

STATEMENT OF ENVIRONMENTAL EFFECTS



**PROPOSED SERVICED APARTMENT DEVELOPMENT
CORNER CHURCH AND STOCKTON STREETS, NELSON BAY.**

**LOTS B and C DP 413820, 29-31 CHURCH STREET,
NELSON BAY**

**FOR
MAKTIO PTY LTD**

SYNERGY ENVIRONMENTAL PLANNING Pty Ltd

A.C.N. 102 541 837 A.B.N. 321 025 41837

STATEMENT OF ENVIRONMENTAL EFFECTS Proposed Serviced Apartment Development corner of Church and Stockton Streets, Nelson Bay.

1.0 INTRODUCTION

Synergy Environmental Planning Pty Ltd act on behalf of the owners of the subject site in preparing this statement of environmental effects to accompany a development application to develop land at the corner of Church and Stockton Streets, Nelson Bay for the purpose of Serviced Apartments.

The development is of multi storey design with five levels of tourist units over basement car parking and containing 25 x one (1) bedroom tourist accommodation apartments.

The building is to be constructed of a mix of rendered and painted as well as face brickwork with aluminium framed windows doors and glass balustrading. Colours of the brickwork and rendering are to be light pastel tones.

The development is considered to be of a suitable scale and design so as to "Fit In" with newly erected dwelling unit and other tourist accommodation development in the area and is to be extensively landscaped in accordance with the details contained in the Landscape Planting Plan.



EXAMPLE OF MULTI UNIT DEVELOPMENT TO THE EAST OF SITE

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The building has been designed such that the focus of views from the site will be to the north towards Nelson Bay and the south towards the Nelson Bay Bowling Club and the Tomaree National Park.

The building has a variety of building materials, vertical elements, colours and articulation of facades as well as a variety in fenestration to introduce shade and texture to reduce any perception of bulk and has curved elements introduced into the facades to add further interest into the design.

As the development is lot is oriented north south overshadowing of adjoining properties is not an issue in that the greatest shadow, mid winter, of the development will fall onto the roadways of Church and Stockton Streets.

The development is "Integrated" development in that the site is identified as bush fire prone land under the Port Stephens "Bushfire Prone Land Map" and the development, being tourist accommodation is a "Special fire protection purpose" and therefore needs a bushfire safety authority under Section 100B of the Rural Fires Act 1997.

Further, the development will require the construction of a public road over an existing road reserve to service the rear access to the site therefore an approval from Port Stephens Council is required under section 38 of the Roads Act 1993.

2.0 SITE ANALYSIS

The site is identified as **lots B & C** in **Deposited Plan N^o 413820**, and is located on the north eastern corner of **Church and Stockton Streets, Nelson Bay**. The site contains a single dwelling house which is to be demolished and encloses an area of **1078 63m²**.

The development site is adjoined to the north by residences, to the east by a public reserve and to the west by Church Street and to the south by the Nelson Bay Cemetery and the Nelson Bay Bowling Club and its Car Park. See Figure 1. *Locality Plan*. The site is relatively flat with a slight fall towards the west and north.

Vehicular access is proposed to be via an unnamed laneway to the east of the site, which runs off Stockton Street. The character of the immediate area is that of a mix of commercial, recreational and residences and Public (Cemetery and open space) which is undergoing change to a medium density/tourist accommodation precinct.

All services and facilities are available to the site and access to shopping centre and foreshores of Nelson Bay and the Marina are within easy walking distance of the site.

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COMMERCIAL DEVELOPMENT LOCATED IMMEDIATELY TO THE SOUTH WEST OF SITE



