



PLANNING VOTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

16 July 2013 commencing at 9.02am.

15 COMMUNITY STRATEGIC AND MANAGEMENT PLAN REPORTS

GOAL 1: To Facilitate Ecological and Economical Sustainable Development in the Shire

**1.1 Proposed Telecommunication Tower at South West Rocks
File: T6-13-130**

1211	RBP
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SUMMARY

Reporting that Council has received a Development Application for a new 40m National Broadband Network telecommunications tower at South West Rocks for which objections have been received.

Applicant: NBN Co. Limited
C/- Aurecon Australia Pty Ltd
Subject Property: Lot 24 DP748740
Gilbert Cory Street, South West Rocks
Zone: 7(d) (Scenic Protection Zone)

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

That this matter be listed for a Works Committee Inspection.

COMMITTEE OF THE WHOLE

2013. 218 RESOLVED: *Moved: Cl. Morris
Seconded: Cl. Patterson*

That Council move into Committee of the Whole for discussions related to item 1.1.

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2013. 219 RESOLVED: *Moved: Cl. Morris
Seconded: Cl. Patterson*

That the Council Meeting be resumed.

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The MOTION was PUT to the Meeting and was LOST.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

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

2013. 220 RESOLVED:

*Moved: Cl. Shields
Seconded: Cl. Patterson*

That Council rescind its previous resolution number 2008.902 of 16 December 2008 with regard to applications for telecommunications towers as follows;

"3. That in all future proposed telecommunication tower applications Council conduct a works inspection prior to any approval being given."

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	Shields	F	Williams	F		

2013. 221 RESOLVED:

*Moved: Cl. Morris
Seconded: Cl. McGinn*

A That consent be granted 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
OVERALL SITE PLAN (Drawing No. 2SWR-51-04-SOUW-C2)	Revision 04	Aurecon Australia Pty Ltd	13.05.13
SITE SETOUT PLAN (Drawing No. 2SWR-51-04-SOUW-C3)	Revision 04	Aurecon Australia Pty Ltd	13.05.13
SITE ELEVATIONS AND DETAILS (Drawing No. 2SWR-51-04-SOUW-C4)	Revision 04	Aurecon Australia Pty Ltd	13.05.13

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

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

CONSTRUCTION

- 4 Prior to the issue of any Construction Certificate engineer's details for all proposed works, including structural, foundation, cut and fill, retaining walls, driveway and car parking area pavement, etc., shall be provided to the Principal Certifying Authority for approval. These engineer's details shall include works required to upgrade the access driveway as a two-wheel drive all weather access standard. All engineer's details must be prepared by an appropriately qualified, experienced and practicing Engineer in accordance with Council's *Development Control Plan No. 36* and the current Building Code of Australia. All engineer's details shall be approved by the Principal Certifying Authority as part of any Construction Certificate.**

SOILS

- 5 Prior to the issue of any Construction Certificate a Sediment and Erosion Control Plan shall be submitted to the Principal Certifying Authority for approval. This Sediment and Erosion Control Plan shall be prepared shall be prepared by an appropriately experienced and qualified professional, in accordance with the most recent version of the Landcom publication "*Managing Urban Stormwater - Soils and Construction*." This Sediment and Erosion Control Plan shall include measures to manage weeds in and around the construction areas. This Sediment and Erosion Control Plan shall be approved by the Principal Certifying Authority as part of any Construction Certificate.**

WASTE WATER

- 6** Prior to the issue of any Construction Certificate stormwater drainage engineer's details for the provision of a stormwater drainage system to convey all existing and proposed stormwater flows through this development shall be submitted to Principal Certifying Authority for approval. These stormwater drainage engineer's details shall be prepared by an appropriately experienced, qualified and practicing Civil Engineer in accordance with Council's Adopted Engineering Standard, the most recent version of *Australian Rainfall and Runoff (1987)*, and AS/NZS 3500.3:2003 - *Plumbing and drainage, Part 3: Stormwater drainage*. The stormwater drainage system shall be designed for 1 in 10 year storm event. All piped drainage lines over adjoining land are to be located within drainage easements. All such stormwater drainage engineer's details shall be approved by the Principal Certifying Authority as part of any Construction Certificate.

LEVIES

- 7** Prior to the issue of any Construction Certificate the Principal Certifying Authority shall ensure that a Long Service Levy has been paid to the Long Service Payments Corporation. The amount payable is currently based on 0.35% of the cost of the work. This is a State Government Levy and is subject to change without notice. The requirements of the State Government supersede this condition.

This payment may be made at Council's Customer Service Centre. Cheques shall be made payable to Kempsey Shire Council.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY WORKS COMMENCING

NOTIFICATION

- 8** 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.

