



PLANNING VOTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

16 August 2011 commencing at 9.00am.

1.7 Development Approvals & Regulatory Planning Functions

1.7.1 Proposed Multiple Dwellings at South West Rocks File: T6-10-399 {Folio No. 455494}

SUMMARY

Reporting that Council has received a Development Application for two, two storey dwellings on an allotment, for which objections have been received, and which requires a variation to Council's *Development Control Plan No 22*. A Class 1 appeal has been lodged with the Land and Environment Court against Council's deemed refusal and Council is requested to determine the application.

Applicant: Tiprush Pty Ltd
Subject Land: Lot 2 DP1078114 9 Rippon Place,
South West Rocks
Zone: 2(a) (Residential "A" Zone)

2011. 351 RESOLVED:

***Moved: Cl. Green
Seconded: Cl. Gribbin***

That this application be refused for the following reasons;

- 1 it does not meet the standards of the surrounding areas (it is in the middle of such development and not on the edges and therefore impacts considerable on previous developments)**
- 2 there is limited open space within the proposed development**
- 3 increased potential for stormwater in the area impacting on nearby wetlands due to building structures**
- 4 it reduces privacy in the surrounding areas by overlooking private area of surrounding residences**
- 5 from designs received there is limited landscaping within the proposed development**
- 6 large stormwater easement/drain runs the length of the proposed development with possible future flooding problems**

- 7 this development does not meet the performance objectives of the DCP plan for South West Rocks.
- 8 The proposal is contrary to clause 11.6a and 11.6b of DCP22

A Division resulted in the following votes.

F = Voted For
A = Voted Against

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

1.7.2 Proposed Multiple Dwellings at South West Rocks
File: T6-10-398 {Folio No. 455496}

SUMMARY

Reporting that Council has received a Development Application for two x three bedroom dwellings, for which objections have been received, and which requires a variation to Council’s *Development Control Plan No. 22*. A Class 1 appeal has been lodged with the Land and Environment Court against Council’s deemed refusal and Council is requested to determine the application.

Applicant: Tiprush Pty Ltd
 Subject Property: Lot 1 DP1078113 30 Frank Cooper Street, South West Rocks
 Zone: 2(a) (Residential "A" Zone)

2011. 352 RESOLVED: **Moved: Cl. Green**
Seconded: Cl. Gribbin

That this application be refused for the following reasons;

- 1 it does not meet the standards of the surrounding areas (it is in the middle of such development and not on the edges and therefore impacts considerable on previous developments)
- 2 there is limited open space within the proposed development
- 3 increased potential for stormwater in the area impacting on nearby wetlands due to building structures
- 4 it reduces privacy in the surrounding areas by overlooking private area of surrounding residences
- 5 from designs received there is limited landscaping within the proposed development
- 6 large stormwater easement/drain runs the length of the proposed development with possible future flooding problems
- 7 this development does not meet the performance objectives of the DCP plan for South West Rocks.
- 8 The proposal is contrary to clause 11.6a of DCP22

A Division resulted in the following votes.

F = Voted For

A = Voted Against

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

Councillor Hayes declared a non-pecuniary non-significant interest in the following item for the reason that she is friends with the applicant and remained in the Chamber.

**1.7.3 Proposed Boundary Adjustment at Rainbow Reach
File: T6-11-072 {Folio No. 455497}**

SUMMARY

Reporting that Council has received a Development Application for a boundary adjustment at Rainbow Reach. Both lots are currently less than forty (40) hectares. The Development Application includes a State Environmental Planning Policy (SEPP) No. 1 objection seeking a variation to Clause 16(1)(a) of the Kempsey Local Environmental Plan (KLEP) 1987. The variation will permit proposed Lots 201 and 202 to have a total area of approximately 28 hectares and 5.7 hectares respectively.

Previously Planning Circular B1 allowed Councils to assume the concurrence of the Director General for the use of SEPP No. 1 when considering boundary adjustments between two undersized lots, providing no additional lots or dwelling entitlements are created and the existing or potential agricultural use of the land will not be compromised.

However, following the Wollongong ICAC inquiry, Planning Circular PS 08-14 (issued November 2008) now requires that when the variation is greater than 10% the application must be determined at a full Council meeting.

Applicant: Virginia Louise Spring
C/- Hadlow Design Services
Subject Property: Lot 20 DP752409 & Lot 191 DP603400
171 Rainbow Reach Road
RAINBOW REACH
Zone: 1(a1) (Rural "A1" Zone)

2011. 353 RESOLVED: *Moved: Cl. Green
Seconded: Cl. Sproule*

A That the use of SEPP 1 to vary the provisions of Clause 16(1)(a) of the Kempsey Local Environmental Plan 1987 be supported; and

B 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./ Document	Supporting	Version	Prepared by	Dated
Site Plan (ref: 51855)		A	Hadlow Design Services	31 May 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 FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

- 2 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 with Council, on the approved form and including appropriate fees. Seven (7) copies of the plan of subdivision shall to 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 must be indicated on 1 of the copies.

A Section 88B Instrument and one (1) copy shall 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
Bushfire	The creation of any necessary easements for bushfire protection proposes on Lot 201 and proposed Lot 202. The instrument is to benefit and burden proposed allotments as is appropriate to the satisfaction of Council.
Easement for Electricity	The creation of any necessary easements for electricity purposes as required by the electricity supply authority. The instrument is to benefit and burden proposed allotments as is appropriate to the satisfaction of Council.

Council shall not release the Subdivision Certificate until all the above plans and documents have been submitted and are to the satisfaction of Council.

- 3 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 land surrounding the existing dwellings on proposed Lots 201 & 202, to a distance of 17 metres, 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'.

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:

2. The existing building on proposed Lots 201 & 202 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 mesh with a maximum aperture of 2mm. Where applicable, this includes any sub floor areas, openable windows, vents, weep holes and eaves. External doors are to be fitted with draft excluders.

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'.

4 No Works Approved as Part of this Consent

This consent is for boundary re-alignment only. No physical works are approved under this consent

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										