



PLANNING VOTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

21 May 2013 commencing at 9.03am and reconvening 22 May 2013 commencing at 5.30pm.

1.2 Privacy Screen File: T6-12-346

1211	RBP
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SUMMARY

Council has received a Development Application for a privacy screen for which an objection has been received.

REPORT DETAILS

Applicant: Craig Brambley
 Subject Property: Lot 311 DP754441
 30 Dulconghi Street, Crescent Head
 Zone: 2 (a) (Residential "A" Zone)

MOVED:

*Moved: Cl. Saul
 Seconded: Cl. Williams*

A That Development Application T6-12-346 be approved subject to the following conditions:

**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
Site Plan Project: 0090 Sheet DA01	1	Rescon Design Drawn by CA Bale	24/10/2012
Ground Floor Plan Project: 0090 Sheet DA01	1	Rescon Design Drawn by CA Bale	24/10/2012
First Floor Plan Project: 0090 Sheet DA01	1	Rescon Design Drawn by CA Bale	24/10/2012
Elevations	1	Rescon Design Drawn by CA Bale	24/10/2012

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.

- 3 Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989**
All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.

This condition does not apply:

- a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or**
- b) to the erection of a temporary building.**

- 4 This consent does not permit the commencement of any works**
This consent does not permit the commencement of any site works. Works shall not commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.

<p style="text-align: center;">THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY CONSTRUCTION WORKS COMMENCING</p>

- 5 Date of Commencement**
Council shall be notified of the commencement of works not less than two (2) days prior to any works commencing. The two (2) day notification to Council shall be in writing and specify the date of commencement.

- 6 Erosion & sediment measures**
Erosion and sedimentation controls are to be in place in accordance with Council's Guidelines prior to commencement of any works.

- 7 Site construction sign required**
Prior to any building or construction works commencing a sign or signs shall be erected in a prominent position at the frontage to the site:

- a) Showing the name, address and telephone number of the Principal Certifying Authority for the work;**
- b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and**
- c) Stating that unauthorised entry to the work site is prohibited.**

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, and shall be removed

when the work has been completed. No sign is to have an area in excess of one (1) m².

8 Public liability insurance

The developer and/or contractor must produce evidence to the Principal Certifying Authority of public liability insurance cover for a minimum of \$20 million.

**THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING
CONSTRUCTION WORKS**

9 Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:

- a) Monday to Friday, from 7:00am to 6:00pm.
- b) Saturday, from 8:00am to 1:00pm.

No construction work is to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days off (RDO) adjacent to Public Holidays.

10 Limiting construction noise

Construction noise is to be limited as follows:

- a) For construction periods of four (4) week and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20dB(A).
- b) For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation, must not exceed the background level by more than 10 dB(A).

11 Builders rubbish to be contained on site

All builders rubbish is to be contained on site in a 'Builders Skip' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

12 Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

13 Public liability insurance to be maintained

The public liability insurance cover required by this consent shall be maintained for the duration of the period of all works and during any maintenance period.

**THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO
OCCUPATION OF THE BUILDING**

14 Works to be completed

All works shown on the plans and granted by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate.

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

A Division resulted in the following votes.

F = Voted For

A = Voted Against

Campbell	F	Green	A	McGinn	F	Morris	F	
Patterson	F	Saul	F	Shields	F	Williams	F	

An Amendment was MOVED:

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

That this matter be listed for works inspection.

The Amendment LAPSED for want of a SECONDER.

2013. 123 The MOTION was PUT to the MEETING and was CARRIED.

1.4 Proposed Telecommunication Tower Dondingalong

File: T6-12-312

1211	RBP
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SUMMARY

Reporting that Council has received a Development Application for the construction of a 40m telecommunications tower at Dondingalong (referred to as the Euroka Tower), for which objections has been received.