INSURANCE

- 9** Prior to the commencement of any works evidence shall be provided to the Principal Certifying Authority of public liability insurance cover for a minimum of \$20 million. Council shall be nominated as the interested party in this policy.

SITE PREPARATION

- 10** Prior to the commencement of any works 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 (PCA) 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/s shall 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.

- 11 Prior to the commencement of any works 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 twenty (20) persons (or part of twenty (20) persons) employed at the site. Each toilet provided shall be a flushing toilet connected to a Council approved onsite sewage management system, or to an approved temporary chemical water closet.
- 12 All controls shall be in place in accordance with the approved Erosion and Sediment Control Plan.
- 13 All controls shall be in place in accordance with the approved Acid Sulfate Soil Management Plan.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING ANY WORKS
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INSURANCE

- 14 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.

EXECUTION

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

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

No work is to take place on Sundays or Public Holidays.

- 16 Construction and demolition noise is to be limited as follows:
 - a) For construction and demolition periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation shall not exceed the background level by more than 20 dB(A); or
 - b) For construction and demolition 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 shall not exceed the background level by more than 10 dB(A).
- 17 All erosion and sediment controls shall be maintained at all times in accordance with the approved Erosion and Sediment Control Plan

until the site has been stabilised by permanent vegetation or hard surface.

- 18 All builders rubbish is to be contained on the site in a 'Builders Skips' 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.**

ECOLOGY

- 19 All fallen logs located within the cleared area shall be relocated to another location outside the development footprint, within the retained vegetation on the site.**

<p>THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO THE OCCUPATION/USE OF ANY PART OF THE DEVELOPMENT</p>

BUSHFIRE

- 20 Prior to the occupation/use of any part of the development and/or the issue of any Occupation Certificate, all bushfire requirements of this consent shall be completed in full.**

WASTE WATER

- 21 Prior to the occupation/use of any part of the development and/or the issue of any Occupation Certificate, stormwater shall be adequately collected and disposed of in a controlled manner in accordance with the approved stormwater drainage engineer's details.**

COMPLETION

- 22 Prior to the occupation/use of any part of the development and/or the issue of any Occupation Certificate, written evidence from Council shall be provided to the Principal Certifying Authority demonstrating that Council is satisfied that all infrastructure is maintained/repaired to pre-development conditions and that no further work is to be carried out that may result in damage to Council's roads, footpaths, services, etc. Council shall not issue such written evidence until such time as evidence has been provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets caused as a result of construction works under this consent.**

- 23 Prior to the occupation/use of any part of the development and/or 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 and any other relevant consent authority/s.**

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH AT ALL TIMES

BUSHFIRE

- 24 At the commencement of building works and in perpetuity the property around the development, to a distance of 10 metres or the property boundary, shall be maintained 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'.
- 25 The proposed development shall be designed to withstand 40kW/m² of radiant heat. Structures and associated infrastructure shall be able to resist ember penetration.

ADVICE

- a) 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:
- 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.
 - Nominate a *Principal Certifying Authority (PCA)* which may be either Council or an accredited certifier and notify Council of that appointment. You cannot lawfully commence works without complying with this requirement.
 - Give Council at least two (2) days' notice of your intention to commence the erection of a building before commencing construction works by lodging the '*Notice of Commencement of Building Works and Appointment of the Principal Certifying Authority*' form enclosed. You cannot lawfully commence works without complying with this requirement.
 - 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 by lodging the '*Application for Occupation Certificate*' form enclosed. You cannot lawfully commence occupation or the use of a building without complying with this requirement.
- b) All earthmoving contractors and operators should be instructed that, in the event of any bone, or stone artefacts, or discrete distributions of shell, being unearthed during earthmoving, 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 notified of Council's decision.

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	Shields	A	Williams	F		

1.2 Alterations and Additions to Existing Car Park File: T6-13-74

1211	RBP
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SUMMARY

Reporting that Council has received a Development Application for alterations and additions to a car park for which objections have been received.

REPORT DETAILS

Applicant: Commercial Projects Group Pty Ltd
 Subject Property: Lot 7009 DP1071939 (reserve), 12-26 Park Street, Lot 2 DP758970 23-25 Park Street (Nestlé) and Lot 5638 & 5642 Park Street (Road), SMITHTOWN.
 Zone: 2 (v) (Village of Township Zone) and 4(A)(Industrial(General) Zone).

