



PLANNING VOTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL 15 FEBRUARY 2011

**1.3.2 Assessment of Flooding – Draft Saltwater DCP
File: T5-55 {Folio No. 444342}**

SUMMARY:

Reporting that clarification is sought as to Council's requirements in respect to a review of the assessment of flooding of the Saltwater development precinct.

MOVED:

*Moved: Cl. Hayes
Seconded: Cl. Snowsill*

That Council seek Expressions of Interest to undertake a peer review of the parameters used in the flood modelling methodology for the 2006 and 2010 Saltwater Flood Study incorporating projected Sea Level Rise due to the effects of Climate Change.

An Amendment was MOVED:

*Moved: Cl. Walker
Seconded: Cl. Gribbin*

That suitably qualified consultants be asked to submit a quote for the following;

- 1 review all the available information relating to:**
 - * the berm heights at Saltwater Creek;**
 - * the flood models presented for "Saltwater Developments" and proposed "Malbec" subdivision;**
 - * the groundwater surveys and modelling for "Saltwater Developments" and the proposed "Malbec" subdivision;**
 - * the potential impact of sea level rise and predicted increased storm events on the barrier dune system at Main Beach on Trial Bay.**

- 2 after reviewing all the information advise Council of:**
 - * the appropriateness of the berm heights used for flood modelling;**
 - * any recommendation for additional flood modelling and the reasons why;**
 - * comment on the appropriateness of the groundwater modelling and provide recommendations for any further survey work;**
 - * provide Council with an assessment of the potential impact sea level rise and increased storm events will have on the barrier dune system and flood hazard within the Saltwater Lagoon catchment**

2011. 74 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

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

1.7.1 Planning Proposal for Residential Rezoning
File: T5-114 {Folio No. 444345}

SUMMARY

Reporting that Council has received a Planning Proposal to rezone land from 1(d) (Rural (Investigation) "D" Zone) to 2(a) (Residential "A" Zone) at Lot 4 DP1124599, North Street, West Kempsey.

2011. 76 **RESOLVED:**

Moved: Cl. Green
Seconded: Cl. Gribbin

That planning proposal T5-114 be forwarded to the Department of Planning for a Gateway Determination pursuant to Section 56 of the Environmental Planning and Assessment Act 1979.

A Division resulted in the following votes

F = Voted For

A = Voted Against

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

1.7.2 Five (5) Lot Subdivision at Fishermans Reach
File: T6-10-200 {Folio No. 444347}

SUMMARY

Reporting that Council has received a Development Application, which includes a *State Environmental Planning Policy No. 1* objection seeking a variation to clause 12 (1)(c) of the *Kempsey Local Environmental Plan 1987*, and to Clause 6.3.5 of the *Kempsey Floodplain Management Strategy Policy*. The proposal is for the subdivision of two (2) allotments into five (5) allotments at Fishermans Reach.

2011. 77 **RESOLVED:**

Moved: Cl. Saul
Seconded: Cl. Walker

A That a variation to the provisions of Clause 12(1)(c) of the *Kempsey Local Environmental Plan 1987* be supported;

B That a variation to the provisions of Clause 6.3.5 of the *Kempsey Floodplain Management Strategy Policy* be supported; and

C 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.

Plan No./ Supporting Document	Version	Prepared by	Dated
PROPOSED SUBDIVISION (Drawing Ref: 51550-02 'F'. dwg)	Amendment No. 'F'	Hadlow Design Services	17 Jan 2011

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 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 MUST BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR SUBDIVISION WORKS

- 3 Engineer's details**
Engineer' details for all internal driveways and all cut and fill shall be submitted to Council prior to the issue of a Construction Certificate. The Engineer's details shall be prepared in accordance with Council's Development Control Plan No. 36. The Engineer's details shall be prepared by an appropriately qualified and experienced Engineer and submitted to Council for approval prior to the issue of a Construction Certificate.
- 4 Sediment and erosion control plan**
Prior to the issue of a Construction Certificate for subdivision works, plans and specifications shall be supplied to Council for approval that indicate the measures to be employed to control erosion and loss of sediment from the site. The sediment and erosion controls shall be designed in accordance with the requirements of the Landcom Blue Book, "Soils and Construction - Managing Urban Stormwater". The sediment and erosion controls shall be prepared by a qualified practising Civil Engineer. All documentation shall be approved by Council prior to the issue of a Construction Certificate for subdivision works.
- 5 Consent required for works within the road reserve**

