-site. All waste generated on site must be disposed of at Council's Waste Disposal Depot or Waste Transfer Station, to protect the amenity of the area and avoid the potential of air pollution.
15. Any fill which is placed on the site shall be free of any contaminants and placed in accordance with the requirements of AS 3798-1990 *Guidelines on Earthworks for Commercial and Residential Developments*. The developer's structural engineering consultant shall:
  - identify the source of the fill and certify that it is free from contamination; and
  - classify the area within any building envelope on any such filled lot in accordance with the requirements of "Residential Slabs and Footings" AS 2870.1.
16. The hours of building work are to be restricted to between 7.00am and 6.00pm on Monday to Friday and 8.00am to 1.00pm on Saturdays, to maintain the amenity of the locality, in accordance with State Government Guidelines for construction related noise.

Any proposed building work to be undertaken outside these hours or on Public Holidays must be the subject of prior written agreement from Council - consideration may be given to special circumstances and non-audible work if applicable.



17. All demolition is to be carried out in accordance with AS2601 – Demolition of Structures, to ensure the work is undertaken safely and as required pursuant to the Environmental Planning and Assessment Regulation 2000, allowing for:
- A competent person to determine the presence of any hazardous substances or conditions in the structure, and all parts of the site, which may be hazardous to the health of the site personnel or the public if disturbed by the stripping or demolition.
  - Work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such removal work in accordance with a licence under clause 318 of the Occupational Health and Safety Regulation 2001. The principal certifying authority must be provided with a copy of a signed contract with such a person before any development pursuant to the development consent commences. Any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the bonded asbestos material or friable asbestos material is to be delivered.
  - The nature and location of each hazard shall be recorded and both the record and proposed method on controlling hazards shall be addressed in a Hazardous Substances Management Plan and included in the contract documentation.
  - The appropriate display of signs containing the words “Danger Asbestos Removal in Progress” will be at a prominent position at the front of the premises.
  - Further information regarding asbestos can be found at the NSW Work Cover website: [www.workcover.nsw.gov.au/OHS/ManagingSafetyRisks/asbestos\\_fibro.htm](http://www.workcover.nsw.gov.au/OHS/ManagingSafetyRisks/asbestos_fibro.htm)
18. Toilet facilities are to be provided at, or in the vicinity of the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be connected to an accredited sewage management facility approved by the council or some other sewage management facility approved by the Council.
19. Compliance with the approved Construction Management Plan for the project during the construction process for the development.

No storage of building materials, soil or equipment is to occur on Council's property or roads without the written consent of Council's Civic and Recreational Services Manager or nominee. No unfenced, potentially dangerous activity or material to be located in close proximity to the street boundary or pedestrian walkway adjoining the site. No unsupervised transit of plant, equipment or vehicles across public areas or other obstruction of those areas is permitted.

A hoarding or fence must be erected between the work site and any public place if the work is likely to cause traffic (pedestrian or vehicular) in a public place to be obstructed or otherwise inconvenient. The erected hoarding is to be sufficient to prevent any substance from or in connection with the work falling into the public place. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. The hoarding, fence or awning is to be removed once the work has been completed.

## **BEFORE OCCUPATION OF THE BUILDING**

20. Bicycle facilities to serve the proposed development should to be provided. Council understands this may not be possible within the secure parking area under current Department of Attorney General and Justice Parking Guidelines, although the Applicant is encouraged to consider such facilities for staff use as part of a sustainable development approach to the project. However a minimum of three bicycle racks should be provided for public use as part of the development in the widened footpath area to Moore Street, in accordance with Council's Parking Code design standards.
21. All civil engineering and utility service works undertaken pursuant to this consent are to be inspected and tested upon completion, and details of works which will become public assets provided to Council's Director Engineering and Works or nominee.

## **OPERATIONAL MATTERS**

22. All routine vehicular loading and unloading in connection with the use of the Courthouse being carried out on site or via the adjacent Police Station which is to be connected to the building, to provide for safe off-street loading and unloading of vehicles servicing the premises and to prevent unnecessary interference with the use of the Moore Street by other vehicles and pedestrians.  
  
In particular, garbage and recyclables collection from the premises are to be undertaken from within the site or by other arrangement to the satisfaction of Council's Director Engineering and Works or nominee (eg kerbside wheelie bin collection by Council's contractor), to minimise potential interference with the use of Moore Street during business hours.
23. Any lighting used in connection with the development is to comply with AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting.
24. The street number for the site, as agreed with Council's Business Systems Analyst, in conjunction with the new title arrangements to be finalised, shall be clearly and permanently displayed on or adjacent to the street frontage of the building, to identify the premises to the public and to essential/emergency services. Numbers shall be 100mm high x 50mm wide (minimum) and of a colour contrasting with the surface to which they are affixed.

## **ADVICE**

### **ADVISING:**

*The developer being the Crown is not obligated to submit a Construction Certificate for the project or obtain an Occupation Certificate from Council. However the developer/owner may wish to consider compliance with the following from a risk management viewpoint:*

- A Fire Safety Certificate covering each of the essential fire and other safety measures should be provided to the Certifying agency prior to the occupation of the building, to ensure the safety of the occupants in the case of an emergency. A copy of any such certificate should be given to the Commissioner of NSW Fire Brigades and an additional copy displayed in a prominent location within the building.*
- An annual fire safety statement may be provided to Council at least once every 12 months, to indicate that the required fire safety measures for the building are being properly maintained. A copy of any such statement should be given to the Commissioner of NSW Fire Brigades and an additional copy to be displayed in a prominent location within the building.*

*Certain modern energy installations (eg. photovoltaic systems, solar hot water, wind energy installations) may require Council's consent under current planning legislation. If you are planning on installing such technology as part of this project, please consult with Council's Development Control Unit to confirm whether development consent is required.*

## **OTHER APPROVALS/CONSENTS**

**NOT APPLICABLE**

## **REASONS FOR THE ABOVE CONDITIONS**

Given Council's duty to consider the matters set out in Section 79C(1) of the Environmental Planning and Assessment Act 1979 (as amended), the above conditions have been placed on the consent in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 (as amended).