



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

10 August 2010 commencing at 9.00am.

**11 RESCISSION MOTIONS**

**RM1 Dual Occupancy – Belmore River**  
**File: T6-10-98 {Folio No. 432112}**

Goal  Strategy  Responsible Officer

**MOVED :**

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

**That resolution number 2010. 246 from the Ordinary Meeting held 13 July 2010, as printed below:**

**"A That consent be granted subject to the following conditions:**

**PARAMETERS OF THIS CONSENT**

- 1 Development is to be in accordance with approved plans**  
 The development 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.

<b>Plan No./ Supporting Document</b>	<b>Version</b>	<b>Prepared by</b>	<b>Dated</b>
<b>Site Plan B</b>	-	<b>DEX Consulting Pty Ltd</b>	<b>11/3/10</b>
<b>Floor Plan</b>	-	<b>DEX Consulting Pty Ltd</b>	<b>11/3/10</b>
<b>Side Elevations</b>	-	<b>DEX Consulting Pty Ltd</b>	<b>11/3/10</b>
<b>Elevations B</b>	-	<b>DEX Consulting Pty Ltd</b>	<b>11/3/10</b>

**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.

- 2 **Compliance with Building Code of Australia**  
The proposed works must comply with the Building Code of Australia.
- 3 This consent does not permit commencement of any works  
This consent does not permit commencement of any works. Works shall not commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.

**THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS**

- 4 **Structural Certificate for design – BCA**  
Prior to the issue of a Construction Certificate, structural details and a Structural Certificate for Design by a qualified practicing structural engineer and in accordance with Clause A2.2 (a)(iii) of the Building Code of Australia (applicable to Class 2-9 buildings) and Clause 1.2.2 (iii) of Volume 2 of the BCA (applicable to Class 1 and 10 buildings) must be submitted to the satisfaction of Council (where Council is the Certifying Authority).
- 5 **Flood Planning Level for new buildings – structural certification required**  
The application for a Construction Certificate is to include plans and specifications that indicate the building has been designed so that all structural members will be capable of withstanding flood forces and the impact of any flotsam (carried by floodwaters) likely to occur for a range of floods up to and including the probable maximum flood estimated for the site. (Refer to the NSW Government's Floodplain Management Manual for guidance on structural design of buildings in flood prone areas). 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 a 1:100 year flood. For the purpose of this assessment the 1 in 100 year flood level may be assumed to be 4.55m AHD.

The plans and specifications are to be prepared by a suitably qualified and practising engineer. Such plans and specifications must be approved as part of the Construction Certificate.

- 6 **Compliance with BASIX Certificate**  
The Principal Certifying Authority (PCA) is to ensure that the proposed development is constructed in accordance with the requirements of BASIX Certificate No. 303954S, dated 31 March 2010. The Plans submitted for approval with the Construction Certificate shall include all of the BASIX Certificate commitments indicated in this

certificate.

Where changes to the development are proposed that may affect the water, thermal comfort or energy commitments, a new BASIX Certificate may be required.

- 7 Acid sulfate soil assessment required**  
A Construction Certificate shall not be issued until an acid sulfate soil assessment has been undertaken, the assessment has been submitted to Council for approval and Council has approved any measures needed for the management of those soils. This assessment shall be in accordance with *Development Control Plan No. 30 – Acid Sulfate Soils* and the *Acid Sulfate Soil Manual (NSW ASSMAC 1998)*.
- 8 Water Supply Section 68 approval required**  
An approval under Section 68 of the Local Government Act 1993 to carry out water supply work shall be obtained from Council. All water design shall be endorsed by the Manager of Macleay Water.
- 9 On-site sewage management facility Section 68 approval required**  
Prior to the issue of a Construction Certificate, an approval under Section 68 of the Local Government Act 1993 for on-site effluent disposal shall be obtained from Council. The application is to include details and plans of the upgrading of the existing treatment unit and disposal area, allowing for the increased capacity of five (5) bedrooms. The proposal is to comply with the requirements of Australian Standard *AS 1547-2000: On-site Domestic-Wastewater Management* and any other relevant guidelines.
- 10 Application for a Certificate of Compliance**  
Submission of an application for a Certificate of Compliance pursuant of Section 305 of the Water Management Act 2000 and the lodgement of a Certificate of Compliance indicating that the requirements of Section 306 of the Water Management Act 2000 have been met, prior to the issue of the Construction Certificate.