COMMERCIAL DEVELOPMENT LOCATED TO THE SOUTH WEST OF SITE

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NELSON BAY CEMETERY TO THE SOUTH EAST OF SITE



SUBJECT SITE VIEWED FROM SOUTH WEST

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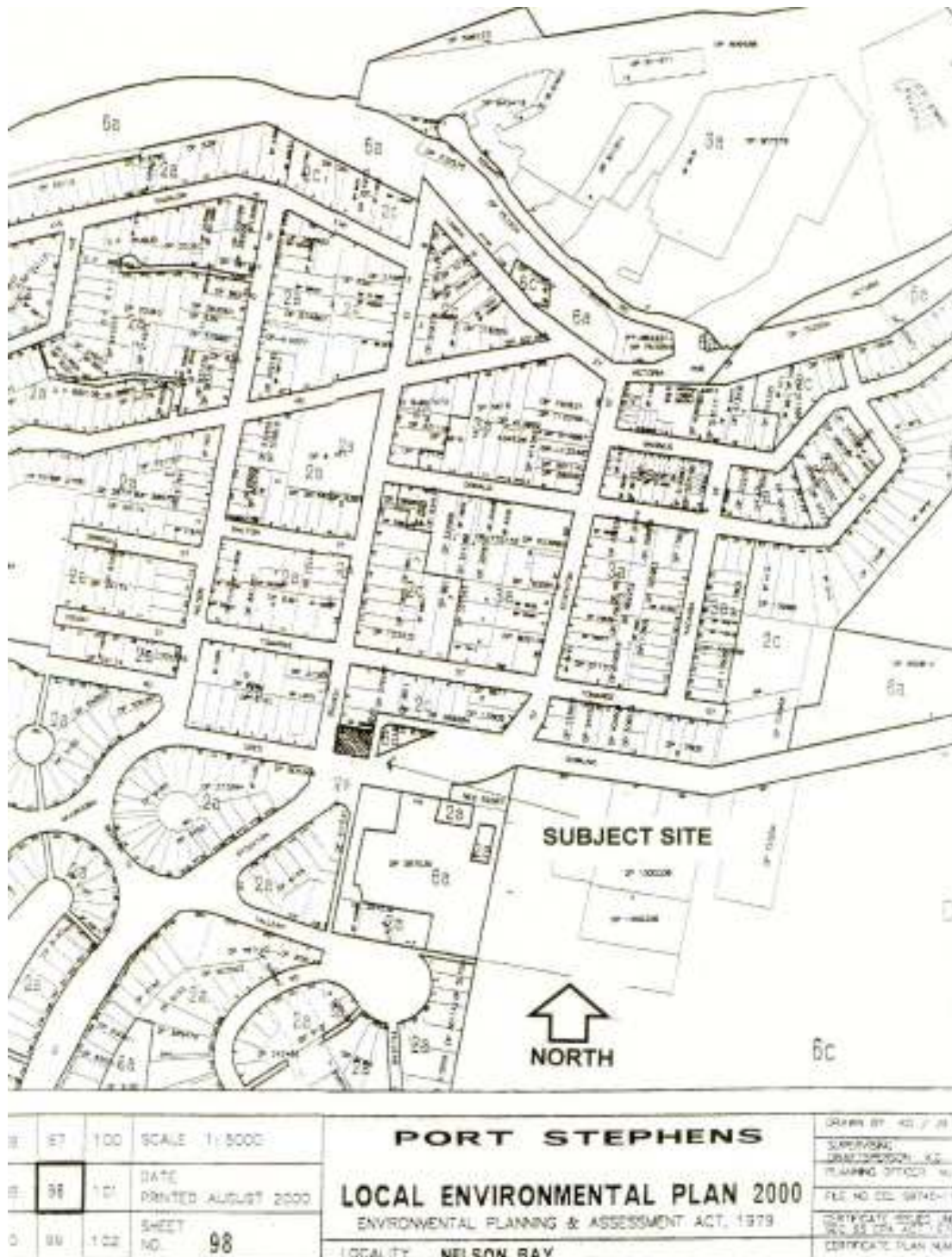


FIGURE 1- LOCALITY PLAN

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3.0 PLANNING PROVISIONS

CONSIDERATIONS PURSUANT TO S79C OF THE EP&A Act.

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) *the provisions of:*
 - (i) *any environmental planning instrument, and*
 - (ii) *any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
 - (iii) *any development control plan, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (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.*

An assessment of the relevant matters follows.

3.1 PORT STEPHENS LOCAL ENVIRONMENT PLAN, 2000

The subject land is within **Zone 2(c) – Residential “C” Zone** under the **Port Stephens Local Environmental Plan, 2000** wherein the proposed use is categorised under the definition of “**tourist facility**” in that the development is “***an establishment providing primarily for tourist accommodation or recreation, or both.***” and is a use permissible with consent by virtue of it not being identified as a use prohibited in clause (5) or as exempt development in Clause (3) to the Table to the subject zone.

There are no “development standards” applicable to the proposal under the **Port Stephens Local Environmental Plan, 2000**.

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The proposed development is not considered to be out of character with the development existing in the immediate locality, it is not inconsistent with or antipathetic to the **Objectives** of the **Zone 2(c) – Residential “C” Zone** under the **Port Stephens Local Environmental Plan, 2000**, and it is considered to satisfy the provisions of **Clause 10** of the **Port Stephens Local Environmental Plan, 2000**.

For **Zone No 2 (c)—Residential “C” Zone** the **Description of the zone** is as follows:

In addition to dwelling-houses and dual occupancy housing, the Residential “C” Zone is characterised by higher density residential development and tourist accommodation. The zone is generally convenient to commercial centres, and may contain some small-scale commercial activities.

The objectives of the **Residential “C” Zone** are:

(a) to promote the principles of urban consolidation by providing residential areas which meet the diverse needs of the community with a wide choice in housing and associated public and commercial uses, and

(b) to facilitate an ecologically sustainable approach to residential development by minimising fossil fuel use, protecting environmental assets and providing for higher densities and a more efficient use of existing infrastructure and services, and

(c) to ensure that new development in the zone has regard to the character of the area in which it is proposed and does not have an unacceptable effect on adjoining land by way of shading, invasion of privacy, noise and the like, and

(d) to ensure that design of residential areas takes into account environmental constraints including soil erosion, flooding and bushfire risk, and

(e) to provide for non-residential uses that are compatible with the area and service local residents.

Comment

The development is a use permissible within the zone and is directed at the primary focus of providing tourist accommodation in the immediate vicinity of Nelson Bay, which will in turn provide employment and economic activity for residents of the area and will serve to strengthen the economic base of the Nelson Bay CBD. As such the development is not considered to be antipathetic to the achievement of the objectives of the zone.

The development site is in an area zoned for higher density residential development and tourist accommodation and as such is undergoing change from single residences to multi storey developments for use as apartments or holiday accommodation and therefore the development is considered to be characteristic of the likely future character of the area.

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The provisions of **Clause 10** of the LEP the development must be considered in respect of **Clause 44 Appearance of land and buildings** of the LEP insofar as the consent authority may consent to the development of land within view of any waterway, only if it takes into consideration the probable aesthetic appearance of the proposed building when viewed from that waterway.

Further in determining whether to grant consent the consent authority shall consider the following:

- (a) the height and location of any building that will result from carrying out the development,*
- (b) the reflectivity of materials to be used in carrying out the development,*
- (c) the likely effect of carrying out the development on the stability of the land,*
- (d) any bushfire hazard,*
- (e) whether carrying out the development is essential to the viability of the land concerned, and*
- (f) the likely extent and effect of carrying out the development on vegetation on the land concerned.*

Comment

The development is of a height and location so as to be compatible with multi storey development under construction nearby and will be representative of development that will take place into the future in that the area is currently undergoing change in response to demand for unit and tourist facilities adjacent to the CBD of Nelson Bay and the foreshores of Port Stephens.