2013. 222 RESOLVED: *Moved: Cl. Patterson
 Seconded: Cl. Williams*

A That Development Application T6-13-74 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
Exhibit 1 – Reserve car parking & public upgrade plan Drawing No. 5561P-Rbout Sheet 01	A	King and Campbell Pty Ltd	27/03/2013
Exhibit 2 – Roundabout layout and swept paths	-	King and Campbell Pty Ltd	March 2013

Plan No./ Supporting Document	Version	Prepared by	Dated
Drawing No. 5561P-Rbout Sheet 02			
Stormwater Concept Plan Drawing No. 5561P-Rbout Sheet 03	A	King and Campbell Pty Ltd	27/03/2013

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 Prior to commencement of any works a plan prepared by a practicing Civil Engineer is to be submitted to Council including the following:**
 - a) A layout plan demonstrating compliance with AS 2890.**
 - b) Pavement and drainage details having regard to relevant standards contained in DCP 36 – Engineering Guidelines for Subdivision and Development.**
 - c) A Sediment and Erosion Control Plan in accordance with Landcom “Managing Urban Stormwater – Soils and Construction”.**
 - d) A stormwater disposal system designed to cater for a 1 in 10 year storm event in accordance with “Australian Rainfall and Runoff” and “AS/NZS 3500.3:2003 Plumbing and Drainage, Part 3: Stormwater Drainage”.**
 - e) Details of the type and location of replacement play equipment. In this regard it will be necessary to liaise with Council’s Director of Infrastructure Services.**
 - f) The means of achieving compliance with AS 1428 – Design for Access and Mobility.**
- 3 Consent from council must be obtained for a traffic management plan pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the proposed car parking area. The traffic control plan is to be designed in accordance with the requirements of the Roads and Maritime Services Manual relating to traffic control and the relevant Australian Standard.**
- 4 Prior to any works commencing evidence shall be provided to the Principal Certifying Authority of public liability insurance cover for a**

minimum of \$20 million.

- 5** 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 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
 - b) 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.

- 6** The trees to be retained are to be protected by a fence so as to minimise disturbance to existing ground conditions within the drip line of the trees. The fence is to be constructed:
- a) with a minimum height of 1.2 metres,
 - b) outside the drip line of the tree,
 - c) of steel star pickets (capped) at a maximum distance of 2 metres between pickets,
 - d) using a minimum of 3 strands of steel wire,
 - e) to enclose the tree, and
 - f) with orange barrier mesh, or similar, attached to the outside of the fence and continuing around its perimeter.

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

- 7** 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.

- 8** Construction noise is to be limited as follows:
- a) For construction periods of four (4) weeks 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).
- 9 Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.
- 10 Works involving excavations beyond 1 metre below natural ground surface must not commence until an acid sulphate soil assessment has been undertaken, the assessment is to be submitted to Council for approval and Council has approved any measures needed for the management of those soils. This assessment must be in accordance with the Acid sulphate Soil Manual (NSW ASSMAC 1998).
- 11 Prior to the occupation of the development the car parking areas are to be constructed in accordance with the approved plans. Signs are to be erected clearly indicating the availability of off-street parking and the location of entry/exit points, visible from both the street and the subject site.
- 12 Members of the public must have unrestricted access to the car parking spaces at all times. No car parking spaces are to be reserved (generally or specifically) for any tenant or customer.
- 13 **General Terms of Approval – NSW Office of Water**
The following conditions of consent have been imposed by the NSW office of Water as “general terms of approval” under Section 91 of the *Environmental Planning and Assessment Act 1979* and the *Water Management Act 2000*, and shall be complied with at all times:

Number	Condition
Plans, standards and guidelines	
a)	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA T6-13-74.</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.</p>
b)	<p>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval under the Water Management Act from the NSW Office of Water.</p> <p>Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.</p>
c)	<p>The consent holder must prepare or commission the preparation of:</p> <p>Works Schedule;</p> <p>Erosion and Sediment Control Plan;</p>

	Soil and Water Management Plan.
d)	All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The plans must be prepared in accordance with the NSW Office of Water guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx Outlet structures
e)	The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.
Rehabilitation and maintenance	
f)	The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.
Disposal	
g)	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
Drainage and Stormwater	
h)	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the Office of Water.
i)	The consent holder must stabilise the drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.
Erosion Control	
j)	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
Excavation	
k)	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water.
Maintaining River	

l)	The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the NSW Office of Water.
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14 Nestlé shall be responsible for the maintenance of the carpark.

15 Upon completion of the works a Works-as-Executed plan prepared by a registered surveyor or engineer shall be provided to Council certifying that the works have been completed in accordance with the design plans.

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	F	Kesby	F	McGinn	F	Morris	F
Patterson	F	Saul	F	Shields	F	Williams	F		