



**PLANNING VOTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL**

18 June 2013 commencing at 9.00am.

**1.1 Proposed Tourist Facility** **File: T6-12-372**

1211	RBP
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**SUMMARY**

Reporting that Council has received a Development Application for a tourist facility at Crescent Head for which objections have been received.

Applicant: D Dunn and C Shilling  
 Subject Property: Lot 24 DP1014666, 10 Penn Place, Crescent Head  
 Zone: 1(c) (Rural (Small Holdings "C" Zone))

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

**A That Development Application T6-12-372 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
<b>Proposed location site plan</b>	<b>A</b>	<b>Barron &amp; Carroll Building Design</b>	<b>16.12.12</b>
<b>Proposed eco hut floor plan</b>	<b>-</b>	<b>Barron &amp; Carroll Building Design</b>	<b>8.11.12</b>
<b>Proposed eco hut elevations</b>	<b>-</b>	<b>Barron &amp; Carroll Building Design</b>	<b>8.11.12</b>
<b>Proposed yoga room</b>	<b>-</b>	<b>Barron &amp; Carroll Building Design</b>	<b>8.11.12</b>
<b>Shed plan &amp;</b>	<b>-</b>	<b>Barron &amp; Carroll</b>	<b>8.11.12</b>

<b>Plan No./ Supporting Document</b>	<b>Version</b>	<b>Prepared by</b>	<b>Dated</b>
elevations		Building Design	

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.

<p><b>THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF ANY CONSTRUCTION CERTIFICATE FOR THE SITE</b></p>
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- 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. 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.
- 5 Prior to the issue of any Construction Certificate, an approval under Section 138 of the *Roads Act 1993* shall be obtained from Council and provided to the Principal Certifying Authority for all necessary works within the road reserve. Three (3) copies of engineering construction plans shall accompany the application for consent for works within the road reserve. Such plans shall be in accordance with Council's Adopted Engineering Standard. This approval shall be approved by the Principal Certifying Authority as part of any Construction Certificate.
- 6 Prior to the issue of any Construction Certificate, an approval under Section 68 of the *Local Government Act 1993* to carry out water supply work shall be obtained from Council and provided to the Principal Certifying Authority. In this regard, it will be necessary to

include details of the means proposed to connect to the existing trickle feed system, including adequate storage. This approval shall be approved by the Principal Certifying Authority as part of any Construction Certificate.

- 7** 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 by an appropriately experienced and qualified professional, in accordance with the most recent version of the Landcom publication "*Managing Urban Stormwater - Soils and Construction*." The 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.
- 8** Prior to the issue of any Construction Certificate, an approval under Section 68 of the *Local Government Act 1993* for on-site effluent disposal shall be obtained from Council and provided to the Principal Certifying Authority. The application for Section 68 approval shall be accompanied by an Effluent Disposal Management Plan prepared by a suitably qualified professional with demonstrated experience in effluent disposal matters, which addresses the site specific design of sewage management in accordance with the requirements of the *Local Government Act 1993*, the Regulations and relevant guidelines.
- 9** 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.
- 10** Prior to the issue of any Construction Certificate, a Water Supply Management Plan shall be submitted to the Principal Certifying Authority for approval. This Water Supply Management Plan shall be prepared in accordance with Section 4.1 and Section 10 of the NSW Health *Private Water Supply Guidelines*, and demonstrate that the proposed drinking water supply will comply with the "Australian Drinking Water Guidelines – 1996". This Water Supply Management Plan shall be approved by the Principal Certifying Authority as part of any Construction Certificate.
- 11** Prior to the issue of any Construction Certificate, details for the design and fit-out of all food preparation areas shall be submitted to the Principal Certifying Authority for approval. These details shall include a floor plan at a scale of 1:50, and shall demonstrate compliance with *AS 4674-2004: Design, construction and fit-out of*

**food premises.** All such details shall be approved by the Principal Certifying Authority as part of any Construction Certificate.

- 12** Prior to the issue of any Construction Certificate a schedule of finishes shall be provided to the Principal Certifying Authority demonstrating which details the colour and type of all finished surfaces for the development. The colours and materials shall be in accordance with those detailed on the approved plans. The colours shall match colours found in the surrounding natural and built environment. The materials and colours of external features of driveways, walkways or large paved areas shall be in colours that blend with the surrounding natural earth materials (e.g.: red browns, darker browns, sandy brown). All finishes shall be non-reflective. This schedule of finishes shall be approved by the Principal Certifying Authority as part of any Construction Certificate.
- 13** Prior to the issue of any Construction Certificate, details of how the pond is to be isolated from the development in accordance with the current Building Code of Australia shall be submitted to the Principal Certifying Authority for approval. All such details shall be approved by the Principal Certifying Authority as part of any Construction Certificate.
- 14** The particulars of the contributions levied pursuant to Section 94 of the Act are set out in the following table:

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

The above plans may be viewed during office hours at the Council Customer First Centre located at 22 Tozer Street West Kempsey.

Prior to the issue of any Construction Certificate the Principal Certifying Authority shall ensure that the contributions set out in the following Schedule have been paid to Council. The following contributions are current at the date of this consent. The contributions payable shall 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 payment. The contribution rates for specific dates are available from Council

offices during office hours. Payments shall 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
Roads and Traffic Infrastructure (Catchment 10)	EP	1.2	\$1,415.00	\$1,698.00	30 June 2013
Public Domain	EP	1.2	\$412.00	\$494.40	30 June 2013
Open Space	ET	0.4	\$497.00	\$198.80	30 June 2013
<b>Sub total</b>				<b>\$2,391.20</b>	
<b>S94 Administration</b>	<b>6% of total Section 94 charge applicable</b>			<b>\$143.45</b>	<b>30 June 2013</b>
<b>TOTAL</b>				<b>\$2,534.65</b>	

- 15** Prior to the issue of any Construction Certificate a Certificate of Compliance pursuant of Section 305 of the *Water Management Act 2000* shall be obtained from Council and provided to the Principal Certifying Authority. This Certificate of Compliance shall be approved by the Principal Certifying Authority as part of any Construction Certificate.