The proposed development does not exceed 14 metres above natural ground level whereas residential buildings are generally permissible up to 15 metres under Port Stephens LEP 2000.

The development will use building materials of low reflectivity.

The development site is not likely to affect the stability of the land.

Whilst the site is located within a well established urbanized area of Nelson Bay nearby public reserves cause the site to be identified on the Port Stephens Council "Bushfire Prone Land Map."

Given these circumstances a Bushfire Assessment has been prepared for the proposed development by Greg Little of General Flora and Fauna wherein he concludes that the development can be made to comply with the requirements in "Planning for Bushfire Protection." (see attached report).

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The carrying out of the development is considered to be essential to the longer-term viability of the land given the significant demand for tourist accommodation in Nelson Bay and the present underdeveloped nature of the site for a single dwelling house which does not represent the highest and best use of the land.

The development will have minimal effect on vegetation on the land concerned and any vegetation to be removed will be replaced and supplemented in a coordinated landscape scheme for the site.

There are no other statutory considerations under the provisions of LEP in respect of this proposed development.

3.2 HUNTER REGIONAL ENVIRONMENTAL PLAN 1989

The provisions of the **Hunter Regional Environmental Plan 1989** apply to the development in the following manner:

Division 3 Tourism 21 Objectives

The objectives of this plan in relation to planning strategies concerning tourism are:

(a) to encourage the co-ordinated development of the region as an important tourist destination area within the State,

(b) to encourage appropriate leisure and tourism developments on land which is environmentally capable and suitably located, as a means of improving the region's economic diversity and employment prospects,

(c) to encourage the recognition of natural and heritage conservation values as a means of improving tourism opportunities, and

(d) to encourage the adoption of planning controls containing incentives for tourism development where appropriate.

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23 Principles

Responsible authorities should:

(a) encourage the development of tourism facilities which will result in a net inflow of money or jobs to the region, and which will be environmentally acceptable,

(b) support tourism development proposals which help to provide a wide range of high quality attractions and accommodation types, and which are in accordance with tourism development plans prepared by the Tourism Commission,

(c) encourage initiatives which increase tourism interest and potential, such as historic site interpretation and trail signposting, provided they conform with guidelines of the Department of Main Roads and with the proposals of the Hunter-Manning Tourist Authority, and

(d) give consideration to the needs of tourism developments in the provision of servicing and transport linkages where these conform to tourism development plans, and are capable of providing significant increases in tourism activity and jobs for the region.

Comment

It is considered that the proposed development will serve to continue to encourage the development of the region as an important tourist destination area within the State and is an appropriate tourism development on the land which is environmentally capable and is suitably located, so as to be clearly a means of improving the Region's economic diversity and employment prospects.

In accordance with the **Principles** of the **Hunter REP** this proposal should be considered favourably so as to encourage the maintenance and development of tourism facilities that result in a net inflow of money and jobs to the region on a site that is shown to be environmentally acceptable.

The consent authority should be seen to be supporting tourism development proposals that help to provide a wide range of high quality attractions and accommodation types and to be encouraging initiatives that increase tourism interest and potential to the region.

Further support for this proposal will indicate consideration to the needs of tourism developments in this location, which are capable of providing increases in tourism activity and employment for the region.

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Nelson Bay is the primary focus of tourist destinations promoted for Port Stephens by the Council and by Tourism NSW.

In the year ending 2002 the ABS have recorded that within Port Stephens \$22,737,000.00 was generated in tourist accommodation with some 398,844 guest nights or 201,889 tourist arrivals in that year with an average occupancy rate for the year being 53.4%, with holiday periods having occupancy rates as high as 61.5% notwithstanding the downturn in international tourism created by the SARS epidemic and the September 11 terrorist attack.

Only 22 tourist establishments with a total of 1,079 guest rooms or 3,393 beds presently cater for this level of accommodation for tourists in Port Stephens.

NOTE: *This data was provided by the Department of Tourism Sport and Recreation and was derived from ABS data the quarterly Survey of Tourist Accommodation (STA). The STA is a mail out collection that completely enumerates all in-scope accommodation establishments. Survey results for Australia are published in **Tourist Accommodation, Australia** cat. no. 8635.0.*

From the March quarter 1998, the scope and collection strategy for the STA were changed to include only significant accommodation establishments (these are defined below).

On a quarterly basis the STA includes hotels, resorts, motels, guest houses and serviced apartments with 15 or more rooms or units.

For 2003 the scope of the STA has been expanded to also include: holiday flats, units and houses of letting entities with 15 or more rooms or units, caravan parks with 40 or more powered sites, visitor hostels with 25 or more bed spaces.

Short-term non-residential accommodation, which is in scope of the STA, is accommodation which is not leased, and which is provided to guests who would generally stay for periods of less than two months.

Some establishments also provide long-term residential accommodation. For hotels, motels, guest-houses and serviced apartments, the amount of such activity is considered to be insignificant and is included in the data presented in these data cubes.

The provision of an additional twenty five (25) additional tourist accommodation units in the Nelson Bay area will serve to meet the demand for tourist accommodation in the region and the accommodation proposed is expected to be in high demand given its location and level of comfort and design.

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In the circumstances of this matter there is little concern that the development will prove to be economically viable given the high demand for tourist accommodation in the area, its proximity to Sydney and both the international and domestic tourist markets.