Applicant: Aurecon Australia Pty Ltd
Subject Property: Lot 11 DP576944 64 Pipers Creek Road, Dondingalong
Zone: 1(a1) (Rural "A1" Zone)

MOVED:

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

This matter be listed for works inspection.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

Campbell	F	Green	F	McGinn	F	Morris	F	
Patterson	A	Saul	A	Shields	A	Williams	A	

2013. 124 The MOTION was PUT to the MEETING and was CARRIED on the CASTING vote of the MAYOR.

1.1 Planning Proposal for Northbound South Kempsey Highway Service Centre File: T5-118 RZ-11-3

1211	RBP
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SUMMARY

Reporting that exhibition of a Planning Proposal, known as Draft Kempsey Local Environmental Plan (1987) (KLEP 1987) Amendment No 118, to enable a Highway Service Centre on Lot 2454 DP610363 in South Kempsey has been completed.

2013. 129 RESOLVED: *Moved: Cl. Saul*
Seconded: Cl. Green

That Draft Kempsey LEP 1987 Amendment No 118 for Lot 2454 DP610363 be forwarded to the Department of Planning and Infrastructure requesting the Minister to Make the Plan, pursuant to the provisions of the Environmental Planning and Assessment Act 1979.

A Division resulted in the following votes.

F = Voted For
A = Voted Against

Campbell	F	Green	F	McGinn	F	Morris	F
Patterson	F	Saul	F	Shields	F	Williams	F

1.3 Proposed Dual Occupancy File: T6-12-320

1211	RBP
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SUMMARY

Reporting that Council has received a development application for the purpose of a Dual Occupancy that requires the support of a State Environmental Planning Policy (SEPP) No. 1 objection seeking a variation to Clause 31(3)(b) of the Kempsey Local Environmental Plan (KLEP) 1987. The variation will permit the proposed dwelling to be separated by 11 metres instead of the required 5 metres.

Applicant: Keith Dowler
Subject Property: Lot 3 DP747885, 403 Hickeys Creek Road, MILLBANK
Zone: 1(a1) (Rural "A1" Zone)

2013. 130 RESOLVED: *Moved: Cl. Morris*
Seconded: Cl. Green

- A That the use of SEPP 1 to vary the provisions of Clause 31(3)(b) of the Kempsey Environmental Plan 1987 be supported; and**
- B That Development Application T6-12-320 be approved subject to the following conditions:**

PARAMETERS OF THIS CONSENT

- 1 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
Site Plan	-	P.W	-
Floor Plan & Elevations	-	P.W	-
Section Plan & East Elevation	-	P.W	-

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 All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply to:

- a) To the extent to which an exemption is on force under clause 187 or 188 of the *Environmental Planning and Assessment Regulation 2000* (EPAR), subject to the terms of any condition or requirement referred to in clause 187(6) or 188(4) of the EPAR; or
- b) To the erection of a temporary building.

- 3 In accordance with Clause 94 of the *Environmental Planning & Assessment Regulation 2000*, Council requires the existing building(s), subject to a development application, be brought into total compliance with the fire safety provisions of the Building Code of Australia.

- 4 This consent does not permit commencement of any site works. Works shall not commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.

- 5 Under the provisions of AS3959 – 2009 Construction of Buildings in Bushfire-Prone Areas, the site has been determined as a Bushfire Attack Level (BAL) – 29.

The property owner shall implement and maintain all recommendations of the Bushfire Hazard Assessment report prepared by Midcoast Building and Environmental, dated 4th March 2013.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE FOR THE SITE

- 6 The particulars of contributions levied pursuant to Section 94 of the Act are set out in the following table:

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
Infrastructure within Catchment 10	Local Roads and Traffic Infrastructure developer Contribution Plan 2009	Jan 2010
Town Centre Domain	Kempsey Town Centre Public Domain Section 94 Developer Contribution Plan	2 Aug 2010
Outdoor Recreation	Section 94 Contributions Plan for Outdoor Recreation	11 Sept 2001
Project Administration	Section 94 – Project Administration	10 Aug 2007

The above plans may be viewed during office hours at the Council Offices located at 22 Tozer Street, West Kempsey.