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

- 11 Date of Commencement**  
Council shall be notified of the commencement of works not less than two (2) days prior to any works commencing. The two (2) day notification to Council must be in writing and specify the date of commencement.
- 12 Public liability insurance**  
The developer and/or contractor must produce evidence to the Principal Certifying Authority of public liability

insurance cover for a minimum of \$10 million. Council is to be nominated as an interested party on the policy.

**13 Site construction sign required**

A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:

- a showing the name, address and telephone number of the principal certifying authority for the work;
- b showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1)m<sup>2</sup>.

**14 Erosion and sediment measures in accordance with Council's guidelines**

Erosion and sedimentation controls are to be in place in accordance with the Council's adopted standard.

**Note: Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.**

**15 Toilet facilities**

Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

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

**16 Construction times**

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

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

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

- 17 Limiting construction noise**  
Construction noise is to be limited as follows:
- a For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
  - b For construction periods greater than four (4) weeks and not exceeding twenty six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).
- 18 Survey of building floor height required**  
A survey certificate prepared by a registered surveyor is to be submitted to the Principal Certifier upon completion of the floor slab formwork, before concrete is poured, to ensure the buildings ground floor level will be constructed at or no more than 100mm above 5.05 metres AHD in accordance with the development consent.
- 19 Plumbing Standards and requirements**  
All Plumbing, Water Supply and Sewerage Works are to be installed and operated in accordance with the Local Government Act 1993, the NSW Code of Practice for Plumbing and Drainage and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications.
- 20 Builders rubbish to be contained on site**  
All builders rubbish is to be contained on the site in a 'Builders Skip' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.
- 21 Maintenance of sediment and erosion control measures**  
Sediment and erosion control measures must be maintained at all times in accordance with Council's adopted standard until the site has been stabilised by permanent vegetation cover or hard surface.
- Note: Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.**
- THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO OCCUPATION OF THE BUILDING**
- 22 Water to be connected**  
Water supply shall be connected to the premises in accordance with the approval granted under Section 68 of the *Local Government Act 1993*.
- 23 Rural stormwater disposal**

**Stormwater shall be collected and disposed of in a controlled manner such that stormwater flows are:**

- a clear of buildings and infrastructure;**
- b clear of effluent disposal areas;**
- c not concentrated so as to cause soil erosion;**
- d not directly to a watercourse; and**
- e not onto adjoining land.**

- 24 On-site effluent management system must be completed**  
The on-site effluent management system shall be completed in accordance with approved plans and current specifications and standards. The system shall not be used and/or operated until a Council Officer has inspected the system and authorised its use.
- 25 Fire detection and alarm system required**  
A fire detection and alarm system shall 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 1b building.
- 26 Works to be completed**  
All of the works shown on the plans and granted by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate.
- 27 Rectification of any damages**  
The final Occupation Certificate will not be issued until 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 etc. Evidence is to be 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.
- 28. Occupation Certificate to be submitted**  
An Occupation Certificate must be obtained from the Principal Certifying Authority and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.
- 29 That payment of contributions be required in accordance with Council's Section 94 and Section 64 Contribution Plans and Council's Developer Servicing Plan."**

**be rescinded.**

The MOTION was PUT to the Meeting and was LOST.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

Bowell	F	Campbell	A	Green	F	Gribbin	A	Hayes	F	Saul	A
Snowsill	A	Sproule	F	Walker	A						

**1.3.1 Proposed amendment to Kempsey Local Environmental Plan (KLEP) 1987 for a cemetery, funeral chapel, and crematorium**  
File: T5-106 {Folio No. 432125}

Goal  Strategy  Responsible Officer

#### SUMMARY

Reporting that public exhibition has been undertaken for a Draft Local Environmental Plan (LEP) which proposes an amendment to include an enabling clause to permit a Bushland Cemetery, Chapel and Crematorium Facility at Collombatti.