Division 4 Tall buildings

55 Objectives

The objectives of this plan in relation to planning strategies concerning the erection of tall buildings are to ensure that proposals for buildings over 14 metres are:

- (a) subject to the opportunity for public comment, and*
- (b) assessed for their local impact and regional significance.*

56 Definitions

*In this Division “**building**” does not include an aerial, chimney stack, mast, pole, receiving tower, silo, transmission tower, utility installation, ventilator or any other thing, or a building of a class or description exempted by the Minister from the provisions of this plan by notice published in the Gazette.*

*Whilst “**height**” means, in relation to a building, the maximum height of a building measured vertically from the natural ground level to the topmost point of the building.*

58 Policies for control of development

- (1) A council shall not, without the concurrence of the Director, consent to any development application for the erection of a building over 14 metres in height.*

Comment

The proposed development will not exceed **14 metres** in height by using the **definition of height** as contained in the **Hunter REP**.

Whilst Council's **LEP 2000** has a different definition for height it is not called up in this matter as the definition in that LEP relates only to residential developments and in any event it is inconsistent with that definition contained in the **Hunter REP** and in such circumstances the **Hunter REP** will prevail in any such inconsistency.

The concurrence provisions of the **REP** are not triggered by this application.

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3.3 STATE ENVIRONMENTAL PLANNING POLICY NO 71—COASTAL PROTECTION and STATE ENVIRONMENTAL PLANNING POLICY (STATE SIGNIFICANT DEVELOPMENT) 2005.

Recent amendments made to SEPP 71 in conjunction with the making of State Environmental Planning Policy (Major Projects) 2005 have altered the circumstances under which development within the Coastal Zone for tourist accommodation purposes is assessed.

However as the development is within the Coastal Zone consideration by the consent authority is still required of the matters under clause 8 of that Policy. Those matters are addressed below.

Under the provisions of **State Environmental Planning Policy (Major Projects) 2005** the development is identified as a “project” to which Part 3A of the Environmental Planning and Assessment Act 1979 applies wherein the Minister is the consent authority.

The site is within the **Coastal Zone** as mapped for the Local Government Area of Port Stephens and as such is subject to both the **Government Coastal Policy** vide **Clause 92** of the **Environmental Planning and Assessment Regulation 2000** and **Parts 1, 2 and 4** of **State Environmental Planning Policy No 71—Coastal Protection**.

The development is not within a “**sensitive coastal location**” by definition contained in either of the State Policies. However the proposed development is a “**tourist facility**” as defined in the **Dictionary** to the **Port Stephens LEP 2000**.

The matters that are to be taken into consideration by the Minister as the consent authority in his determination of this development application are at **Clause 8**, of **State Environmental Planning Policy No 71—Coastal Protection** that is:

“(a) the aims of the Policy,

(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,

(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,

(d) the suitability of development given its type, location and design and its relationship with the surrounding area,

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(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,

(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,

(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,

(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats

(i) existing wildlife corridors and the impact of development on these corridors,

(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

(k) measures to reduce the potential for conflict between land based and water-based coastal activities,

(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,

(m) likely impacts of development on the water quality of coastal water bodies,

(n) the conservation and preservation of items of heritage, archaeological or historic significance,

(o) does not apply in this matter,

(p) only in cases in which a development application in relation to proposed development is determined:

(i) the cumulative impacts of the proposed development on the environment, and

(ii) measures to ensure that water and energy usage by the proposed development is efficient,"

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The **Aims of the Policy** which are to be taken into consideration are:

“(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and

(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and

(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and

(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and

(e) to ensure that the visual amenity of the coast is protected, and

(f) to protect and preserve beach environments and beach amenity, and

(g) to protect and preserve native coastal vegetation, and

(h) to protect and preserve the marine environment of New South Wales, and

(i) to protect and preserve rock platforms, and

(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991), and

(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and

(l) to encourage a strategic approach to coastal management.”

In addition **Part 4 Development Control** of the **Policy** applies to all development on land to which the Policy applies and therefore the following matters must also be taken into consideration by the consent authority.

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“Public access

A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.

Effluent disposal

The consent authority must not consent to a development application to carry out development on land to which this Policy applies in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.

Stormwater

The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.”

Comment in respect of the operation of State Environmental Planning Policy No 71—Coastal Protection on the development.

“(a) the aims of the Policy;

“Aim (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast,

Comment

The development site is considered to be removed a sufficient distance from the coast and being wholly contained and encapsulated within an existing and developed commercial/residential area that its development as proposed will not impede the overall aims of **the Policy** and the **Government Coastal Policy** in their achieving the protection and management of the cultural, recreational and economic attributes of the NSW Coast.

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Aim (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore

Comment

This development has no impact upon public access to coastal foreshores.

Aim (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and

Comment

This application has no impact upon public access to coastal foreshores and this aim is matter more appropriately addressed by Government Agencies and Local Councils

Aim (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge,

Comment

The subject site is not known to contain any sites of Aboriginal cultural heritage or is likely to impact upon Aboriginal places, values, customs, beliefs and traditional knowledge.

Aim (e) to ensure that the visual amenity of the coast is protected,

Comment

The development is removed some 600 metres from the shoreline of Port Stephens and is unlikely to be visible from that waterway and if visible will be read as part of the existing urban fabric of the area.

Aim (f) to protect and preserve beach environments and beach amenity,

Comment

The development is removed 600 metres from the foreshores of Port Stephens and it is surrounded by existing urban developments that serve to screen the development from views from the waterway. As such it is considered that the development should have no adverse impacts upon the beach amenity.

