

BREWARRINA SHIRE COUNCIL

Agenda Submission for Ordinary Meeting held on 28 June 2013

TITLE:	DEVELOPMENT APPLICATION- DA 6/2013 9 BYRON STREET BREWARRINA LOT 9 SECTION 2 DP 2802	DOC REF: Item 11
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REPORT BY:	John Kite Acting Environment Health & Building Manager	DATE: 14 June 2013
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IPR REFERENCE:

Theme 2: A Healthy Natural Environment - H1.2.2.2 Facilitate and assess applications for development

PURPOSE:

To inform Council of the a Development Application.

CONTENT:

Council is in receipt of Development Application for the erection of a multi-unit housing development comprising three, two bedroom single storey dwellings with single car carports and rain water tanks. The structures are proposed to be placed on concrete slab with external walls clad with fibrous cement weather board cladding and roof finished in Colourbond Custom Orb.

The developments are proposed to be constructed on vacant land located at 9 Byron Street Brewarrina.

The land area is 1,382 square metres the Gross floor area of the buildings is 289 square metre and landscape area 487 square metres.

Due to the impact that the buildings use will have on the environment as a result of Crown development the proposal has been treated as notifiable development and advertised for that purpose.

The advertisement was placed in the Brewarrina News on 6th June 2013 and submissions will close on 28th June 2013.

Under the provisions of Councils LEP 2012 the units are proposed to be constructed on land zoned RU 5 village which allows a minimum lot size of 800 square metres. The Land is not affected under schedule 5 concerning Environmental Heritage nor is the land subject to flooding as the land is located inside Brewarrina Township Flood Levy bank. The erection of multi-unit dwellings for residential purposes is permissible under the provisions of Councils LEP.

The applicant has pointed out that the proposed development is defined as Crown Development. Under s 89(1) of the Environmental Planning and Assessment Act 1979 a consent authority may not impose conditions of consent without the written approval of the Minister and In addition Council cannot refuse the application without the written consent of the Minister.

Under the provisions of the EP&A Act, clause 79C imposes on Council as the consent authority a statutory obligation to consider the following matters:

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.

Under the requirements of the legislation Council may consider if it wishes to impose conditions.

Conditions 11, 12 and 13 are imposed as a result of Council resolution 07/13 which was adopted at Councils meeting on 5th February 2013.

The closing date for submissions is 28th June 2013. As at the date of this report Council had received no submissions.

It is proposed that the application be considered for approval providing no objections are received. Should any objections be received than the matter will be referred back to Council.

Having reviewed the application it is considered that Council would have no grounds, excepting objections, to refuse the application but would be justified in imposing conditions to suit the particular circumstances in accordance with 79c of the Environmental Planning and Assessment Act 1979.

Prescribed Conditions

Environmental Planning and Assessment Act 1979 s98 Compliance with the Building Code of Australia (cf clauses 78 and 78A of EP&A Regulation 1994)

- (1) For the purposes of section 80A (11) of the Act, 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* ,

Conditions of Consent

1. The development, the subject of this consent, shall be carried out in accordance with the approved plans and specifications, in accordance with any conditions of this consent and in accordance with the provisions of Brewarrina Local Environmental Plan, the *Local Government Act 1993* and *Regulations* and the *Environmental Planning & Assessment Act 1979* and *Regulations*.

No alteration to the approved plans is allowed during construction unless separately approved by Council. A copy of the approved plans is to be retained on-site.

Reason: to ensure that the development is carried out in accordance with the terms of Council's approval.

2. Runoff and erosion controls are to be installed to prevent soil erosion, water pollution, or the discharge of loose sediment entering onto surrounding land; The site shall maintain an efficient silt fence at all times to prevent silt escaping into drainage systems or waterways; Equipment shall be operated to prevent tracking of sediment by vehicles onto roads; ensure adequate measures are in place to prevent pollution from any stockpile, excavated material, construction or landscaping supplies and debris within the site.

It is the builder's responsibility to ensure that any silt fencing removed for operational purposes is replaced on the same day of removal. .

Reason: to ensure the protection of stormwater systems and waterways.

3. The Applicant shall be responsible for repairing any damage to Councils infrastructure, land or assets in the vicinity of the subject site as a result of construction works, deliveries to the site or processes carried out with the site development.