2010. 307 RESOLVED:

*Moved: Cl. Campbell*  
*Seconded: Cl. Hayes*

**DIVISION REQUIRED**

- A. That Council resolve to exercise delegations under section 69 of *Environmental Planning and Assessment Act 1979* and forward a request to the Minister for Planning to make the plan.
- B. That all persons and agencies who were originally notified of the draft LEP on exhibition be advised of Council's decision.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

Bowell	F	Campbell	F	Green	F	Gribbin	F	Hayes	F	Saul	F
Snowsill	F	Sproule	F	Walker	F						

**1.3.2 Draft Local Environmental Plan Amendment No. 108 for proposed Crematorium, Funeral Chapel and Memorial Gardens**  
File: T5-108 {Folio No. 432126}

Goal  Strategy  Responsible Officer

#### SUMMARY:

Reporting that a draft Local Environmental Plan Amendment No. 108 for a

crematorium, funeral chapel and memorial gardens in Everingham Lane, Frederickton has been prepared for Council's endorsement for the purposes of public exhibition.

**2010. 308 RESOLVED:**

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

**DIVISION REQUIRED**

- A. That Council exercise it's delegation under section 65 of the *Environmental Planning and Assessment Act 1979*, granted by the Department of Planning and resolve to issue a Section 65 Certificate to exhibit the draft LEP.**
- B. That the Department of Planning be notified of Council's resolution.**

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

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

Bowell	F	Campbell	F	Green	F	Gribbin	F	Hayes	F	Saul	F
Snowsill	F	Sproule	F	Walker	F						

**1.3.3 Proposed Amendment to Kempsey Local Environmental Plan 1987 (LEP Amendment No. 112)**  
File: T5-112 {Folio No. 432127}

Goal  Strategy  Responsible Officer

**SUMMARY**

Reporting that Kempsey Local Environmental Plan 1987 (KLEP 1987) Amendment No. 112 to rezone land at 56-78 West Street, South Kempsey for industrial purposes has been placed on public exhibition with no objections being raised.

**2010. 309 RESOLVED:**

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

**DIVISION REQUIRED**

**That Council forward draft LEP Amendment No. 112 to the Department of Planning to make the Plan.**

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

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

Bowell	F	Campbell	F	Green	F	Gribbin	F	Hayes	F	Saul	F
Snowsill	F	Sproule	F	Walker	F						



**1.6 Development Approvals & Regulatory Planning Functions**

**1.6.1 Telecommunications Tower File: T6-10-206 {Folio No. 432132}**

Goal  Strategy  Responsible Officer

**SUMMARY**

Reporting on the assessment of a proposed telecommunications tower at 196 Armidale Road, Yarravel which has received objections.

**2010. 312 RESOLVED:** *Moved: Cl. Sproule  
Seconded: Cl. Walker*

**That this matter be deferred until later in the meeting to allow for council to undertake a works inspection.**

**A Division resulted in the following votes**  
**F = Voted For**  
**A = Voted Against**

<b>Bowell</b>	<b>F</b>	<b>Campbell</b>	<b>F</b>	<b>Green</b>	<b>F</b>	<b>Gribbin</b>	<b>F</b>	<b>Hayes</b>	<b>F</b>	<b>Saul</b>	<b>F</b>	<b>Snowsill</b>	<b>F</b>
<b>Sproule</b>	<b>F</b>	<b>Walker</b>	<b>F</b>										

**1.6.2 Extractive Industry – Sand and Gravel Extraction**  
**File: T6-08-255 {Folio No. 432134}**

Goal  Strategy  Responsible Officer

**SUMMARY**

Reporting on a Development Application for an Extractive Industry – Sand and Gravel Extraction and associated screening at 118 Toorooka Road, Willawarrin. The proposal is Designated Development which triggers the provision of the Major Projects State Environmental Planning Policy (SEPP) thus making the Joint Regional Planning Panel (JRPP) the consent authority.

**2010. 313 RESOLVED:** *Moved: Cl. Sproule  
Seconded: Cl. Green*

**That council advise the Joint Regional Planning Panel it has concerns with;**

- the overall impact of extractive industries on the Macleay River
- the truck movements near a primary school at Willawarrin
- the inconsistencies in the EIS in relation to quantities and levels of operation
- the outcomes of the DECCW report on the effects of the extraction on the Macleay River

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

**F = Voted For**

**A = Voted Against**

Bowell	F	Campbell	F	Green	F	Gribbin	F	Hayes	F	Saul	F
Snowsill	F	Sproule	F	Walker	F						

**The following item was deferred from earlier in the meeting to allow council to conduct a works inspection.**

**1.6.1 Telecommunications Tower File: T6-10-206 {Folio No. 432132}**

Goal  Strategy  Responsible Officer

**SUMMARY**

Reporting on the assessment of a proposed telecommunications tower at 196 Armidale Road, Yarravel which has received objections.