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Aim (g) to protect and preserve native coastal vegetation,

Comment

The development contains no native coastal vegetation.

Aim (h) to protect and preserve the marine environment of New South Wales,

Comment

There is no specific aspect of this development that would act counter to the protection and preservation of the marine environment of New South Wales.

Aim (i) to protect and preserve rock platforms,

Comment

There are no rock platforms to be affected by this development.

Aim (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the Protection of the Environment Administration Act 1991)

Comment

A single development of this size is considered unlikely to directly influence the overall management of the Coastal Zone in accordance with the principles of ecologically sustainable development.

Government Agencies and Local Councils with a statutory role in controlling development can influence the type and location of development such that it is directed at achieving the principles of ecologically sustainable development.

In the instance of this development it is reasonable to conclude that its development will not impact upon matters of environmental concern that would warrant its protection for future generations and its development is not antipathetic to the achievement of this aim.

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Aim (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area,

Comment

The development site is within a residential zone identified in the Port Stephens LEP 2000 where higher densities in residential housing are encouraged and as a result the area is undergoing a change in character to that of a multi storey residential and mixed use neighbourhood and as such the development proposed is considered to be consistent with the type, bulk, scale and size of the style of development being undertaken in the immediate area.

In these circumstances it is considered that the development should not detract from the visual amenity of the surrounding area. It is considered that the development should have no adverse impacts upon local amenity.

Aim (l) to encourage a strategic approach to coastal management.”

Comment

This aim is a matter to be addressed by Government Agencies and Councils

(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,

Comment

This matter does not have any applicability to the development proposed.

(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,

Comment

This matter does not have any applicability to the development proposed other than in its capacity to provide accommodation for the public who are likely to access the waterways of Port Stephens for recreation and relaxation.

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(d) the suitability of development given its type, location and design and its relationship with the surrounding area,

Comment

The development is not considered to be inconsistent with the likely type, bulk, scale and size of the expected development of this area as it undergoes change into the higher density urban environment encouraged by Council's LEP 2000 and in these circumstances it is considered that the development given its type, location and design and its relationship with the surrounding area should not detract from the visual amenity of the surrounding area.

It is considered that the development should have no adverse impacts upon local amenity.

(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,

Comment

The development is removed 600 metres from the foreshores of Port Stephens and it is surrounded by existing urban development, both commercial and residential that serve to screen the development from views from the waterway and as such it is considered that the development should have no detrimental impact on the amenity of

the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore.

(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,

Comment

The development is removed 600 metres from the foreshores of Port Stephens and it is surrounded by existing urban development that serves to screen the development from views from the waterway and as such it is considered that the development should have no detrimental impact on the scenic qualities of the New South Wales coast, and there is no need for any actions to be taken in relation to this development to protect and improve these qualities,

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(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,

Comment

There are no known threatened flora or fauna species or endangered ecological communities on the subject site and the development is not likely to have a significant effect on threatened species, populations, ecological communities or their habitats.

In these circumstances it cannot be reasonably considered that the development will result in any negative manner so as to cause a reduction in measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats.

(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats

Comment

There is no likelihood of the development creating the potential for conflict with measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats

(i) existing wildlife corridors and the impact of development on these corridors,

Comment

The site does not form part of any recognised wildlife corridor.

(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,

Comment

The development is removed 600 metres from the foreshores of Port Stephens and it is surrounded by existing urban development and public infrastructure including public roads and reserves that stand between it and the foreshore.

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This location is not known to be subject to any severe hazard related to beach erosion or storm surge hazard it is therefore considered that the development should not be likely to be subject to impact of coastal processes and coastal hazards and is in itself unlikely to have impacts on coastal processes and coastal hazards.

It can be concluded that the development would not in anyway:

- Adversely affect the behaviour or be adversely affected by the behaviour of the sea or an arm of the sea or any bay, inlet. Lake, body of water, river stream or watercourse, or
- Adversely affect any beach or dune or the bed, bank, shoreline, foreshore, margin or flood of the sea or an arm of the sea or any bay, inlet, lagoon, lake, body of water, river stream or watercourse.

(k) measures to reduce the potential for conflict between land based and water-based coastal activities,

Comment

There is no likelihood of the development creating the potential for conflict between land based and water-based coastal activities,

(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,

Comment

The subject site is not known to contain any sites of Aboriginal cultural heritage or is likely to impact upon Aboriginal places, values, customs, beliefs and traditional knowledge of aboriginals.

(m) likely impacts of development on the water quality of coastal water bodies,

Comment

The development is removed 600 metres from the foreshores of Port Stephens and it is serviced by public drainage infrastructure that will be used to convey stormwater from the site

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(n) the conservation and preservation of items of heritage, archaeological or historic significance,

Comment

There are no known sites of European Heritage significance on the site and the subject site is not known to contain any sites of Aboriginal cultural heritage or is likely to impact upon Aboriginal places, values, customs, beliefs and traditional knowledge of aboriginals.

(o) does not apply in this matter,

(p) only in cases in which a development application in relation to proposed development is determined:

(i) the cumulative impacts of the proposed development on the environment, and

Comment

There have been no adverse circumstances identified as likely to arise as a result of this development and therefore it is considered unlikely that any cumulative impacts will arise as a result of the development that could have a cumulative negative impact on the environment.

(ii) measures to ensure that water and energy usage by the proposed development is efficient,"

Comment

The thermal mass of the building including the concrete floors will provide thermal storage for radiant heat received in winter so as to aid in the provision of comfortable living and the large eaves overhang created by the balconies will assist in the exclusion of sunlight in summer months when usage is expected to be at its peak.