Please refer to the Advice section of consent for additional information on water supply works and contributions.

- 16** 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.

- 17** Prior to the issue of any Construction Certificate details demonstrating full compliance with all General Terms of Approval shall be provided to the Principal Certifying Authority for approval. These details shall be approved by the Principal Certifying Authority as part of any Construction Certificate.

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

- 18** 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.

- 19 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.
- 20 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) m<sup>2</sup>.

- 21 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 20 persons (or part of 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.
- 22 All controls shall be in place in accordance with the approved Erosion and Sediment Control Plan.

<b>THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING ANY WORKS</b>
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- 23 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.
- 24 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 7:00 am to 6:00 pm.
  - b) Saturday, from 8:00 am to 1:00 pm.

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

- 25 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 shall not exceed the background level by more than 20 dB(A); or
  - 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 shall not exceed the background level by more than 10 dB(A).

- 26 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.
- 27 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.

<p style="text-align: center;"><b>THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO THE OCCUPATION/USE OF ANY PART OF THE DEVELOPMENT</b></p>
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- 28 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 submitted to the Principal Certifying Authority demonstrating that Council is satisfied that any and all required works within the road reserve have been completed in full. Council shall not issue such written evidence until it is satisfied that all required works have been completed in full in accordance with an approval under Section 138 of the *Roads Act 1993* and all accompanying approved plans and details.
- 29 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 required water supply works have been completed in full. Council shall not issue such written evidence until it is satisfied that all required water supply 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.
- 30 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.
- 31 Prior to the occupation/use of any part of the development and/or the issue of any Occupation Certificate, the approved on-site effluent management systems shall be completed in accordance with approved plans and current specifications and standards. These systems shall not be used and/or operated until a Council Officer has inspected the system and authorised its use.
- 32 Prior to the occupation/use of any part of the development and/or the issue of any Occupation Certificate, all landscaping shown on the approved plans shall be completed in full.
- 33 Prior to the occupation/use of any part of the development and/or the issue of any Occupation Certificate, all fences required by this consent to protect trees in the vicinity of the works shall be



removed. No fences shall be removed until all works (including any rectification works) have been completed.

- 34** Prior to the occupation/use of any part of the development and/or the issue of any Occupation Certificate, evidence shall be provided to the Principal Certifying Authority demonstrating that all relevant General Terms of Approval have been completed.
- 35** 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.
- 36** 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.

<b>THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH AT ALL TIMES</b>
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- 37** No part of the tourist facility shall be used as a permanent dwelling at any time at any time. No person shall be permitted to stay onsite for more than thirty (30) days in any twelve (12) month period, other than the permanent residents of the existing dwelling.
- 38** All landscaping as shown on the approved plans shall be maintained in a neat and tidy manner at all times.
- 39** All water supply and water supply infrastructure shall be maintained in accordance with the approved Water Supply Management Plan at all times.
- 40** All car parking areas shown on the approved plans shall be maintained and reserved for car parking at all times.
- 41** Signs must be maintained in a structurally sound, neat and attractive condition at all times to the satisfaction of Council.
- 42** The period during which the signage may be carried out is limited to fifteen (15) years from the date of commencement. All items and/or works associated with the signage shall be removed from the land upon the expiration of this period and any damage to the land repaired by the owner of the site.



- 43** The occupier of the premises must ensure that there is at all times a sign in the immediate vicinity of the swimming pool bearing the words 'Young children must be supervised when using this swimming pool'. The sign is to be in a prominent position and be otherwise in accordance with clause 9 of the Swimming Pools Regulation. Fences, gates, walls, etc. enclosing the general swimming pool area are to be maintained in good repair and condition at all times. Depth markers are to be installed 150 mm above the water line of the proposed swimming pool.

The discharge of waste water from the swimming pool is to be in accordance with AS/NZS 3500.2.2, Section 10.9 & Figure 10.2.

The swimming pool water is to be re-circulated, filtered and disinfected in accordance with the requirements of Council's Senior Environmental Health Officer and the Health Department of New South Wales. The swimming pool water is to be maintained at satisfactory levels of purity for bathing at all times and operated in accordance with NSW Department of Health's *Public Swimming Pool and Spa Pool Guidelines 1996*.

- 44** 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
<b>Plans, standards and guidelines</b>	
<b>1</b>	<p><b>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to and provided by Council:</b></p> <p><b>(i) Site plan, map and/or surveys</b></p> <p><b>(ii) Works Schedule</b></p> <p><b>(iii) Soil and Water Management Plan</b></p> <p><b>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.</b></p>
<b>2</b>	<p><b>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. 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.</b></p>
<b>3</b>	<p><b>All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for</b></p>

Number	Condition
	<p>approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water's guidelines located at <a href="http://www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx">www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx</a></p> <p>(i) Outlet structures</p>
<b>Rehabilitation and maintenance</b>	
4	<p>The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.</p>
<b>Disposal</b>	
5	<p>The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.</p>
<b>Drainage and Stormwater</b>	
6	<p>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 NSW Office of Water.</p>
7	<p>The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.</p>
<b>Erosion control</b>	
8	<p>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.</p>
<b>Proposed Dam</b>	
9	<p>The proposed dam must not exceed 0.13 mega litres In capacity.</p>
<b>Excavation</b>	
10	<p>The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.</p>