Reason: to ensure the protection of Council Infrastructure

4. New electricity or communication services shall be provided to the development as an unground connection.
Reason: to minimise services impact on the visual and built environment.
5. The storage of materials shall be wholly contained upon the designated building site. Rubbish and building materials must be contained in suitable and effective enclosures within the site to prevent wind-blown material escaping from the site.
Reason: To protect the natural and built environment.
6. Building activities shall not commence until 7.00am or extend past 6.00pm Mondays to Fridays 8.00am to Noon Saturdays and no building work shall be carried out on Sundays or public holidays.
Reason: To protect the neighbourhood's amenity
Note In exceptional circumstances where it can be demonstrated that certain building activity will have a minimal effect these times may be varied with Councils consent being obtained beforehand.
7. All building waste being transported for disposal must be covered and secured to prevent any material escaping during transit.
Reason: To protect the natural and built environment
8. The building site shall be kept in a tidy condition and all waste shall be contained within a suitable enclosure.
Reason: To protect the natural and built environment
9. All excess stormwater shall be disposed in a manner acceptable to Council
10. Prior to construction the building sites shall be provided with suitable toilet facilities connected to councils sewer and be maintained in a hygienic state throughout the stages of construction.
Reason: to provide toilet facilities to site workers and visitors
11. The following stages of building work shall be issued with Compliance Certificates by a Building Professional Board Accredited Certifier on behalf of the Corporation. A copy of the compliance certificates certified as Crown work shall be provided to Council following completion of the following stages of construction:
 1. Footings and slab
 2. Frame
 3. Wet seal
 4. Installation of heater unit
 5. Completion (prior to occupation or use)
Reason: to determine compliance with the Building Code of Australia and that Crown Building work referred to under s 109R of the Environmental Planning and Assessment Act 1979 meets the requirements of the States Technical Building Requirements. (Council resolution 07/13, 5th February 2013.)
12. The Owner and Management following occupation of the buildings shall ensure that the development and adjoining area is kept in a neat and tidy condition and maintained in good repair at all times.
Reason: to prevent vandalism and address preventable maintenance issues. (Council resolution 07/13, 5th February 2013.)
13. It shall be the responsibility of the owner or agent to ensure that selected Housing tenants are advised of their responsibility to at all times have regard to the amenity and well-being of the neighbourhood.

Reason. To foster a state of homeostasis within the community. (Council resolution 07/13, 5th February 2013.)

14. This development is subject to a sec 94 Contribution. The Contribution plan commenced on 1st April 2009. The rate for this development is set at 1% of the Development cost CPI adjusted which is 2.4 %.

Contribution payable is \$6,250.00 plus 150.000 Total \$6,400.00

Reason: to comply with Councils Sec 94A Development Contribution Plan adopted by Council on 27th February 2019 and commencing on 1st April 2009.

Other Approvals

Brewarrina Shire Council is the local authority responsible for Council's infrastructure. Council must inspect all Plumbing and drainage work to enable Council to certify that the plumbing/drainage work identified in column 1 has been installed in accordance with the Building Code of Australia and AS 3500, Council must inspect all installed work prior to covering and will require 48 hours notice to undertake the inspection.

Note Any work covered prior to inspection will be required to be uncovered and penalties may apply for any failure to allow the inspections to be undertaken.

CONDITIONS OF APPROVAL FOR PLUMBING AND DRAINAGE WORK

- 1 Drain all roof rainwater to a Rainwater tank with overflow being conveyed to the street drainage system, by way of a sealed pipe system. Where street drainage is not available than a rubble drain is to be installed and maintained.
- 2 Ductile iron pipe shall be installed to convey stormwater under the footpath pavement and discharge to the gutter.
- 3 The outlet at the kerb shall be equipped with a suitable discharge fitting specifically designed to fit into the kerb face and fitted to the ductile iron pipe.
- 4 All excavations cutting in and preparatory work being carried out on the pavement shall be reinstated to the pavements original contours
- 5 All plumbing work is to be carried out in accordance with the relevant provisions of Australian Standards AS 3500 and National Plumbing Code.
- 6 A minimum height of 150 mm shall be maintained between the top of the overflow gully and the lowest floor waste opening connected to the drain.
- 7 The finished height of the gully shall be installed to prevent ponding and prevent the ingress of surface water.

Column 1	Column 2
Internal drainage	When all internal plumbing work is installed and prior to concealment. All lines are to be under water test at time of inspection.
External drainage	When all external plumbing work, including Stormwater lines, are installed and prior to concealment.
Hot and Cold Water	When all hot and cold water lines are in place, under pressure test and prior to lining of any walls or insulation covering the pipes. NOTE Plumbing and drainage shall not be notched into the frame. Only hole penetrations through load bearing members in accordance with the framing code will be permitted.

GOVERNANCE IMPLICATIONS:**Disability Discrimination Act 1992:**

This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

The Disability Discrimination Act covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 and 4 provides the most comprehensive technical guidance under the Disability Discrimination Act currently available in Australia.

Note The Disability Discrimination Act 1992 legislation binds the Crown.

Disclaimer - S88B Restrictions on the Use of Land:

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check with other relevant authorities before commencing any work.

RECOMMEDATIONS:**That:**

- 1. The approval be issued subject to no objections being received prior to 28th June 2013;**
- 2. If any objections are received than a further report will be provided to Council; and**
- 3. On the condition that no objections are received Council Approve of Development Applications DA 6/2013 effective from 28th June 2013 being for the construction of 3 two bedroom dwellings with associated structures to be erected on 9 Byron Street Brewarrina subject to the following conditions**

Rod Shaw
General Manager