All units have balconies to allow for outdoor activity in fine weather and the balconies can provide a secure location for leaving doors open to take advantage of cooling breezes in summer with little or no risk to security as the balcony areas are accessed internally from each unit and do not have access from public accesses.

All units will be fitted with energy saving/efficient water heating systems and shower and tap fittings will be of a water saving design.

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Patrons will be encouraged to re use towels by hanging them out to dry if not soiled as often as is possible to reduce the incidence of unnecessary washing/laundrying as is the practice in most hotels developments today.

Stormwater on site will be allowed to infiltrate back into the ground by the installation of infiltration trenches, shedding of stormwater from paved areas direct to adjacent lawn areas and the use of permeable paving where possible for outdoor parking areas.

“Public access

A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.

Comment

The development will not result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.

Effluent disposal

The consent authority must not consent to a development application to carry out development on land to which this Policy applies in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.

Comment

The development is serviced by the Hunter Water Corporation's reticulated sewer system.

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Stormwater

The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform."

Comment

The development proposal will not discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform."

79C (iii) any development control plan

3.4 PORT STEPHENS COUNCIL DEVELOPMENT CONTROL PLAN-PS2 CAR PARKING CODE and PS4 COMMERCIAL AND INDUSTRIAL DEVELOPMENT GUIDELINES.

Council's Car Parking Code PS2 provides that development for a **Tourist facility** should have car parking provided at a rate of **1 space for each unit or dwelling plus 1 space per 2 employees**.

Based upon these provisions the development will require the provision of **25 car parking spaces (including a disabled car space)** and **2 car parking spaces being 1 for two staff members and a single visitor's space** have been allocated giving a total car parking provision of **27 spaces**. The development therefore exceeds Council's minimum DCP **PS2** requirements for car parking.

Council's COMMERCIAL AND INDUSTRIAL DEVELOPMENT GUIDELINES PS4 calls up the following Performance Standards;

Floor Space Ratio of 1.8:1

Based upon the site area of **1078.63m²** a maximum **FSR** at **1.8:1** would yield a floor area of **1941.53m²** whilst the **development proposes** a total floor area of **1550.47m²**. The proposal therefore has an actual **FSR** of **1.44:1**.

Site Cover of 35%

The development proposes a footprint at ground level of **373.2m²** which is a site cover of **34.5%** and is therefore in compliance with this guideline.

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The site cover requirement is also expressed in the application of a **FSR** requirement of **1.8:1** and a requirement that is met by this proposal in its having a **FSR of 1.44:1**.

Side and Rear setbacks of 3 metres

The development proposes **side setbacks** of **3.03 metres** to the main building (not including balconies) and a **rear setback** of **4.74 metres**. The **front setback** requirement is **6 metres** whereas the development proposes a front setback of **12.53 metres**.

Height Limitation of 15 metres

The development proposed will **not exceed 14 metres** above natural ground level.

Site landscaping of 40%

The development proposes that site landscaping cover an area of **629 m²**, which equates to **58.3%** of the site and exceeds the minimum area requirements.

Discouragement of exposed parking under buildings/ encourages below grade car parking.

The development proposes that the **bulk of the car parking (25 spaces)** will be **below ground** level in an excavated car park with the remaining **2 spaces above ground** at the rear of the development and **screened from public view**.

3.5 DCP PS11 Controls for Site Waste Management and Minimisation.

DCP PS11 applies to all applications for the development of land within Port Stephens and requires that a **Waste Management Plan** be provided for that development such is provided at **APPENDIX "A"**.

In addition and in the circumstances of this proposal the Council's provision of a 240 litre mobile garbage bin and a 240 litre mobile recycling bin to each unit will provide the necessary facilities for collection, storage and recycling of waste from each of the units following upon completion of the development.

All bins will be stored in the ground floor storage area and taken to the street frontage for collection.

During construction arrangements will be made with a suitably licensed commercial waste contractor to provide skip bins for the collection, storage and recycling of building wastes from the site.

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The skip bin will be placed in close proximity to the construction site and be within an enclosing silt and litter barrier erected around the construction site to reduce the escape of soil, sand and other building materials from the immediate site of the construction.

Skip bins will be provided for appropriate disposal of materials that cannot be salvaged such as gyprock/plasterboard etc.

Most other materials from the demolition of the existing dwelling will be able to be recycled including the timber frame, weatherboards, flooring, plumbing, windows, iron roofing and electrical wiring.

79C (iv) the regulations

3.5 ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

In accordance with **Clause 92** of the *Environmental Planning and Assessment Regulation 2000* the **Government Coastal Policy** applies to the subject site.

Comment

The provisions of the **Government Coastal Policy** closely parallel and overlap those of **State Environmental Planning Policy No 71—Coastal Protection** and for brevity the issues of the **Government Coastal Policy** will not be separately addressed in the belief that they have been covered in the consideration of the issues raised in **State Environmental Planning Policy No 71—Coastal Protection**.

79C (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,

3.6 LIKELY IMPACTS OF DEVELOPMENT.

Comment

The likely impacts of the development have been commented upon in the considerations of the application of **SEPP No 71- Coastal Protection** to the development

In each of the assessment it was concluded that the development as proposed did not pose any unacceptable impacts upon the natural or built environments of the locality.

In relation to the social and economic impacts it is considered that the employment of people in both the construction and operational stages of the development will have a positive economic impact upon the locality, is in line with the tourist focus of Nelson Bay and should have no likely anti social outcomes attached to the use.

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The development is expected to generate employment during construction and initial start up and maintenance phases and provide time employment during its operational lifetime with numerous economic multipliers within the immediate area in the supply of related goods and services.