**2010. 332 RESOLVED:**

*Moved: Cl. Hayes  
Seconded: Cl. Walker*

- A. That Development Application No. T6-10-206 be approved subject to the following conditions.**
- B. That the objectors be advised of Council's decision.**

**PARAMETERS OF THIS CONSENT**

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

Plan Document	No./ Site	Supporting Layout	Version	Prepared by	Dated
Overall Dwg No. S8082-G2			1	Aurecon	2 Jun 2010
Site Layout And Setout Plan S8082-G3			1	Aurecon	2 Jun 2010
Site Elevation Dwg No. S8082-G4			1	Aurecon	2 Jun 2010

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. Design Changes: Amended plans required**

The design of the development is to be modified as set out in the following table. Amended plans and specifications incorporating the following design amendments must be incorporated in the plans and specifications submitted with the application for a Construction Certificate:

<b>Design Amendment</b>	<b>Reason for Amendment</b>
Revise setback from Armidale Road to be no less than 38 metres from the centreline of the road.	To ensure compliance with the Kempsey Local Environmental Plan 1987

**3. Compliance with Building Code of Australia**

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.

**THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS**

4. This consent does not permit commencement of any works  
This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.
5. Engineer's details  
Structural Engineer's Details for the lattice tower, all antennas, the maintenance shed, the reinforced concrete slab and all cut and fill are to be submitted to Council prior to the issue of a Construction Certificate.
6. Geotechnical Report required – Engineering Works  
A certificate from a professional Geotechnical Engineer is to be provided to the Principal Certifying Authority, certifying that:
  - the design of the civil engineering works, including retaining walls and/or cut and fill batters, has been

**assessed as structurally adequate in accordance with the relevant Australian Standards;**

- **the civil engineering works will not be affected by landslip or subsidence either above or below the works;**
- **adequate drainage has been provided with appropriate considerations given to groundwater constraints.**
- **that the fill will be suitable for its intended purpose of building works.**

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

**7. Date of Commencement**

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

**8. Site construction sign required**

**A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:**

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

**The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m<sup>2</sup>.**

**9. Erosion and sediment measures in accordance with the approved Erosion and Sediment Control Plan**

**Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.**

**Additionally the enclosed sign, to promote the awareness of the importance of maintenance of sediment and erosion controls, is to be clearly displayed on the most prominent sediment fence or erosion control device for the duration of the project.**

**Note: Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.**

**10. Toilet facilities**

**Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of**

20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

11. **Public liability insurance**  
The developer and/or contractor must produce evidence to the Principal Certifying Authority of public liability insurance cover for a minimum of \$10 million. Council is to be nominated as an interested party on the policy.
12. **Consent required for works within the road reserve**  
Consent from Council must be obtained for all works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve. Such plans are to be in accordance with Council's Adopted Engineering Standard.

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

13. **Construction times**  
Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:
  - a. Monday to Friday, from 7 am to 6 pm.
  - b. Saturday, from 8 am to 1 pm.

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

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

15. **Construction dust suppression**  
All necessary works are to be undertaken to control dust pollution from the site.

These works must include, but are not limited to:

- a. restricting topsoil removal;
- b. regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion;
- c. alter or cease construction work during periods of high wind;

d. erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

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

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

**Note:** Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.

**18. No filling around trees**  
No soil or fill material is to be placed within the drip-line of a tree so as to cause changes in surface level by more than 50mm from the existing level and such soil is not to be compacted. Such soil fill must not be finer than that being covered in situ, e.g. clay must not be placed over loam soil.

**THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH AT ALL TIMES**

**19. Demolition of tower upon decommissioning**  
At the completion of the life of the tower (decommissioning of the tower and associated infrastructure) the development will be dismantled or demolished and removed in full from the subject site.

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

**F = Voted For**

**A = Voted Against**

Bowell	<b>F</b>	Campbell	<b>F</b>	Green	<b>F</b>	Hayes	<b>F</b>	Saul	<b>F</b>
Snowsill	<b>F</b>	Sproule	<b>F</b>	Walker	<b>F</b>				