

Ref: D16/35878, T6-16-293, LA 31574  
SRR:NMD

23 December 2016

WOODMAN ARCHITECTS  
SUITE 703, 20 LOFTUS STREET  
SYDNEY NSW 2000

Dear Sir/Madam

**DEVELOPMENT APPLICATION T6-16-293: CINEMA  
PROPERTY: LOT 1 DP1129009 2-14 BELGRAVE STREET KEMPSEY**

Please find appended a Notice to Applicant of Determination of a Development Application.

It is strongly recommended that prior to commencing any work associated with this consent that you read the conditions carefully.

Should you have any further inquiries please contact Council's **Town Planner – Shane Reinhold** on 6566 3200.

Yours faithfully



Shane Reinhold  
TOWN PLANNER  
SUSTAINABLE ENVIRONMENT

**PLEASE NOTE:**

When making enquiries concerning this application, please quote our reference number, which will enable us to expedite your enquiry.



## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Issued under the *Environmental Planning and Assessment Act 1979* Section 81 (1)(a)

### DEVELOPMENT APPLICATION

**Development Application Number: T6-16-293**

**LA 31574**

**Date lodged with Council:**

**15 September 2016**

Applicants Name:	WOODMAN ARCHITECTS
Applicants Address:	SUITE 703, 20 LOFTUS STREET SYDNEY NSW 2000
Builder's Name:	UNKNOWN
Builder's Address:	UNKNOWN
Owners Name:	GOWING BROS LTD
Owners Address:	UNIT 21/26-32 PIRRAMA ROAD PYRMONT NSW 2009
Land to be Developed - address:	Lot 1 DP1129009 2-14 BELGRAVE STREET KEMPSEY
Proposed Development:	CINEMA
Zone No:	B3 - COMMERCIAL CORE

Determination made on:	23 December 2016
Determination:	<b>Consent granted subject to conditions described below</b>
Consent to operate from:	23 December 2016
Consent to lapse on:	23 December 2021

Have General Terms of Approval been granted by an Approval Body pursuant to Section 93 of the Environmental Planning and Assessment Act 1979:-

No - Granted by NSW Rural Fire Service - Condition 14 of Development Consent.



The following conditions have been imposed in accordance with the requirements of Section 80A of the *Environmental Planning and Assessment Act 1979* having regard to the relevant matters identified under Section 79C of the Act.

### PARAMETERS OF THIS CONSENT

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

Plan No./ Supporting Document	Version	Prepared by	Dated
Job No: Project 1605 (Drawing AE-000) Cover Sheet	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AE-032) Existing Basement Carpark	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AE-033) Existing Groundfloor Area	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AE-034) Existing Level One	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AP-111) Proposed First Floor	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AP-112) Proposed First Floor Plan_Upper Cut	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AP-113) Proposed Mezzanine Level	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AP-114) Sections	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AP-115) Cinema 1	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AP-116) Cinema 2	D	Woodman Architects	28/11/2016

Job No: Project 1605 (Drawing AP-117) Cinema 3	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AP-118) Cinema 4	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AP-119) Elevations	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AP-120) Proposed Roof Plan	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AP-121) Shadow Diagrams	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AP-122) Perspectives	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AP-123) FSR Calculation	D	Woodman Architects	28/11/2016
Job No: Project 1605 (Drawing AP-124) Sections	D	Woodman Architects	28/11/2016
KEMPSEY CENTRAL CINEMA ADDITION DEVELOPMENT APPLICATION (REV C) Statement of Environmental Effects	C	Woodman Architects	26/10/2016

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 shall be kept on site at all times while work is being undertaken.

- Any 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** If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- a) Protect and support the building, structure or work from possible damage from the excavation; and
- b) Where necessary, underpin the building, structure or work to prevent any such damage.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

**4** This consent does not approve any signage, including the lettering on the glass curtain walling (sheet AE-000). A separate development application is required to be submitted for any signage.