**45 The following conditions of consent have been imposed by the NSW Rural Fire Service as "general terms of approval" under Section 91 of the *Environmental Planning and Assessment Act 1979* and the *Rural Fires Act 1997*, and shall be complied with at all times:**

- a) The development proposal is to comply with the proposed location site plan identified on the drawing prepared by Barron and Carroll Building Design numbered A2 revision A, dated 16 December 2012.**

#### **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. To achieve this, the following conditions shall apply:**

- b) At the commencement of building works and in perpetuity the entire property 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'.**
- c) To allow for emergency service personnel and residents to undertake property protection activities, a defendable space that permits unobstructed pedestrian access is to be provided around the building.**

#### **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 a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:**

- d) Water, electricity and gas are to comply with the following requirements of section 4.1.3 of 'Planning for Bush Fire Protection 2006'.**
  - i) Fire hydrant spacing, sizing and pressures shall comply with Australian Standard AS 2419.1 – 2005 'Fire Hydrant Installations'.**
  - ii) Where the rear or most distant part of a proposed building is greater than 70 metres from the nearest hydrant, a new hydrant is required to be installed as per Australian Standard AS 2419.1 – 2005 'Fire Hydrant Installations'.**

**Locations of fire hydrants are to be delineated by blue pavement markers offset 150mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.**

- iii) **The water source shall be made available or located within the inner protection area (IPA) and away from the structure.**
  - iv) **A hardened ground surface for truck access is to be supplied up to and within 4 metres of the water source.**
  - v) **A 65mm metal Storz outlet with a gate or ball valve shall be provided.**
  - vi) **Polycarbonate/plastic tanks shall be shielded from the impact of radiant heat and direct flame contact.**
  - vii) **The gate or ball valve, pipes and tank penetration are adequate for full 50mm inner diameter water flow through the Storz fitting and are metal.**
  - viii) **All associated fittings to the tank shall be non-combustible.**
  - ix) **An '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:**
    - **Markers must be fixed in a suitable location so as to be highly visible; and**
    - **Markers should be positioned adjacent to the most appropriate access for the static water supply.**
  - x) **Reticulated or bottled gas is to be installed and maintained in accordance with Australian Standard AS/NZS 1596:2002: 'The storage and handling of LP gas' and the requirements of relevant authorities. Metal piping is to be used.**
  - xi) **All fixed gas cylinders are kept clear of all flammable materials to a distance of 10 metres and be shielded on the hazard side of the installation.**
- e) **New electricity transmission lines are to be located underground.**

### **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. To achieve this, the following conditions shall apply:**

- f) **The proposed internal access road shall comply with sections 4.1.3(2) 'Property Access' of 'Planning for Bush Fire Protection 2006'**

### **Evacuation and Emergency Management**

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

- g) Arrangements for emergency and evacuation are to comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.
- i) An Emergency/Evacuation Plan is to be prepared detailing the following:
  - under what circumstances will the complex be evacuated;
  - where will occupants be evacuated to;
  - roles and responsibilities of persons co-ordinating the evacuation;
  - roles and responsibilities of persons remaining with the complex after evacuation; and
  - a procedure to contact the NSW Rural Fire Service District Office/NSW Fire Brigade and inform them of the evacuation and where they will be evacuated to.

#### **Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- h) New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.
- i) The existing dwelling is required to be upgraded to improve ember protection. This is to be achieved by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weepholes and eaves. External doors are to be fitted with draft excluders.

#### **Landscaping**

- j) Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

<b>ADVICE</b>
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- a) Certain additional approvals and action is required 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) Prior to the issue of any Construction Certificate a Certificate of Compliance pursuant of Section 305 of the *Water Management Act 2000* shall be obtained from Council and submitted to the Principal Certifying Authority.

A Certificate of Compliance shall be issued by Council when all contributions are paid in full and all infrastructure necessary to service the development has been completed in full.

Contributions set out in the following table are to be paid to Council prior to the issue of any Certificate of Compliance. Contributions are levied in accordance with Council's Kempsey Shire Council Macleay Water Developer Service Plans (DSP) for Water dated July 2006. The Plans may be viewed during office hours at Council's Offices.

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment. Payments will only be accepted by cash or bank cheque.

The Certificate of Compliance under Section 306 of the *Water Management Act 2000*, identifying payment of the contributions, is to be provided to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Public service	No. of Equivalent Tenements	Contribution Rate (Amount per ET)	Contribution Levied	Date until which Contribution rate is applicable	Office Use Only Receiving Codes
Water	1 ET	\$8,797.00	\$8,797.00	30 June 2013	AW
<b>TOTAL</b>			<b>\$8,797.00</b>		

- c) **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 advised of Council's decision.**

**An Amendment was MOVED:**

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

**That this matter be listed for a Works Committee Inspection.**

**2013. 162 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.**

**A Division resulted in the following votes.**

**F = Voted For**

**A = Voted Against**

<b>Campbell</b>	<b>F</b>	<b>Green</b>	<b>F</b>	<b>Kesby</b>	<b>F</b>	<b>McGinn</b>	<b>F</b>	<b>Morris</b>	<b>F</b>
<b>Patterson</b>	<b>F</b>	<b>Saul</b>	<b>F</b>	<b>Shields</b>	<b>F</b>	<b>Williams</b>	<b>F</b>		

**1.2 Proposed Modified Consent - Drag Racing at Kempsey Airport  
File: T6-10-232 (Rev 01)**

1211	RBP
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**SUMMARY**

Reporting that Council has received an application to modify conditions of consent for drag-racing at the Kempsey Airport for which objections have been received.

