



PLANNING VOTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

Held at Frederickton Community Hall – Macleay Street Frederickton

16 April 2013 commencing at 9.02am.

1.1 State Environmental Planning Policy 15 – Rural Landsharing Community
File: T6-02-109

1211	RBP
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SUMMARY

Reporting that Council has received a Development Application for a *State Environmental Planning Policy (SEPP) No. 15 Rural Land-sharing Community* at Crescent Head. The rural land-sharing community includes seventy-eight (78) dwelling sites and associated community facilities.

Applicant: Goolawah Co-Operative Pty Ltd
 Subject Land: Lot 114, Lot 117, Lot 118, Lot 119 and Lot 120
 DP754441
 Illa-Langhi Road, Crescent Head
 Zone: 1(a1) (Rural "A1" Zone) and
 8(a) (Existing National Parks, Nature Reserves and
 Lands Available for Recreation Zone)

NOTE: This report is to be read in conjunction with Confidential Report 1.1.

MOVED: **Moved: Cl. Green**
Seconded: Cl. McGinn

A That consent be granted subject to the following conditions:

PARAMETERS OF THIS CONSENT

1 The development shall be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No./ Supporting Document	Version	Prepared by	Dated
SITE_PLAN_T6-02-109	-	GOOLAWAH CO-OPERATIVE PTY LTD	-

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

- 2 This development consent approves dwelling envelopes only. No structures, either existing or shown on the approved plan, are approved by this consent. Separate development applications will be required for any proposed structures and/or the continued use of any existing unauthorised structures.
- 3 A separate development application and building certificate application shall be submitted to Council for each existing building, including buildings used as dwellings.
- 4 An application for a Section 138 of the Roads Act is to be submitted to Council for approval for all works within any Council dedicated road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans prepared by an appropriately qualified person shall accompany the application for consent for works within the road reserve. Such plans are to be in accordance with Council's Adopted Engineering Standard. The application shall include all necessary works for the following:
 - a) Nevertire Road shall be designed and constructed to a Type 3 Local Road standard having the characteristics listed in Table 1.8 of Development Control Plan No 36, Specification D1; and
 - b) All necessary work to ensure sightlines at the Illa-Langhi Road / Maria River Road intersection comply with *AUSTROADS – Rural Road Design*.

Council approval under Section 138 of the Roads Act 1993 must be obtained from Council prior to the commencement of any works within any road reserve. All works must be undertaken in accordance with the Section 138 approval.

The application shall be accompanied by a Traffic Management Plan pursuant to Section 138 of the Roads Act 1993 relating to all works on Nevertire Road and Illa-Langhi Road. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development. The traffic control plan is to be designed in accordance with the requirements of the Roads and Maritime Services Manual, *Traffic Control at Work Sites Version 2*, and Australian Standard 1742.3 - 1985, *Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'*.

The plan must incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site. The traffic control plan must be prepared by an accredited person trained in the use of the current version of *RMS Traffic Control at Work Sites* manual.

Council approval for the Traffic Management Plan must be obtained from Council prior to the commencement of any works within any road reserve. All works must be undertaken in accordance with the traffic management plan.

- 5 Stormwater details shall be submitted to Council demonstrating that all roads and other earthworks are adequately designed to allow the passage of stormwater. Such details shall be prepared by a qualified civil engineer. Any necessary work shall be completed prior to the occupation of the premise.
- 6 A signage schedule shall be submitted to Council detailing street signs required throughout the development for the approval of Council. The signs required to be erected shall be:
- a) Signs at the entrance of the site notifying persons entering the property that cats and dogs are prohibited onsite; and
 - b) Signs in appropriate positions notifying motorists that there is wildlife in the area and care should be taken.
- 7 Canopy thinning required for Bushfire Asset Protection Zones shall be completed prior to occupation of any dwelling. Such canopy thinning shall be undertaken selectively. Those trees with poor health shall be removed prior to any trees in good health and/or habitat trees. Selective removal shall maintain the existing diversity of species. Such selective removal of trees shall be directed by an appropriately qualified ecologist and bushfire consultant. The ecologist and bushfire consultant shall suitably flag and clearly identify those trees to be selectively removed to achieve bushfire asset protection measures with the following additional restrictions apply:
- a) Hollow bearing trees are not to be removed at any time. Habitat linkages shall be created by revegetation with native species to the nearby naturally vegetated areas;
 - b) Swamp mahoganies, tallowwoods and forest red gums (which are favoured koala food species) shall not be removed at any time;
 - c) *Allocasuarina* trees (which are favoured glossy black cockatoo food species) shall not be removed at any time; and
 - d) Blackbutt and broad-leaved paperbacks (which are koala food tree species) shall be replaced in a nearby location if they are removed by proposed clearing.
- 8 Lot 114 DP754441, Lot 117 DP754441, Lot 118 DP754441, Lot 119 DP754441, Lot 120 DP754441 shall be consolidated into a single allotment.
- 9 A Section 88B Instrument/s is to be submitted to Council for approval prior to the occupation of the site to include the items listed in the following table:

Item for inclusion in Plan of Subdivision and/or Section 88B Instrument	Details of Item
Easement for Electricity	The creation of any necessary and suitable easements for electricity purposes as required by the electricity supply authority.

- 10** Written evidence from the electricity supply authority shall be submitted to Council stating that satisfactory arrangements have been made for the provision of electricity supply to all dwelling envelopes.
- 11** Written evidence from Telstra shall be submitted to Council stating that satisfactory arrangements have been made for the provision of telephone supply to all dwelling envelopes.
- 12** All roads and road upgrades, drainage, civil works, and any other works required by this development consent and associated Section 138 approval shall be completed in full. Works are to include restoration, replacement and/or reconstruction of any damage caused to surrounding public infrastructure, including damage to road pavements along any haulage routes used for the construction.
- 13** The submission of all test certificates, owner's manuals, warranties and operating instructions for civil works, mechanical and/or electrical plant, together with a certificate from a suitably qualified engineer certifying that all works have been constructed in accordance with the approved plans and Council's Adopted Engineering Standard.
- 14** Works-as-executed plans, certified by a suitably qualified engineer or a registered surveyor, are to be submitted to Council. Where the design is carried out utilising computer aided design (CAD), all CAD computer files are required to be provided on CD (Compact Disc) with the final drawings. The CAD files must include all lot and road boundaries, lot numbers and easements. The data is to be supplied in accordance with the requirements of Council's GIS Officer.
- In the case where development involves filling of flood prone land, an additional copy of the works-as-executed plan relating to earthworks and final plan of subdivision must be submitted detailing the 1% flooding contour.
- 15** All owners/shareholders of the subject site shall use the development as their principal place of residence at all times.
- No dwelling in the development is to be used as tourist/holiday accommodation or temporary accommodation of any kind.
- 16** Submission of detailed engineering plans providing for the construction of upgraded access of the Illa-Langhi Crown Road reserve from Maria River Road to the subject land, including that part of the road located within the Right of Carriageway over Lot 1 DP1053841.
- a) The plans are to provide for a Type 3 Local Road in accordance with Table 1.8 of development control Plan No 36, Specification D1.
- b) The section of access road is to be dedicated to Council at no cost to Council prior to occupation of the premises.
- c) Council's agreement to accept dedication is subject to the owner of the land the subject of this consent entering into a

Deed of Agreement with Council to maintain the road. Such Agreement to be registered as a caveat on the title of the subject land in a form which binds successive owners to the Agreement.

- 17 Access and facilities for persons with disabilities to and within all community buildings and community areas of the development shall be provided at all times in accordance with AS 1428.1 - *Design for Access and Mobility* and Part D3 of the *Building Code of Australia*.**
- 18 Any dwelling constructed on the site is limited to a maximum of three (3) bedrooms, unless it can be demonstrated that effluent can be adequately disposed of. For the purpose of this restriction, any room that could, in the opinion of Council, be used as a bedroom will be considered to be a bedroom.**
- 19 The total population of the development shall not exceed 312 residents at any given time.**
- 20 All management of effluent shall comply with the *Environment & Health Protection Guidelines 1998 – Onsite Sewage Management for Single Households* and Australian Standard *AS 1547-2000: On-site Domestic-Wastewater Management*.**
- 21 The owner of the site and all residents shall:**
 - a) Comply with the Voluntary Evacuation and Shelter Onsite Plan as amended at all times, including but not limited to the following:**
 - i) Complete the emergency resources list.**
 - ii) Ensure necessary resources are stocked.**
 - iii) Prepare register of all community members including contact details and emergency contact details and which community members have current first aid certificates.**
 - iv) Provide a list of emergency contact numbers (e.g. SES, 000 etc.) which is to be available in the community areas.**
 - b) Conduct reviews of the plan after any flood or rainfall event that uses the plan. As part of those reviews provide Council with a copy the plan if it is amended. Any downgrading or significant changing of the plan will require a review by experienced flood consultants.**
 - c) Submit annual returns to Council indicating who holds the position of Flood Warden and Second Flood Warden.**
- 22 The following conditions have been supplied by the NSW Rural Fire Service as General Terms of Approval of the bushfire safety authority issued under the provisions of the *Environmental Planning and Assessment Act 1979* and the *Rural Fire Act 1997*:**