**5** The development shall comply with the *Disability (Access to Premises) Standards 2010*.

**6** 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 (PCA).

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

**7** The double glazed curtain wall façade is to remain a key element of the building façade and is to be included in the construction detail. Any variation of or from this feature is to be subject to a S96 modification to the consent authority.

**8** Prior to the issue of any Construction Certificate, structural engineer's certification for all proposed works shall be provided to the Certifier. This structural engineer's certification shall be prepared by an appropriately qualified, experienced and practicing Engineer. This structural engineer's certification shall certify that the proposed design is suitable for the intended purpose/s. This structural engineer's certification shall be included as part of any Construction Certificate.

**9** Prior to the issue of any Construction Certificate, a Traffic Control Plan shall be submitted to the Certifier for approval. This Traffic Control Plan shall be prepared by an accredited person trained in the current version of RTA *Traffic Control at Work Sites* manual in accordance with the current requirements of the Roads and Traffic Authority's Manual, *Traffic Control at Work Sites*, and Australian Standard



1742.3, *Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'*.

- 10** Prior to the issue of any Construction Certificate fire safety details in accordance with Division 2 of Part 9 of the *Environmental Planning and Assessment Regulation 2000* shall be provided to the Certifier for the preparation of a Fire Safety Schedule. These details shall be prepared by an appropriately qualified person and shall include sufficient information for the Certifier to prepare and issue a Fire Safety Schedule. These details shall specify current and proposed fire safety measures and nominate standard of performance, and identify each Fire Safety measure that is/are Critical Fire Safety Measures and the intervals at which supplementary fire safety statements shall be given to the Council in respect to each such measure. A Fire Safety Schedule shall be issued by the Certifier as part of any Construction Certificate.
- 11** Prior to the issue of any Construction Certificate, a Long Service Levy shall be 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.
- 12** The building materials used on the facades of the building(s) shall have a maximum normal specular reflectivity of visible light of 20 per cent and shall be designed so as not to result in glare at nearby properties and/or that causes discomfort or threatens the safety of pedestrians or drivers. A report /statement demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.
- 13** Prior to the issue of any Construction Certificate that includes any works on and/or connection to any sewerage and/or water infrastructure, the relevant approval/s under Section 68 of the Local Government Act 1993 shall be obtained from Council. These approvals shall be included by the Certifier as part of the relevant Construction Certificate.
- 14** Prior to the issue of any Construction Certificate a Certificate of Compliance pursuant to Section 305 of the Water Management Act 2000 shall be obtained from Council and provided to the Certifier.
- 15** Hoardings shall only be erected within the road reserve in accordance with a Section 138 approval obtained from Council. In addition to any condition of the Section 138 approval, the following hoarding requirements shall be complied with:
  - a) No third party advertising is permitted to be displayed on the subject hoarding/fencing;
  - b) The construction site manager shall be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its application.



**16** Pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979* and the Section 94 Development Contributions Plans listed in the table below, a monetary contribution in accordance with the Schedule of Contributions below, shall be paid to Council prior to the commencement of the use of the premise for any use permitted by this consent.

The contribution has been assessed pursuant to section 94 of the *Environmental Planning and Assessment Act 1979* and the Section 94 Development Contributions Plans listed in the table below, after identifying that this development will or is likely to require the provision of or increase the demand for public amenities and public services within the area.

### Section 94 Development Contributions Plans

The specific public amenity or service in respect of which the condition is imposed:	The s 94 Contributions Plan under which the condition is imposed:	Date of s 94 Contributions Plan:
Town Centre Domain	Kempsey Town Centre Public Domain Section 94 Developer Contribution Plan	2 Aug 2010
Project Administration	Section 94 – Project Administration	10 Aug 2007

The above plans may be viewed during office hours at Council Offices located at 22 Tozer Street, West Kempsey or on Council's website at [www.kempsey.nsw.gov.au](http://www.kempsey.nsw.gov.au)