79C (c) the suitability of the site for the development,

3.7 SITE SUITABILITY

Comment

Access and Traffic

The site has frontage and access to Church and Stockton Streets, both of which are major access roads to the CBD of Nelson Bay, tourist destinations and residential areas to the east of the site however it is proposed that all future access to the site will be from the unnamed laneway to the rear of the site so as to reduce any likely traffic conflict upon the more frequently trafficked Church and Stockton Streets.

It is envisaged that there will be no measurable increase in traffic generated from the development beyond that already occurring on the site and therefore it should have no adverse effect on the traffic volume due to the minimal additional traffic movements associated with the development and access now being exclusively from the secondary street frontage.

Utility Services And Waste Disposal

All utility services are available to the site including reticulated sewer, water, telephone and electricity and will be provided to all of the proposed dwellings.

Flooding And Drainage

Surface run off from the site is to be directed to the existing street stormwater system as shown on the Concept Plans prepared by G J McDonald Consulting Engineers with stormwater trapped within the basement area being held in tanks with electrically operated pumps used to raise the water to the ground level drainage systems and then discharged to council's street drainage system.

Full details of drainage and hydraulic capacities will be submitted for approval with the Construction Certificate.

A Preliminary Sedimentation and Erosion Control Plan have been prepared for the site and no part of the footpath is to be used for the storage of building material or waste. (See the Concept Plans prepared by G J McDonald Consulting Engineers)

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Flora And Fauna Issues

The vegetation on the site consists of introduced small plant and garden shrub species. It is considered highly unlikely that the trees form any part of critical habitat given their location in the centre of an urban area.

All vegetation will be removed from the site to allow development with new landscaping being provided to reduce the impact of the development and reintroduce plants, shrubs and trees back into the landscape following development.

Suitable replacement tree species in keeping with the urban nature of the land will be used to replace the vegetation on site.

A generalised landscape plan has been prepared providing a variety of groundcovers, shrubs and small trees within the development.

There are no known threatened flora or fauna species or endangered ecological communities on the subject site and the development is not likely to have a significant effect on threatened species, populations, ecological communities or their habitats.

In these circumstances it cannot be reasonably considered that the development will result in any negative manner so as to cause a reduction in measures to conserve animals (within the meaning of the **Threatened Species Conservation Act 1995**) and plants (within the meaning of that Act), and their habitats.

79C (e) the public interest.

3.8 THE PUBLIC INTEREST

Comment

The public interest is unlikely to be to be harmed in any tangible fashion as a result of this development proceeding on this site as the site displays no particular characteristics that are of value to the public that would be harmed or destroyed as a result of the proposed development.

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4.0 CONCLUSION

The proposal is not expected to have any adverse impact upon the built or natural environment of the immediate area. The assessment of likely impacts undertaken above demonstrates that a development of the type proposed can occur with minimal impact.

Having regard to the site characteristics and the nature of the proposed development it is considered that the proposed development is appropriate for the site, consistent with all statutory provisions applying to the land under the Environmental Planning and Assessment Act 1979 and is worthy of support.

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APPENDIX A

WASTE MANAGEMENT PLAN

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WASTE MANAGEMENT PLAN

The development site contains a single existing dwelling that is to be demolished to allow for the development proposed.

In circumstances of this proposal the Council's provision of a 240 litre mobile garbage bin and a 240 litre mobile recycling bin to each dwelling within the locality will provide the necessary facilities for collection, storage and recycling of waste from each of the units following upon completion of the development.

During construction arrangements will be made with a suitably licensed commercial waste contractor to provide skip bins for the collection, storage and recycling of building wastes from the site.

The skip bin will be placed in close proximity to the construction site and be within an enclosing silt and litter barrier erected around the construction site to reduce the escape of soil, sand and other building materials from the immediate site of the construction.

Skip bins will be provided for appropriate disposal of materials that cannot be salvaged such as gyprock/plasterboard.

Most other materials from the demolition of the existing dwelling will be able to be recycled including the timber frame, weatherboards, flooring, plumbing, windows, iron roofing, bricks and electrical wiring.

Excavated soil will be retained on site for use in landscaping and for placement behind retaining walls or provided for use as top cover at Council's landfill site.

Brick work from the existing dwellings will be recycled for re sale and or can be crushed and used as aggregate around agricultural drains.

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EROSION AND SEDIMENTATION CONTROL PLAN

1.0 INTRODUCTION

Sediment is a carrier of pollutants such as phosphorus, light and heavy metals, bacteria and toxic waste. These pollutants can have an adverse effect on the quality of Waterways & Bushland.

Sedimentation contributes to the destruction of native vegetation and animal habitats and also increases the risk of flooding.

The problems of erosion and sedimentation can be prevented or reduced when the work to be carried out is properly planned and when suitable erosion control measures are implemented.

The purpose of this plan is to provide guidance in the appropriate control of sediment from the development site and its recommendations are to be put into action as part of the development phase of the development proposed for this site.

2.0 SEDIMENT FENCE

The provision of sediment filtering or sediment traps below all disturbed areas, prior to commencement of building or earthwork operations

2.1 Purpose

Used in a temporary situation to intercept runoff from the site, slow the water velocity and allow sediment to settle out.

2.2 Construction

- Sediment Fabric consist of a filter fabric ("geotextile filter" NOT shade cloth or plastic) for example Terram 1000, Polyfelt TS 500, Bidim U24, Geofab, envirofence or equivalent.
- Fabric is attached to a strand wire (ordinary fence wire) or wire mesh (14 gauge and 150mm x 150 mm opening)
- the lower end of the fabric and mesh is embedded 200mm into the ground
- Filter cloth to be fastened securely to wire fence with ties spaced every 600mm.
- generally follow the contour of the land.
- When 2 sections of filter cloth adjoin each other they shall be overlapped by 150mm and folded over
- Posts holding the mesh are either steel Y or U type or 40-50mm hardwood 900-1200mm long posts. These are spaced at 2 to 3m apart.