Applicant: Four Aces Drag Racing Club Incorporated  
Subject Property: Lot 1 DP1144474, Airport Road, Aldavilla  
Zone: 1(a1) (Rural "A1" Zone)

**2013. 163 RESOLVED:**

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

**That the application to modify the conditions of consent be refused.**

**A Division resulted in the following votes.**

**F = Voted For**

**A = Voted Against**



<b>Campbell</b>	<b>A</b>	<b>Green</b>	<b>F</b>	<b>Kesby</b>	<b>F</b>	<b>McGinn</b>	<b>A</b>	<b>Morris</b>	<b>F</b>
<b>Patterson</b>	<b>A</b>	<b>Saul</b>	<b>F</b>	<b>Shields</b>	<b>F</b>	<b>Williams</b>	<b>F</b>		

At this stage 10.55am the meeting adjourned for morning tea and upon resumption at 11.22am all present at the adjournment were in attendance.

Councillor Shields declared a significant non-pecuniary interest in the following item and retired from the Chamber.

### 1.3 Proposed Dwelling and Boundary Adjustment

File: T6-12-413

1211	RBP
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#### SUMMARY

Reporting that Council has received a Development Application for a dwelling and boundary adjustment at South West Rocks which requires Council's support for variations to DCP Old School Site and for which objections have been received.

Applicant: Hadlow Design Services  
 Subject Property: Lot 233 and Lot 317 DP754396  
 Gregory Street, South West Rocks  
 Zone: 2 (c) (Residential "C" Zone); and  
 7 (d) (Scenic Protection Zone)

**2013. 164 RESOLVED:**

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

**A That Council support the required variations to Development Control Plan (DCP) Old School Site;**

**B That Development Application T6-12-413 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
Proposed Managers Residence & Subdivision (Boundary Adjustment) at Schoolhouse Gallery and Café (File Reference 50946MNGR, Sheet ref: A201)	Amendment No. B	Hadlow Design Services	18/12/2012

**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.

- 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.
  - 4 This consent permits the removal of the tree numbered T27 as identified by Council's Development Control Plan (DCP) – Old School Site. No other trees identified by DCP – Old School Site are authorised by this consent to be removed under this consent. If any other trees are required to be removed or modification of any reason (such as bushfire Asset Protection Zones (APZ), excavation, placement of services, etc.) further consent shall first be obtained from Council.
  - 5 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. All engineer's details shall 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.
  - 6 Prior to the issue of any Construction Certificate, structural details and a Structural Certificate of Design by a qualified practicing structural engineer and in accordance with Part 1.2 (a) (iii) of the Building Code of Australia (applicable to class 1 – 10 building) must be submitted to the satisfaction of Council (where Council is the Certifying Authority).
  - 7 Prior to the issue of any Construction Certificate, a detailed Geotechnical Report shall be submitted to Council for approval. The Geotechnical Report shall be prepared by an appropriately qualified, experienced person, and shall certify that all cut and fill will not result in any geotechnical issues, while having regard to the recommendations in the geotechnical assessment contained in the Old School Site Local Environmental Strategy and Council's DCP Old School Site. This Geotechnical Report shall be approved by the Council prior to release of any Construction Certificate.

- 8** Prior to the issue of any Construction Certificate, a detailed Tree Management Plan shall be provided to the Council for approval. The Tree Management Plan shall be prepared by an appropriately qualified, experienced person, and shall identify methods of retaining the trees numbered T16 and T18 as identified by Council's DCP – Old School Site. Consideration shall be given to all geotechnical conditions, all proposed works, weather conditions during and post-construction, the growth of the trees (i.e. future size and root zone), etc. The Tree Management Plan shall be approved by Council prior to release of any Construction Certificate.
- 9** Prior to the issue of any Construction Certificate, a Landscape Plan shall be submitted to the Principal Certifying Authority for approval. This Landscape Plan shall be prepared by an appropriately experienced and qualified Landscape Architect, and shall:
- a) Incorporate locally indigenous native vegetation as the dominant palette for new planting;
  - b) Incorporate new plants that will facilitate year-round moderation of internal climate;
  - c) Maximise the reuse on site of rock and topsoil emanating from excavations and shredded vegetation for mulch;
  - d) Utilise nectar producing native species;
  - e) Include replacement plantings at a 5:1 ratio for T27 within the 7(d) zoned area, but not within any bushfire APZ. These plantings shall be of advanced stock of an appropriate tree species endemic to the area; and
  - f) Include a maintenance schedule to ensure landscaping is regularly maintained and replaced until all species have reached a mature, generally self-sufficient state.

**This Landscape Plan shall be approved by the Principal Certifying Authority as part of any Construction Certificate.**

- 10** Prior to the issue of any Construction Certificate, a Vegetation and Fuel Management Plan shall be provided to Council for approval. The Vegetation and Fuel Management Plan shall be prepared by an appropriately qualified, experienced and practicing professional, and shall detail methods to balance the management of any APZs with sensitive environmental management to improve the environmental performance of the site through improvement in on-site native vegetation and reduced function as a weed reservoir for the surrounding area. This Vegetation and Fuel Management Plan shall be approved by the Council prior to release of any Construction Certificate.
- 11** Prior to the issue of any Construction Certificate, a detailed Waste Minimization Report shall be provided to the Principal Certifying Authority for approval. This Waste Minimization Report shall be prepared by an appropriately qualified, experienced and practicing professional, and shall detail waste minimisation in the design, construction and occupancy phases, including how the development shall minimise construction waste going to land fill through a

material tracking system, and provide facilities that assist and foster minimisation and recycling of waste production by building occupants through separation and composting systems. This Waste Minimization Report shall be approved by the Principal Certifying Authority as part of any Construction Certificate.