### Schedule of Contributions

Public amenity or service	Unit type	No. of units	Contribution rate (amount per unit)	Contribution levied	Date until which contribution rate is applicable	Receiving code Office use only
Public Domain	m <sup>2</sup>	923	\$149.00	\$137,527	30 June 2017	APD
Sub total				\$137,527		
Project Administration		6% of total s 94 charge applicable		\$ 8,251.62	30 June 2017	AY
<b>TOTAL</b>				\$ 145,778.62		

PLEASE NOTE:- The amount to be paid will be adjusted at the time of actual payment, in accordance with the provisions of the relevant Section 94 Development Contributions Plans listed in the table above and if applicable, the *Kempsey Shire Council Procedure 1.1.17 - Developer Contributions Moratorium - Townships of Kempsey and Frederickton*. The amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment. The applicable contribution rates for specific dates can be obtained by contacting Council during office hours.



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

- 17** 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.
- 18** Prior to the commencement of any works on the site, a Construction Environmental Management Plan (CEMP) prepared in accordance with the *Guideline for the Preparation of Environmental Management Plans* (Department of Planning and Infrastructure) shall be submitted to, and approved by, the Principal Certifying Authority. This CEMP must address (as minimum) construction traffic, construction waste, hoardings etc.

This CEMP must not include works that have not been explicitly approved in the development consent. In the event of any inconsistency between the consent and the CEMP, the consent shall prevail.

The Applicant shall submit a copy of the approved CEMP to Council prior to commencement of work.

- 19** 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>.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING ANY WORKS

- 20** Works must not unreasonably interfere with the amenity of the neighbourhood. In particular noise, when audible at any residential premises, can only occur:
- a) Monday to Friday, from 7:00am to 6:00pm.
  - b) Saturday, from 8:00am to 4.00 pm
  - c) No work is to take place on Sundays or Public Holidays.
  - d) works may be undertaken outside these hours where:
    - i) Delivery of vehicles, plant or materials is required outside these hours by the Police or other authorities





- ii) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- ii) a variation is approved in advance in writing by the General Manager or his nominee.

**21** 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).

**22** Vibration shall be in accordance with *Environmental Noise Management Assessing Vibration: a Technical Guideline* (Department of Environment and Conservation, 2006).

**23** Works must not interfere in any way with the continued operation of the street, adjoining premises, public car parking areas, pedestrian walkways, etc., unless such interference is authorised by an approved Traffic Control Plan and/or an approval under Section 138 of the *Roads Act 1993* to erect and maintain hoardings.

**24** All demolition works shall be undertaken in accordance with the provision of *Australian Standard AS 2601 – The Demolition of Structures*.

All demolition waste shall be removed from the site and disposed of at an authorised waste transfer facility. Council requires the waste transfer facility receipts for disposal be retained and submitted to Council at the finalisation of demolition works.

Any asbestos wastes or suspected asbestos wastes associated with demolition works shall be disposed of in accordance with the requirements of "*Working with Asbestos Guide 2008*", the *Occupational Health and Safety Act 2000*, the *Occupational Health and Safety Regulations 2008*, and any other guidelines or requirements. All asbestos waste removal work shall be undertaken by a WorkCover licensed operator.

Until transferred to an authorised waste transfer facility all demolition waste shall be contained on the site in a 'Builders Skips' or an enclosure. Footpaths, road reserves and public reserves are to be maintained clear of waste materials and all other items associated with the works at all times.

**25** All builders rubbish is to be contained on the site in 'Builders Skip' or an enclosure. Building materials are to be delivered directly onto the lease site. Roads, taxiways, airstrips, etc., are to be maintained clear of rubbish, building materials and all other items at all times.



- 26** All erosion and sediment controls shall be maintained at all times in until the site has been stabilised by permanent vegetation or hard surface.
- 27** A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal at the request of any officer of the PCA, Council, and/or any other Government Agency.