General Conditions

- a) **The identified Emergency Fire Retreat Area / Airlift Evac area shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'. The Evacuation area within Area 3 is to be provided with a building that is suitably sized and designed with appropriate walls and roofing to minimise radiant heat impact.**

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

- b) **Proposed developable lots within areas 1, 2 & 3 shall be entirely managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.**
- c) **Asset Protection Zones (APZs) shall be managed as shown in the Proposed Fire Management and General Layout for Goolawah Co-op Plan drawn May 2008.**
- d) **A fire management plan is to be prepared that addresses the following requirements:**
- i) **Contact persona and details; and**
 - ii) **Schedule and description of works for the construction and their continued maintenance of APZs, fire trails, fire fighting equipment, water supplies and access roads.**
- e) **A 20 metre asset protection zone is to be provided on the northern elevation of the internal link road connecting Areas 1, 2 & 3 and shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.**

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

- f) **Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.**
- g) **All water sources located upon the site that can be utilised for water extraction in the event of a bush fire need to be clearly identified with appropriate signage. A 'SWS' marker shall be obtained from the local NSW Rural Fire Service and**

positioned for ease of identification by brigade personnel and other users of the SWS. In this regard:

- i) Markers must be fixed in a suitable location so as to be highly visible; and
- ii) Markers should be positioned adjacent to the most appropriate access for the static water supply.

The Goolawah Co-operative shall liaise with the Kempsey Fire Control Centre to determine the appropriate supply point and signage locations.

Access

The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation.

- h) Property access roads shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

The intent of measures for fire trails is to provide suitable access for fire management purposes and maintenance of APZs.

- i) Fire trails shall comply with section 4.1.3 (3) of 'Planning for Bush Fire Protection 2006'.
- j) All access points provided for the fire trail network are to be clearly identified with appropriate signage.

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are access or egressing an area.

- k) Internal roads shall comply with the requirements of Table 4.1 and section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

General Advice – consent authority to note

- Any further development application for class 1,2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate development application under section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

- 23 Submission of a Waste Management Plan providing details of the means of disposing of all solid waste with all non-putrescible waste to be disposed of at Council's landfill site.

ADVICE

- a) This consent does not authorise clearing of native vegetation under the *Native Vegetation Act 2003*. Application for clearing of native vegetation under *the Native Vegetation Act 2003* must be made to the NSW Catchment Management Authority prior to the clearing of any native vegetation.

In addition, if the proposal could affect any *Environmental Protection and Biodiversity Conservation Act 1999* listed species it may be necessary to gain approval from the Australian Government's Department of Sustainability, Environment, Water, Population and Communities prior to the commencement of any works (including any clearing of vegetation).

- b) Any unauthorised existing dwelling, and any new dwellings proposed to be erected, will require a development application to be made with Council and development consent gained. Prior to construction any proposed dwelling is also required to obtain a Construction Certificate and a Section 68 approval to install and operate an onsite effluent disposal system.

The minimum information required to be submitted with a development application for a dwelling is:

- i) A completed development application form and appropriate fees. For a quotation of fees you may call Council's Customer First Centre who will require you provide the estimated value of the proposed dwelling and associated works;
 - ii) Owner's consent to lodge the development application on the co-operative letterhead;
 - iii) A plan set, to scale, including:
 - A site plan, including the entire site, the proposed dwelling, other proposed structures and vegetation;
 - Floor plan and elevations for the proposed dwelling and any other proposed structures;
 - iv) A statement of environmental effects undertaken with regard to Section 79C of the *Environmental Planning and Assessment Act 1979*;
 - v) A Section 68 application for onsite effluent disposal;
 - vi) A bushfire report prepared in accordance with *Planning for Bushfire Protection 2006*; and
 - vii) A BASIX Certificate prepared in accordance with *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*.
- c) The contributions levied pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979* for this development have been deferred. Contributions shall be levied on each development consent issued for a dwelling on the subject site.