- 12 Prior to the issue of any Construction Certificate, certification that all approved works have been designed so as to be capable of withstanding flood forces up to and including the 1% Annual Exceeds Probability (AEP) flood event shall be provided to the Principal Certifying Authority for approval. This certification shall account for the impacts of any flotsam (carried by floodwaters). Velocities to be adopted for the calculation of forces created by flood waters and debris loading are to be at least three (3) times the velocities determined in Council's current Flood Management Study for the 1% AEP flood event. For the purpose of this certification the 1% AEP flood level may be assumed to be Reduced Level (RL) 2.87 metres Australian Height Datum (AHD). This certification shall be prepared by a qualified practising civil or structural engineer. This certification shall be approved by the Principal Certifying Authority as part of any Construction Certificate.
- 13 Prior to the issue of any Construction Certificate, an approval under Section 68 of the *Local Government Act 1993* to carry out water and sewer work shall be obtained from Council and provided to the Principal Certifying Authority. This approval shall be approved by the Principal Certifying Authority as part of any Construction Certificate.
- 14 Prior to the issue of any Construction Certificate, an approval under Section 68 of the *Local Government Act 1993* to carry out stormwater work shall be obtained from Council and provided to the Principal Certifying Authority. These stormwater drainage 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*, and Council's DCP Old School Site. The stormwater drainage system shall be designed for 1 in 10 year storm event, and shall maintain predevelopment flows. All piped drainage lines over adjoining land are to be located within drainage easements. This approval shall be approved by the Principal Certifying Authority as part of any Construction Certificate.
- 15 Prior to the issue of any Construction Certificate, an approval under Section 138 of the *Roads Act 1993* shall be obtained from Council and provided to the Principal Certifying Authority for all necessary works within the road reserve. Three (3) copies of engineering construction plans shall accompany the application for consent for works within the road reserve. Such plans shall be in accordance with Council's Adopted Engineering Standard. The works within the road reserve shall include:
  - a) The driveway shown on the approved plans, unless it is already completed in full under T6-10-432;
  - b) A "Give-Way" hold line 1 metre behind the Gregory Street kerb line in Landsborough Street is to be provided to minimise

the encroachment of turning traffic from Landsborough Street on the "slipping through" traffic in Gregory Street; and

- c) "No-Stopping" parking restriction signage is to be installed on Gregory Street south of the incoming access point.

This approval shall be approved by the Principal Certifying Authority as part of any Construction Certificate.

- 16 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 by an appropriately experienced and qualified professional, in accordance with the most recent version of the Landcom publication "*Managing Urban Stormwater - Soils and Construction*" and Council's DCP Old School Site. The 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.
- 17 Prior to the issue of any Construction Certificate, a Schedule of Finishes shall be provided to the Principal Certifying Authority demonstrating which details the colour and type of all finished surfaces for the development. This Schedule of Finishes shall be prepared by an appropriately experienced and qualified Heritage Architect. The colours shall match colours found in the surrounding natural and built environment. All finishes shall be non-reflective. This Schedule of Finishes shall be approved by the Principal Certifying Authority as part of any Construction Certificate.
- 18 Prior to the issue of any Construction Certificate plans and specifications shall be provided to the Principal Certifying Authority demonstrating the works required to satisfy the requirements of BASIX Certificate 461420S, dated Wednesday, 19 December 2012. All such plans and specifications shall be approved as part of the Construction Certificate.
- 19 The particulars of the 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
Community Services	South West Rocks Section 94 Contribution Plan	Feb 2008
Open Space & Bushland	South West Rocks Section 94 Contribution Plan	Feb 2008
Traffic & Transport Management	South West Rocks Section 94 Contribution Plan	Feb 2008
Public Domain Improvement	South West Rocks Section 94 Contribution Plan	Feb 2008
Stormwater	South West Rocks Section 94 Contribution	Feb 2008

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
	Plan	
Other Services	South West Rocks Section 94 Contribution Plan	Feb 2008
Plan, Studies & Management	South West Rocks Section 94 Contribution Plan	Feb 2008
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. 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 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
Community Services – Library	Increase in Occupation Rate	2.4	\$326.00	\$782.40	30 June 2013	AYC1
Community Services - MBP	Increase in Occupation Rate	2.4	\$400.00	\$960.00	30 June 2013	AYC2
Open Space Acquisitions	Increase in Occupation Rate	2.4	\$389.00	\$933.60	30 June 2013	AYC3
Open Space Increased capacity	Increase in Occupation Rate	2.4	\$1,257.00	\$3,016.80	30 June 2013	AYC4
Bushland	Increase in Occupation Rate	2.4	\$28.00	\$67.20	30 June 2013	AYC5
Traffic and Transport Management	Increase in Occupation Rate	2.4	\$1,183.00	\$2,839.20	30 June 2013	AYC6
Public Domain Improvements	Increase in Occupation Rate	2.4	\$168.00	\$403.20	30 June 2013	AYC7
Stormwater Management	Increase in Occupation Rate	2.4	\$1,136.00	\$2,726.40	30 June 2013	AYC8
Support Services – Bushfire	Increase in Occupation Rate	2.4	\$32.00	\$76.80	30 June 2013	AYC9
Support Services – Surf Life Savings	Increase in Occupation Rate	2.4	\$39.00	\$93.60	30 June 2013	AYC10

Plan Studies	Increase in Occupation Rate	2.4	\$67.00	\$160.80	30 June 2013	AYC11
Sub total				\$12,060.00		
S94 Administration	6% of total Section 94 charge applicable			\$723.60		AY
TOTAL				\$12,783.60		

- 20** Prior to the issue of any Construction Certificate a Certificate of Compliance pursuant of Section 305 of the *Water Management Act 2000* shall be obtained from Council and provided to the Principal Certifying Authority. This Certificate of Compliance shall be approved by the Principal Certifying Authority as part of any Construction Certificate.