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

- 28** Prior to the issue of any Construction Certificate, structural engineer's certification for all works shall be provided to the Principal Certifying Authority. This structural engineer's certification shall be prepared by an appropriately qualified, experienced and practicing Engineer. This structural engineer's certification shall confirm that all works are completed to a standard suitable for the intended purpose/s. This structural engineer's certification shall be included as part of any Construction Certificate.
- 29** External finishes to be completed to a high standard, including but not limited to fully meeting the manufacturers specification for installation.
- 30** The cost of repairing any damage caused to Council or other Public Authority's assets, in vicinity of the site and/or as a result of construction works associated with the approved development, is to be met in full by the applicant/developer.

POST OCCUPATION

The hours of operation of the Cinemas shall be 10am – 9.30pm (last screening) daily including week ends. Special event screenings /activities outside those hours to occur no more than 52 times per year.

- 31** Basement car parking to remain available to other users and is not permitted to be sectioned off or sign posted exclusively for Cinema usage, patrons and/or staff.
- 32** Noise associated with the operation of any plant, machinery or other equipment on the site, shall not exceed 5dB(A) (Leq) above the background noise level when measured at the boundary of the Site.
- 33** Completion and maintenance of the glazed curtain wall system and external finishes to a high standard. Maintenance program is to ensure long term safety & suitability for purpose, visual amenity and quality presentation.
- 34** Installation and ongoing maintenance of safety and crime prevention measures required by NSW Police including:
  - a) Sufficient lighting in complex carpark to eliminate any shadows/dark spots.
  - b) Good quality CCTV to cover all areas of the carpark.
  - c) Security patrols throughout carpark area during the hours of darkness especially when patrons are exiting cinemas.

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:
- a) Obtain a Construction Certificate prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a *Construction Certificate*. An accredited certifier must obtain Council's approval to certain conditions of this development consent, where indicated before issuing the Construction Certificate.
  - b) Nominate a *Principal Certifying Authority (PCA)* which may be either Council or an accredited certifier and notify Council of that appointment. You cannot lawfully commence works without complying with this requirement.
  - c) Give Council at least two (2) days notice of your intention to commence the erection of a building before commencing construction works 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.
  - d) Obtain an *Occupation Certificate* before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign 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** This consent requires a Certificate of Compliance under the Water Management Act 2000 to be obtained prior to the issue of any Construction Certificate.

A person may apply to Kempsey Shire Council, as the water supply authority, for a Certificate of Compliance pursuant to Section 305 of the *Water Management Act 2000*. An application form is available from Council's website [www.kempsey.nsw.gov.au](http://www.kempsey.nsw.gov.au) or at Council Offices located at 22 Tozer Street, West Kempsey.

Please be advised that as a precondition to the granting of a Compliance Certificate, all infrastructure works to serve the development as listed in the Schedule of Works below must be completed to the satisfaction of Council, and a monetary contribution in accordance with the following Schedule of Contributions must be paid in full.

Schedule of Works

- Any works necessary to adequately service the proposal with water supply and sewer drainage infrastructure



Schedule of Contributions

Public service	No. of equivalent tenements (ET)	Contribution rate (amount per ET)	Contribution levied	Date until which contribution rate is applicable
Water	3.234	\$9,570.00	\$30,949.38	30 June 2017
Sewer	5.121	\$8,073.00	\$41,341.83	30 June 2017
<b>TOTAL</b>			<b>\$72,291.21</b>	

Contributions are levied in accordance with the *Kempsey Shire Council Macleay Water Development Servicing Plans for Water Supply Services* (July 2006) and the *Kempsey Shire Council Macleay Water Development Servicing Plans for Sewerage Services* (July 2006).

PLEASE NOTE:- The amount to be paid will be adjusted at the time of actual payment, in accordance with the provisions of the above mentioned development servicing plans and if applicable, the *Kempsey Shire Council Procedure 1.1.17 – Developer Contributions Moratorium – Townships of Kempsey and Frederickton*. The amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment. The applicable contribution rates for specific dates can be obtained by contacting Council during office hours.

**C Responsibility for other consents / agreements**

The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

**D Right of Appeal**

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

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

Signature:

Shane Reinhold  
TOWN PLANNER  
SUSTAINABLE ENVIRONMENT

Date:

23 December 2016