Consent shall be obtained from Council for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993* prior to the issue of a Construction Certificate for subdivision works. Such plans are to be in accordance with Council's Adopted Engineering Standard. Three (3) copies of engineering construction plans shall accompany the application for consent for works within the road reserve.

- 6 **Section 68 approval required for water supply**
Prior to the issue of a Construction Certificate for subdivision works, approvals under Section 68 of the *Local Government Act 1993* to carry out water supply work shall be obtained from Council. Separate water metres are to be connected to proposed Lot 711, Lot 712, Lot 713, Lot 714 and Lot 715.

- 7 **Section 68 approval required for onsite sewage management systems**
Prior to the issue of a Construction Certificate for subdivision works, approvals under Section 68 of the *Local Government Act 1993* to install upgraded onsite sewage management systems for the existing dwellings on proposed Lot 712 and Lot 714 shall be obtained from Council.

The upgraded onsite sewage management systems for Lot 712 and Lot 714 shall be triple barrier systems (such as secondary treatment systems with membrane filtration, UV disinfection and chlorination, combined with sub-surface irrigation) in accordance with the advice from NSW Department of Industry and Investment.

The upgraded onsite sewage management systems for Lot 712 and Lot 714 shall be located so as not to interfere with any tree root systems.

- 8 **Acid sulphate soils assessment**
Prior to the issue of a Construction Certificate for subdivision works, an acid sulphate soil assessment shall be supplied to Council for approval. The assessment shall provide adequate measures needed for the management of acid sulphate soils on the site during and after construction works, in accordance with *Development Control Plan No. 30 - Acid Sulfate Soils* and the *Acid Sulfate Soil Manual (NSW ASSMAC 1998)*.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO COMMENCEMENT OF SUBDIVISION WORKS AND DEMOLITION WORKS

- 9 **Written notification**
Written notification of intention to commence works shall be submitted to Council seven (7) days prior to the commencement of subdivision works. Notification shall include contact details of the supervising engineer and site contractor.
- 10 **Public liability insurance**
Public liability insurance cover for a minimum of \$10 million is to be provided to the Principal Certifying Authority prior to the commencement of subdivision works. Council is to be nominated as an interested party on the policy.

- 11 Guarantee against damage to surrounding public land**
Prior to the commencement of any demolition work a bond shall be paid to Council as guarantee against damage to surrounding public land and infrastructure during demolition works. The applicant shall be held responsible for the repair of any damage caused to roads, kerb and gutters, footpaths, driveway crossovers or any other Council assets caused as a result of works under this consent.

This bond will be held until Council is satisfied that the infrastructure is maintained/repaired to original condition and that no further work is to be carried out that may result in damage to Council's infrastructure and assets.

The required bond is \$1,500 and is applicable to indexation on 1 July each year.

- 12 Toilet facilities**
Prior to the commencement of subdivision works 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 shall be a toilet connected to an accredited sewage management system approved by the Council.

- 13 Site construction sign required**
Prior to the commencement of subdivision 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 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 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 shall have an area in excess of one (1) m².

- 14 Erosion & sediment measures in accordance with Council's guidelines**
Erosion and sedimentation controls shall be in place in accordance with approved erosion and sediment control plans. Erosion and sediment control shall be maintained at all times until the site has been stabilised by permanent vegetation or hard surface.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH DURING CONSTRUCTION OF SUBDIVISION WORKS AND DEMOLITION WORKS