Please refer to the Advice section of consent for additional information on water supply works and contributions.

- 21** 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.

- 22** Prior to the issue of any Construction Certificate details demonstrating full compliance with all General Terms of Approval shall be provided to the Principal Certifying Authority for approval. These details shall be approved by the Principal Certifying Authority as part of any Construction Certificate.

- 23** 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.

- 24** 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.

- 25** 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) m<sup>2</sup>.

- 26** Prior to the commencement of any works all construction areas shall be clearly delineated to minimise the construction 'footprint'.
- 27** 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 20 persons (or part of 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.
- 28** Prior to the commencement of any works all controls shall be in place in accordance with the approved Erosion and Sediment Control Plan.
- 29** Prior to the commencement of any works any trees within the vicinity of the work site that has not been approved for removal shall be protected by a fence so as to prevent damage and minimise disturbance to existing ground conditions within the drip line of the trees. The fence shall be constructed:
- a) With a minimum height of 1.2 metres;
  - b) Outside the drip line of the tree/s;
  - c) To adequately separate the tree/s from the works; and
  - d) Include no barbed wire.

The fence shall be maintained for the duration of all works.

- 30** Prior to the commencement of any works the Aboriginal midden shall be protected by a fence as shown on the approved plan. The fence shall be constructed:
- a) With a minimum height of 1.2 metres;
  - b) Not less than ten (10) metres from the midden;
  - c) To adequately separate the midden from the works; and
  - d) Include no barbed wire.

The fence shall be erected so as to prevent any damage or modification to any trees. In the event the fence would intersect a tree, the fence shall be moved further from the midden as necessary to preserve the tree and prevent any damage to the tree.

The fence shall be maintained for the duration of all works.

- 31** Prior to the commencement of any works all contractors and workers shall be advised of their legal obligations with regard to Aboriginal cultural materials. This advice should be given to the contractors and workers in writing and a copy forwarded to Department of Energy and Climate Change (DECC) Northern Aboriginal Heritage Unit (Coffs Harbour) and the Kempsey Local

**Aboriginal Lands Council (LALC) for their records. Should any material evidence thought to be of Aboriginal origin be discovered or exposed during any stage of the development, work must cease in that locality. Department of Energy and Climate Change and Water (DECCW), Kempsey LALC and the Figtree Estate Community should be contacted for management advice and clearance given by these organisations before work resumes in the subject area.**

- 32 To ensure that Aboriginal burials are not accidentally uncovered, both the Kempsey Local Aboriginal Lands Council and Figtree Aboriginal Community representatives shall be engaged to monitor all earthworks and vegetation clearing works associated with this development.**
- 33 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.**
- 34 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 7:00 am to 6:00 pm.**
  - b) Saturday, from 8:00 am to 1:00 pm.**
- No construction work is to take place on Sundays or Public Holidays.**
- 35 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 shall not exceed the background level by more than 20 dB(A); or**
  - 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 shall not exceed the background level by more than 10 dB(A).**
- 36 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.**
- 37 If any excavation extends below the level of the base of the footings of any building, the person causing the excavation to be made:**
- a) Must preserve and protect the adjoining building from damage;**
  - b) If necessary, must underpin and support the building in an approved manner; and**
  - c) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining**

**allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.**

**The owner of any adjoining allotment of land, public road or any other public place is not to be held liable for any part of the cost of work carried out, whether carried out on the allotment of land being excavated or on the public road, any other public place or the adjoining allotment of land.**

- 38 A visual inspection of any tree over 15cm diameter at breast height (DBH) for fauna (including nesting fauna) shall be made by a suitably qualified ecological consultant prior to felling. Any fauna utilising trees required to be felled shall be allowed to voluntarily move on prior to removal of the tree.**
- 39 All tree removal shall be carried out by a suitably qualified and experienced person using directional tree-felling techniques so as not to damage any retained trees. Details of the proposed method shall be provided to Council, prior to commencement of any works. All works shall comply with the provisions of Australian Standard Protection of Trees on Development Sites AS-4970-2009.**
- 40 A survey certificate prepared by a registered surveyor is to be submitted to the Principal Certifying Authority upon completion of the floor slab formwork, before concrete is poured, to ensure all buildings will be constructed with a minimum finished floor level of RL 3.37 metres AHD in accordance with this development consent.**
- 41 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.**
- 42 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 Council 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.**

- 43 Water efficient devices, with a AAA rating, must be installed throughout the building, including:**
- a) Pressure limiting valves;**
  - b) Dual flush toilet systems, and**
  - c) Water efficient shower nozzles.**

**All new hot water systems are to have a minimum rating of 3.5 stars.**

- 44** 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 submitted to the Principal Certifying Authority demonstrating that Council is satisfied that any and all required works within the road reserve have been completed in full. Council shall not issue such written evidence until it is satisfied that all required works have been completed in full in accordance with an approval under Section 138 of the *Roads Act 1993* and all accompanying approved plans and details.
- 45** 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 required water, sewer and stormwater works (including all works required by relevant approvals under Section 68 of the *Local Government Act 1993*) have been completed in full. Council shall not issue such written evidence until it is satisfied that 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.
- 46** Prior to the occupation/use of any part of the development and/or the issue of any Occupation Certificate, all landscaping shown on the approved plans shall be completed in full.
- 47** Prior to the occupation/use of any part of the development and/or the issue of any Occupation Certificate, all fences required by this consent to protect trees in the vicinity of the works shall be removed. No fences shall be removed until all works (including any rectification works) have been completed.
- 48** Prior to the occupation/use of any part of the development and/or the issue of any Occupation Certificate, evidence shall be provided to the Principal Certifying Authority demonstrating that all relevant General Terms of Approval have been completed.
- 49** 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.
- 50** 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.