Contributions set out in the following Schedule are to be paid to Council prior to the issue of any Construction Certificate for the development. The following contributions are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of the payment. The contribution rates for specific dates are available from Council offices during office hours. Payments will only be accepted by cash or bank cheque.

Schedule of Contributions pursuant to Section 94 of the Environmental Planning and Assessment Act 1979:

Public amenity or service	Unit type	No. of Units	Contribution Rate (Amount per Unit)	Contribution Levied	Date until which Contribution rate is applicable	Office Use Only Receipting Codes
Local Roads (Catchment 10)	EP	0.8	\$1,415.00	\$1,132.00	30 Jun 2013	AR10
Public Domain	EP	0.8	\$412.00	\$329.60	30 Jun 2013	APD
Outdoor Recreation	ET	0.66	\$752	\$496.32	30 Jun 2013	AX
Sub total				\$1,957.92		
S94 Administration		6% of total Section 94 charge applicable		\$117.48	30 Jun 2013	AY

TOTAL	\$2,075.40	
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THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORKS COMMENCING

- 7 Council shall be notified of the commencement of works not less than two (2) days prior to any works commencing. The two (2) day notification to Council shall be in writing and specify the date of commencement.**
- 8 Prior to any building, construction or demolition works commencing evidence shall be provided to the Principal Certifying Authority (PCA) of public liability insurance cover for a minimum of \$10 million. Council shall be nominated as an interested party on the policy.**
- 9 A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:**
- a) Showing the name, address and telephone number of the principal certifying authority for the work;**
 - b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and**
 - c) Stating that unauthorised entry to the work site is prohibited.**

The sign is to be maintained while building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

No sign is to have an area in excess of one (1)m².

- 10 Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:**
- a) In the case of work for which a principal contractor is required to be appointed:**
 - (i) The name and licence number of the principal contractor; and**
 - (ii) The name of the insurer by which the work is insured under Part 6 of that Act.**
 - b) In the case or work to be done by an owner-builder:**
 - (i) The name of the owner-builder; and**

- (ii) Of the owner-builder is required to hold an owner-builder permit under the Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the above information becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

- 11 All erosion and sedimentation controls shall be in place in accordance with Council's guidelines prior to the commencement of any works.
- 12 Toilet facilities shall be provided or made available at or in the vicinity of the work site at a rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- 13 Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.
- 14 Details of wall bracing to be carried out in accordance with Australian Standard 1684-2006 are to be submitted to Council prior to commencement of work.

<p style="text-align: center;">THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH DURING CONSTRUCTION</p>
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- 15 Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:
- a) Monday to Friday, from 7 am to 6 pm;
 - b) Saturday, from 8 am to 1 pm.
- No construction work is to take place on Sundays or Public Holidays.
- 16 Construction noise is to be limited as follows:
- a) For construction periods of four (4) week and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20dB(A).
 - b) For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation, must not exceed the background level by more than 10 dB(A).
- 17 All necessary works are to be undertaken to control dust pollution from the site.

These works must include, but are not limited to:

- a) Restricting topsoil removal;
 - b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);
 - c) Alter or cease construction works during periods of high wind.
- 18 All builders rubbish is to be contained on site in a 'Builders Skip' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.
- 19 All Plumbing, Water Supply and Sewerage Works are to be installed and operated in accordance with the *Local Government Act 1993*, the NSW Code of Practice for Plumbing and Drainage and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications.
- 20 Sediment and erosion control measures in accordance with Council's Guidelines must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.
- 21 The public liability insurance cover required by this consent shall be maintained for the duration of the period of all works and during any maintenance period.
- 22 Council requires a minimum of 20,000 litres water supply to be provided for bushfire fighting purposes. The water supply is to be provided in accordance with the Rural Fire Service Fast Facts 3/08 "*Water Supply for Fire Fighting Purposes*". A 65mm storz fitting and ball or gate valve shall be installed in the tank. The water supply is to be made accessible for tankers with suitable hardstand area adjacent or within close proximity of the tank.
- 23 Stormwater must be collected and disposed of to the existing stormwater drainage. Drainage lines within the road reserve must be sewer class or other approved equivalent. All drainage works are to be installed by a suitably qualified person and in accordance with the requirements of AS/NZS 3500.3:2003 - *Plumbing and drainage*, Part 3: Stormwater drainage.
- 24 Glazing materials used in the building are to be selected in accordance with the provisions of Australian Standard AS 1288 *SAA Glass Installation Code* and must comply with the requirements of Australian Standard AS 2208 "*Safety Glazing Materials for Use in Buildings (Human Impact Considerations)*" as required by the Building Code of Australia.
- Windows must be constructed to comply with Australian Standard AS 1288 or Australian Standard AS 2047. Written certification must be submitted to principal certifier prior to occupation inspection to confirm that glazing selection, manufacture and installation has been completed in accordance with the relevant Australian Standards for the job specific project.

**THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO
OCCUPATION OF THE BUILDING**

- 25 Prior to the issue of any Occupation Certificate written evidence from Council shall be submitted to the Principal Certifying Authority (PCA) demonstrating that Council is satisfied that all water, sewer and stormwater works required by all relevant approvals under Section 68 of the *Local Government Act 1993* have been completed in full. Council shall not issue such written evidence until such time as all required water, sewer and stormwater works have been completed in full in accordance with relevant approvals under Section 68 of the *Local Government Act 1993* and all accompanying approved plans and details, to the satisfaction of Council.
- 26 Prior to the issue of any Occupation Certificate all BASIX commitments shown on the following certificates, plans and specification shall be completed in full.
- a) The BASIX Certificate 448572S, dated 24 September 2012, and the associated plans and specifications approved as part of the Construction Certificate.
- 27 Prior to the issue of any Occupation Certificate all of the works shown on the plans and granted by this consent, including any other consent that is necessary for the completion of this development, and any rectification works to damaged Council land or infrastructure, have been completed in full and approved by the Principal Certifying Authority (PCA) and any other relevant consent authority/s.
- 28 Stormwater must be collected and disposed of in a controlled manner such that stormwater flows are:
- a) clear of buildings and infrastructure;
- b) clear of effluent disposal areas;
- c) not concentrated so as to cause soil erosion;
- d) not directly to a watercourse; and
- e) not onto adjoining land.
- 29 A fire detection and alarm system must be installed and maintained within the building. Such system must comply with the Building Code of Australia (BCA) Part 3.7.2.2 requirements for a Class 1a building.

ADVICE

Certain additional approvals and action required by the applicant certain additional approvals and action required by the by you prior to and during construction works. The *Environmental Planning and Assessment Act 1979* require you to:

- a) Obtain a Construction Certificate prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier must obtain Council's approval to certain conditions of this development consent, where indicated before issuing the Construction Certificate;

- b) **Nominate a Principal Certifying Authority (PCA) which may be either Council or a private accredited certifier and notify Council of that appointment. You cannot lawfully commence works without complying with this requirement;**
- c) **Give Council at least two (2) days notice of your intention to commence the erection of a building before commencing construction works. You cannot lawfully commence works without complying with this requirement; and**
- d) **Obtain an Occupation Certificate before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.**

Right of Appeal

If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this Notice.

You are further advised that pursuant to Section 82A of the *Environmental Planning and Assessment Act 1979*, a request may be made to review a determination at any time within six (6) months of the date of notification. This right of review does not apply in respect to designated development, integrated development or an application by the Crown.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

Campbell	F	Green	F	McGinn	F	Morris	F
Patterson	F	Saul	F	Shields	F	Williams	F