Each dwelling approval will be levied at a rate of one (1) equivalent tenement (ET) per dwelling under the following plans:

The specific public amenity or service in respect of which the condition is imposed.	The contributions plan under which the condition is imposed	Date of contributions plan
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The specific public amenity or service in respect of which the condition is imposed.	The contributions plan under which the condition is imposed	Date of contributions plan
Roads (Catchment 10)	Local Roads and Traffic Infrastructure Developer Contribution Plan 2009	January 2010
Public Domain	Kempsey Town Centre Public Domain Section 94 Development Contribution Plan	August 2010
Outdoor Recreation	Outdoor Recreation 2001	September 2001
Section 94 – Project Administration	Project Administration	10 August 2007

The rates for the Section 94 contributions for one (1) dwelling (1 ET) shall be calculated as follows, subject to CPI:

Public amenity or service	Unit type	No. of Units	Contribution Rate (Amount per Unit)	Contribution Levied	Date until which Contribution rate is applicable
Roads within Catchment 10	EP	2.5	\$1,415.00	\$3,537.50	30 June 2013
Public Domain	EP	2.5	\$412.00	\$1,030.00	30 June 2013
Open Space	ET	1	\$497.00	\$497.00	30 June 2013
Sub total				\$5,064.50	
S94 Administration	6% of total Section 94 charge applicable			\$303.87	30 June 2013
TOTAL				\$5,368.37	

d) In the event of any bone, or stone artifacts, or discrete distributions of shell, being unearthed during any earthmoving, all work must cease immediately in the affected area, and the Local Aboriginal Land Council and officers of the National Parks and Wildlife Service, informed of the discovery. Work must not recommence until the material has been inspected by those officials and permission has been given to proceed. Those failing to report a discovery and those responsible for the damage or destruction occasioned by unauthorised removal or alteration to a site or to archaeological material may be prosecuted under the *National Parks and Wildlife Act 1974*.

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

C That Councillors have a site inspection.

An Amendment was MOVED:

*Moved: Cl. Saul
Seconded: Cl. Patterson*

That this item be listed for a works committee inspection.

The AMENDMENT was PUT to the Meeting and was LOST.

2013. 85 The MOTION was PUT to the MEETING and was CARRIED.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

Campbell	F	Green	F	Kesby	F	McGinn	F
Morris	F	Patterson	F	Saul	A		

1.2 Boundary Adjustment

File: T6-13-51

1211	RBP
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SUMMARY

Reporting that Council has received a Development Application for a Boundary Adjustment at Aldavilla that requires support of a State Environmental Planning Policy (SEPP) No. 1 objection seeking a variation to Clause 16(1)(a) of *Kempsey Local Environmental Plan (KLEP) 1987*. The variation will permit proposed Lots 1 and 2 to have a total area of 0.615 ha and 21.51 ha respectively.

Previously, planning circular B1 allowed Council's to assume the concurrence of the Director-General for the use of SEPP No. 1 when considering boundary adjustments between two undersized lots, providing no additional lots or dwelling entitlements are created and the existing or potential agricultural use of the land will not be compromised.

Following the Wollongong ICAC inquiry, Planning Circular PS08-14 (issued November 2008) now requires that when the variation is greater than 10% the application must be determined at a full Council meeting.

REPORT DETAILS

Applicant: Larry Hough
C/- M W Rogers & Associates Pty Ltd
Subject Property: Lot 4 DP752439, Lot 2 DP 112084
151 Aldavilla Road, ALDAVILLA
Zone: 1(a3)(Rural "A3" Agricultural Protection Zone)

2013. 90 RESOLVED:

**Moved: Cl. Green
Seconded: Cl. Morris**

A That consent be granted subject to the following conditions:

PARAMETERS OF THIS CONSENT

**1 Development is to be in accordance with approved plans
The development is to be implemented in accordance with the plans
and supporting documents set out in the following table except
where modified by any conditions of this consent.**

Plan No./ Supporting Document	Version	Prepared by	Dated
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Plan No./ Supporting Document	Version	Prepared by	Dated
Surveyors Plan of Subdivision Job No. 16962SITE01.VCD	-	M. W. Rogers & Associates	18/2/13

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

- 2 This consent does not permit the commencement of any works. This consent is for boundary adjustment only. No physical works are approved under this consent.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

- 3 **Plan of Subdivision**
An application for a Subdivision Certificate must be made on the approved form. The Subdivision Certificate fees, in accordance with Council's adopted schedule of fees and charges, must accompany such application. Seven (7) copies of the plan of subdivision are to be submitted with the application for a subdivision certificate. The location of all buildings and/or other permanent improvements including fences and internal access driveways/roads must be indicated on 1 of the copies.

Council shall not release the Subdivision Certificate until all the above plans and documents have been submitted and are to the satisfaction of Council.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

Campbell	F	Green	F	Kesby	F	McGinn	F
Morris	F	Patterson	F	Saul	F		