- 51 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.
- 52 An inspection must be undertaken by the local water authority prior to the covering of the works specified below:
  - a) sanitary plumbing and drainage
  - b) potable water supply plumbing
  - c) completion of all plumbing and drainage works
  - d) rainwater supply
  - e) re-claimed water supply

The local water supply authority requires a minimum of 24 hours notice to undertake the inspection. You will need to quote your Development Application number and property description to arrange your inspection.

- 53 Prior to the issue of any Subdivision Certificate, all works associated with rehabilitation of the old school house café building (DA T6-10-432) shall be completed in full, and a final Occupation Certificate issued.
- 54 Prior to the issue of any Subdivision Certificate an application for a Subdivision Certificate shall made on the approved form. The Subdivision Certificate application fees, in accordance with Council's adopted schedule of fees and charges, shall accompany such application. Seven (7) copies of the plan of subdivision shall 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 shall be indicated on one (1) of the copies.

A Section 88B Instrument and one (1) copy are to be submitted with the application for a Subdivision Certificate. The final plan of subdivision and accompanying Section 88B Instrument are to provide for the items listed in the following table:

Item for inclusion in Plan of Subdivision and/or Section 88B Instrument	Details of Item
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Item for inclusion in Plan of Subdivision and/or Section 88B Instrument	Details of Item
Easements and restrictions for bush fire protection purposes	The creation of any appropriate or necessary easements or restrictions to ensure compliance with the "General Terms of Approval" issued by the NSW Rural Fire Service, as provided by this consent. The instrument shall burden proposed allotments as is appropriate, to the satisfaction of Council. The instrument shall identify Council as the sole party to vary the restriction.
	An easement shall also be created in favour of proposed Lot 2332 over proposed Lot 2331 to allow for the establishment and maintenance of an APZ in conjunction with the future development of Lot 2332.
Rights of carriageway	<p>The creation of any necessary rights of carriageway to achieve legal and practical access over approved Lot 2332 to approved Lot 2331.</p> <p>The creation of a right of carriageway to achieve legal public access over approved Lot 2332 and approved Lot 2331. This right of carriageway shall be directly adjacent and parallel to approved driveway, and shall be not less than 2 metres wide.</p> <p>The instruments shall be to the satisfaction of Council, and shall benefit and burden propose allotments and parties as is appropriate, to the satisfaction of Council.</p>
	Creation of a right of way over Lots 2331 and 2332 of sufficient width and configuration so as to facilitate the construction of a pedestrian access way connecting from Gregory Street to Buchanan Drive.
Easements for services	The creation of any necessary easements for services. The instrument shall benefit and burden proposed allotments and parties as is appropriate, to the satisfaction of Council.

- 55 Prior to the issue of any Subdivision Certificate a certificate from a registered surveyor shall be submitted to Council certifying that all pipelines, structures, access driveways and/or services are located wholly within the relevant easements.
- 56 Prior to the issue of any Subdivision Certificate written evidence from the electricity supply authority (which is Essential Energy at the time this consent was issued) stating that satisfactory arrangements have been made for the provision of underground electricity supply throughout the subdivision shall be provided to Council.
- 57 Prior to the issue of any Subdivision Certificate written evidence from the telecommunication authority (which is Telstra at the time this consent was issued) stating that satisfactory arrangements have been made for the provision of underground telephone supply throughout the subdivision shall be provided to Council.

- 58 Prior to the issue of any Subdivision Certificate evidence shall be provided to Council demonstrating that all relevant General Terms of Approval have been completed.
- 59 No part of the approved dwelling shall be used for any form of tourist or visitor accommodation at any time.
- 60 All landscaping as shown on the approved plans shall be maintained in a neat and tidy manner at all times.
- 61 All car parking areas shown on the approved plans shall be maintained and reserved for car parking at all times.
- 62 Any future fencing around or within the site shall include no barbed wire on the top or bottom strands.
- 63 The approved Tree Management Plan, Landscape Plan, Vegetation and Fuel Management Plan, Waste Minimization Report, and Schedule of Finishes shall be complied with at all times.
- 64 A 10 metre wide APZ in a forested landscape cannot support both an inner and an outer protection zone. Therefore, the entire APZ must be treated as an inner protection zone. Fuel reduction activities would be required to ensure that:
- a) Ground fuels (dead vegetation up to 6mm diameter) are removed regularly;
  - b) Grass is kept short and green;
  - c) Tree canopies are pruned/removed such that crowns are separated by two to five metres (including from the dwelling structures); and
  - d) Shrubs and understorey is removed such that coverage of no more than 20% of the APZ area is achieved. Retained vegetation should be clumped into islands to maximize breaks in the understory layer.
- 65 The following conditions of consent have been imposed by the NSW Rural Fire Service as "general terms of approval" under Section 91 of the *Environmental Planning and Assessment Act 1979* and the *Rural Fires Act 1997*, and shall be complied with at all times:
- a) The development proposal is to comply with the subdivision layout identified on the drawing prepared by Hadlow Design Services numbered Site Plan (Plan No.50946MNGR), dated 18 December 2012.

#### **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. To achieve this, the following conditions shall apply:



- b) At the commencement of construction and in perpetuity the property around the proposed manager's residence for a distance of 19 metres or to the property boundary, whichever is the lesser, 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'.