- 15 Construction times**
Construction works shall not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on residential premises, shall only occur:
- a) Monday to Friday, between the hours of 7:00am and 6:00pm.
 - b) Saturday, between the hours of 8:00am and 1:00pm.
 - c) No construction work shall take place on Sundays or Public Holidays.
- 16 Construction noise**
Construction noise shall 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).
 - 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).
- 17 Maintenance of sediment and erosion control measures**
Sediment and erosion control measures shall be maintained in accordance with the approved erosion and sediment control plans until the site has been stabilised by permanent vegetation cover or hard surface.
- 18 Builders rubbish to be contained on site**
All builders rubbish shall 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 shall be maintained clear of rubbish, building materials and all other items.
- 19 No filling around trees**
No soil or fill material shall 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. Any soil placed within the drip line of a tree shall not to be compacted and shall be finer than that being covered in situ (for example, *clay must not be placed over loam soil*).
- 20 Public safety requirements**
All care shall be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. Council shall not be held responsible for any negligence caused by the undertaking of the works.
- 21 Public liability insurance to be maintained**

The public liability insurance cover shall be maintained for the duration of the period of the works and during any maintenance period.

- 22 Handling, containment and disposal of demolition waste**
All demolition works shall be undertaken in accordance with Australian Standard *AS 2601-2001 - 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 removed, contained and 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 WorkCover Authority 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.

Council requires forty-eight (48) hours notice prior to disposal of any hazardous wastes at Council's waste depot.

The applicant/owner shall produce documentary evidence, by way of the waste transfer station receipts of disposal, that this condition has been met. The demolition bond may be retained until the receipts are produced and submitted to Council.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE

- 23 Plan of Subdivision and Section 88B Instrument requirements**
Prior to the issue of a Subdivision Certificate an application for a Subdivision Certificate shall be 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
Rights of Carriageway	<p>The creation of suitable rights of carriageway over the access handles of proposed Lot 712, Lot 713 and Lot 714, as shown on the approved plan.</p> <p>The instrument over proposed Lot 712 is to benefit proposed Lot 713 and Lot 714 and burden proposed Lot 712.</p> <p>The instrument over proposed Lot 713 is to benefit proposed Lot 712 and Lot 714 and burden proposed Lot 713.</p> <p>The instrument over proposed Lot 714 is to benefit proposed Lot 712 and Lot 713 and burden proposed Lot 714.</p>
Drainage Easements	<p>The creation of easements for drainage of water over all drainage lines located within the proposed allotments as shown on the approved plan. The instrument is to benefit and burden proposed allotments as is appropriate, to the satisfaction of Council.</p>
Onsite Sewage Management Systems	<p>The creation of suitable restrictions as to user requiring the installation of any onsite sewage management systems to be triple barrier systems (such as secondary treatment systems with membrane filtration, UV disinfection and chlorination, combined with sub-surface irrigation) in accordance with the advice from NSW Department of Industry and Investment. The instrument is to benefit Council and burden proposed Lot 711, Lot 712, Lot 713, Lot 714 and Lot 715.</p>
Easement for Electricity	<p>The creation of any necessary easements for electricity purposes as required by the electricity supply authority. The instrument is to benefit the electricity supply authority and burden proposed allotments as is appropriate, to the satisfaction of Council.</p>
Easement for Services	<p>The creation of any necessary easements for water supply services for proposed Lot 711, Lot 712, Lot 713, Lot 714 and Lot 715. The instrument is to benefit and burden proposed allotments as is appropriate, to the satisfaction of Council.</p>
Easements and Restrictions for Bush Fire Protection	<p>The creation of any appropriate or necessary easements or restrictions to ensure compliance with the "General Terms of Approval" issued by</p>

Item for inclusion in Plan of Subdivision and/or Section 88B Instrument	Details of Item
	the NSW Rural Fire Service, as provided by this consent. The instrument is to benefit Council and burden proposed Lot 711, Lot 712, Lot 713, Lot 714 and Lot 715.