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2.3 Maintenance

Fences shall be inspected at the end of each working day for breakages, sagging, undermining etc. Sediment is removed before it clogs the fabric.

3.0 STABILISED ACCESS

The installation of a stabilised access control is to be installed on all entrance and exit points. The structure is to be either a coarse aggregate with geofabric layer or shaker ramp.

3.1 Purpose

Provide a firm base for vehicular entry/exit and eliminate transport of fine sediment. Fabric stops gravel being compressed into underlying soil.

3.2 Construction

Single layer high strength geofabric under bed of 30-75mm aggregate. Aggregate laid minimum 200mm thick. A hump should be placed just inside property boundary to divert runoff to a silt fence or sediment trap.

3.3 Maintenance

Add extra aggregate to maintain hump as necessary

4.0 DRAINAGE PIT CONTROL

Any existing drainage pits on the site or directly adjacent the site are to be covered or protected with wire mesh and gravel inlet filters (gravel sausage) or equivalent filter.

4.1 Purpose

Small removable structures placed over kerb inlet pits to prevent the entry of sediment.

4.2 Construction

- A sleeve of geofabric longer than the inlet pit, 900 mm round filled with 25-50mm gravel.
- Bag reinforced with 14 gauge, 12 x 12 mm wire mesh around the bag 250mm shorter than the bag on either end
- Place filter in front of pit, leaving gap at top for spill over
- Back end of the bag (that is not reinforced) forms seal with the gutter edge
- Maintain opening with spacer bars between the gutter and bag

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4.3 Maintenance

Remove sediment after each rain event or build up in gutter.

5.0 WATER DIVERSIONS

The installation of diversion and catch drains to divert uncontaminated runoff around the site

5.1 Purpose

To divert clean surface water around the building site to control water during storm events and keep water clear of critical work areas.

5.2 Construction

- locate along a contour avoiding vegetation or trees
 - shape drain (up side) and mound of soil (down side) to channel water
 - provide positive grade (1-5%) and convey water to stabilised area (such as street drain).
- NOTE: water is not to pass through any disturbed land. If it does then the water must pass through a sediment control structure before discharge.

5.3 Maintenance

Inspect weekly and after significant rain. Remove accumulated sediment as necessary to keep flow and prevent over topping.

6.0 STOCK PILE CONTROL

Stockpiles are to be set up with approved sediment control devices on the lower slope. Stockpiles are reserves of material stored on site for later use in construction or landscaping. This includes timber, mulch, topsoil, gravel, sand etc. Building waste is also to be protected in a separate area if possible.

6.1 Purpose

To prevent material from leaving the site and polluting

6.2 Construction

- Locate site in low or flat area
- Protect the stockpiles from overland flow with earth banks upstream
- Protect with sediment fence down slope
- Cover stockpiles that are to remain greater than 40 days

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6.3 Maintenance

As part of the sites routine inspection program, check that the sediment fence and other controls are operating effectively.

7.0 WASHING AREA

A washing/cleaning area is to be set up with approved sediment control devices on the lower slope.

7.1 Purpose

To ensure that any material from washed equipment, such as concrete slurries, does not leave the site and pollute.

7.2 Construction

- Locate site in low or flat area
- Create slight depression to collect any waste material
- Protect the wash area from overland flow with earth banks upstream
- Protect with sediment fence down slope

7.3 Maintenance

Clear any receptacles for concrete and mortar slurries, paint, acid washing etc each week or more frequently as they fill.

8.0 VEGETATION RETENTION

An approved sediment fence is to be installed around sensitive environmental areas such as waterways, vegetation or bushland where appropriate.

8.1 Purpose

To protect areas from damage and pollution from the building site

8.2 Construction

See development standards in 2.2.

8.3 Maintenance

Fences shall be inspected at the end of each working day for breakages, sagging, undermining etc. Sediment is removed before it clogs the fabric

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9.0 PUMP OUT

Any accumulated water contaminated with sediment, from a sediment basin or excavation pit, is to be flocculated or filtered in order to lower the suspended solid load to less than 50 milligrams per litre.

9.1 Purpose

To prevent contaminated water leaving the site and polluting.

9.2 Construction

- Gypsum (or other approved flocculent) should be applied within 24 hours of the end of the storm event.
- The gypsum **MUST** be spread evenly over the entire water surface
- Pumping is not to occur for at least 36 hours and preferably 48 hours after application
- Clean water is to be discharged to the water table via a hay bail and sediment filter in a way that does not pick up sediment that has dropped to the bottom.

10.0 DUST CONTROL ON DISTURBED AREA

Dust control measures should be applied to reduce a surface and airborne movement of sediment blown from exposed areas of construction sites.

10.1 Purpose

Dust movement may create an unacceptable hazard or nuisance on the site or downwind.

10.2 Construction

A variety of methods may be employed to provide temporary or permanent protection:

- **Temporary barriers** constructed from timber, synthetic fabrics, jute, straw bales, brush or similar materials can be used to control air currents and blowing soil. They should be placed at right angles to the prevailing wind and spaced at intervals equivalent to about 15 times their height.
- The use of **mulches** protects the soil surface and thereby prevents dust generation.
- **Wetting the site surface** is an emergency treatment that can be repeated when needed. Control of sediment-laden runoff from over-watering should be closely monitored.