#### **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 a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

- c) Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
- d) Where the rear or most distant part of the manager's residence is greater than 70 metres from the nearest hydrant, a new hydrant is required to be installed as per Australian Standard AS 2419.1- 2005 'Fire Hydrant Installations'. Locations of fire hydrants are to be delineated by blue pavement markers offset 150mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located. Alternatively, an onsite 10,000 litre water supply shall be provided for fire fighting purposes. The onsite supply shall be fitted with a 65mm and a 125mm metal Storz outlet operated by a gate or ball valve.

#### **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. To achieve this, the following conditions shall apply:

- e) Where the manager's residence is located greater than 70m from a reticulated water hydrant, the property access road shall comply with section 4.1.3 (2) of 'Planning for Bush Fire Protection 2006'.

#### **Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- f) Construction of the manager's residence shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection'.

#### **Landscaping**

- g) Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

<b>ADVICE</b>
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- a) Certain additional approvals and action is required 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) Prior to the issue of any Construction Certificate a Certificate of Compliance pursuant of Section 305 of the *Water Management Act 2000* shall be obtained from Council and submitted to the Principal Certifying Authority.

A Certificate of Compliance shall be issued by Council when all contributions are paid in full and all infrastructure necessary to service the development has been completed in full.

Contributions set out in the following table are to be paid to Council prior to the issue of any Certificate of Compliance. Contributions are levied in accordance with Council's Kempsey Shire Council Macleay Water DSP for Water dated July 2006. The Plans may be viewed during office hours at Council's Offices.

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment. Payments will only be accepted by cash or bank cheque.

The Certificate of Compliance under Section 306 of the *Water Management Act 2000*, identifying payment of the contributions, is

to be provided to the Principal Certifying Authority prior to the issue of any Construction Certificate.

Public service	No. of Equivalent Tenements	Contribution Rate (Amount per ET)	Contribution Levied	Date until which Contribution rate is applicable	Office Use Only Receipting Codes
Water	1 ET	\$8,797.00	\$8,797.00	30 June 2013	AW
Sewer	1 ET	\$7,421.00	\$7,421.00	30 June 2013	AS
TOTAL			\$16,218.00		

- c) 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*.
- d) 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* may be required to be made to the NSW Catchment Management Authority prior to the clearing of any native vegetation.

It is noted that there are exemptions under the *Native Vegetation Act 2003* for removal of vegetation near boundaries, which may apply to trees identified by DCP – Old School Site as T11, T22, T24, etc. Please note that any such exemptions apply ONLY to the *Native Vegetation Act 2003*, and do NOT apply to the *Environmental Planning and Assessment Act 1979*. Further development consent must be obtained from Council prior to the removal of any trees other than those explicitly permitted by this development consent.

In addition, if the proposal could affect any *Environmental Protection and Biodiversity Conservation Act 1999* listed threatened 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).

C 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	Williams	F				

**Councillor Shields returned to the Chamber.**

**1.4 Proposed Telecommunication Tower Dondingalong File: T6-12-296**

1211	RBP
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**SUMMARY**

Reporting that Council has received a Development Application for the construction of a 42 metre telecommunications tower at Dondingalong for which objections has been received.

Applicant: Aurecon Australia Pty Ltd  
Subject Property: Lot 31 DP771054 1 Bottle Tree Lane, Dondingalong  
Zone: 1(a1) (Rural "A1" Zone)

**2013. 165 RESOLVED:**

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

**That this item be listed for a Works Committee Inspection.**

**A Division resulted in the following votes.**

**F = Voted For  
A = Voted Against**

<b>Campbell</b>	<b>F</b>	<b>Green</b>	<b>F</b>	<b>Kesby</b>	<b>F</b>	<b>McGinn</b>	<b>F</b>	<b>Morris</b>	<b>F</b>
<b>Patterson</b>	<b>F</b>	<b>Saul</b>	<b>F</b>	<b>Shields</b>	<b>F</b>	<b>Williams</b>	<b>F</b>		

**COMMITTEE OF THE WHOLE**

**2013. 166 RESOLVED:**

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

**That Council move into Committee of the Whole for discussions related to item 1.6 - Draft Comprehensive Kempsey Standard Local Environmental Plan (Draft K LEP 2012).**

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**2013. 167 RESOLVED:**

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

**That the Council Meeting be resumed.**

**1.6 Draft Comprehensive Kempsey Standard Local Environmental Plan (Draft K LEP 2012) File: T5-06-03**

1211	RBP
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**SUMMARY**

Reporting on the Public Exhibition of the Draft Kempsey LEP 2012.

2013. 168 RESOLVED:

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

- 1 That the changes to the Draft Kempsey Local Environmental Plan 2012 as detailed in the report be endorsed with the exception of changes to R5 in respect of permissability for tourist facilities.
- 2 That the issue of permissability of tourist facilities in R5 zones be placed on public exhibition for a minimum period of 28 days.
- 3 That the revised Draft Kempsey Local Environmental Plan 2012 be forwarded to the Department of Planning and Infrastructure requesting that the Minister make the plan.
- 4 That the proponents of the land at Grassy Head be advised of the correct process for the review of their zone.

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		

**1.7 Draft Local Growth Management Strategy Rural Residential Component** **File: 848**

1211	RBP
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**SUMMARY**

Reporting that a Draft Kempsey Rural Residential Land Release Strategy has been prepared, for which Council’s endorsement is sought for the purposes of public exhibition.

2013. 172 RESOLVED:

*Moved: Cl. Morris  
Seconded: Cl. Shields*

- 1 That the Draft Kempsey Rural Residential Land Release Strategy be placed on public exhibition.
- 2 That Council conduct a workshop to allow further discussion on this draft Strategy.

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		