- 24 Water to be connected**
Prior to the issue of a Subdivision Certificate water supply shall be completed and connected to Lot 711, Lot 712, Lot 713, Lot 714 and Lot 715 in accordance with an approval granted under Section 68 of the *Local Government Act 1993*.
- 25 Onsite Sewage Management Systems to be installed**
Prior to the issue of a Subdivision Certificate, the approved triple barrier onsite sewage management systems for the existing dwellings on proposed Lot 712 and Lot 714 shall be installed, and approvals to operate gained from Council for both, in accordance with the approvals under Section 68 of the *Local Government Act 1993*.
- 26 Electricity Supply Certificate**
Prior to the issue of a Subdivision Certificate written evidence from an electricity supply authority stating that satisfactory arrangements have been made for the provision of underground electricity supply throughout the subdivision shall be provided to Council.
- 27 Telephone Supply Certificate**
Prior to the issue of a Subdivision Certificate written evidence from Telstra stating that satisfactory arrangements have been made for the provision of underground telephone supply throughout the subdivision shall be provided to Council.
- 28 Contribution to be paid towards provision or improvement of amenities or services prior to the issue of a Subdivision Certificate**
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
Outdoor Recreation	Outdoor Recreation 2001	Sep 2001
Roads and Traffic Infrastructure within Catchment Ten (10)	Local Roads and Traffic Infrastructure Contribution Plan 2009	Jan 2010
Public Domain	Kempsey Town Centre Public Domain Section	Aug 2010

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
	94 Development Contribution Plan	
Stormwater Drainage	Section 94 Contribution Plan for Stormwater Drainage	1992
Section 94 – Project Administration	Project Administration	10 Aug 2007

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

The contributions set out in the following Schedule shall be paid to Council prior to the issue of a Subdivision Certificate. 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
Outdoor Recreation	ET	3.0	\$579	\$1,737	30 June 2011
Roads and Traffic Infrastructure	EP	7.5	\$1,350	\$10,125	30 June 2011
Public Domain	EP	7.5	\$393	\$1,179	30 June 2011
Stormwater Drainage	ET	3.0	\$688	\$2,064	30 June 2011
Sub total				\$15,105	
S94 Administration	6% of total Section 94 charge applicable			\$906.30	30 June 2011
TOTAL				\$16,011.30	

Note: The above "unit types" are ET (equivalent tenancy) and EP (equivalent persons). See the relevant contribution plan for further information.

29 Certification of Compliance

Prior to the issue of a Subdivision Certificate a Certificate of Compliance pursuant of Section 305 of the *Water Management Act 2000* shall be submitted to Council. The Certificate of Compliance shall certify that all works and/or contributions required for the approved subdivision have been completed and/or paid.

30 Completion of all works

All civil works required by this development consent shall to be completed prior to issue of Subdivision Certificate. Works shall include restoration, replacement and/or reconstruction of any damage caused to surrounding public infrastructure, including damage to road pavements along any haulage routes used for the construction of the subdivision.

31 NSW Rural Fire Service General Terms of Approval

The following conditions of consent have been imposed by the NSW Rural Fire Service as "general terms of approval" under Section 100B of the *Rural Fires Act 1997*, and shall be complied with prior to the issue of a Subdivision Certificate and in perpetuity:

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:

- 1) At the issue of subdivision certificate 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'.

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:

- 2) Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush fire Protection 2006'.

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:

- 3) Property access roads 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:

- 4) The existing dwellings on proposed Lots 712 and 714 are 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. Where applicable, this includes any sub floor areas, windows able to be open, doors, vents, weep holes and eaves.

General Advice

This approval is for the subdivision of the land only. Any further development application for class 1, 2 & 3 buildings as identified by the 'Building Code of Australia' must be subject to separate application under section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

ADVICE

Access

Please note that Fisherman's Trail is not currently a maintained road. This development consent is issued on the basis that all allotments have legal and practical access from Marine Parade.

Responsibilities under the National Parks and Wildlife Act 1974

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*.

Certificate of Compliance

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

Contributions set out in the following table shall be paid to Council prior to the issue of a 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.

Public service	No. of Equivalent Tenements	Contribution Rate (Amount per ET)	Contribution Levied	Date until which Contribution rate is applicable
Water	3.0 ET	\$8,390	\$25,170	30 June 2011
Sewer	3.0 ET	\$7,078	\$21,234	30 June 2011
TOTAL			\$46,404	

A Division resulted in the following votes

F = Voted For

A = Voted Against

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