



**PLANNING VOTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL AT KUNDABUNG COMMUNITY HALL**

17 April 2012 commencing at 9.01am.

**1.1 Keeping of Pigeons Policy** **File: 126 {Folio No. 475191}**

**SUMMARY**

Reporting that investigations have been undertaken into the making of a policy for the Keeping of Pigeons.

**2012. 111 RESOLVED:**

*Moved: Cl. Howell  
Seconded: Cl. Green*

**That no action be taken.**

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

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

<b>Bowell</b>	<b>F</b>	<b>Green</b>	<b>F</b>	<b>Gribbin</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>		

**1.2 Proposed Boundary Adjustment** **File: T6-12-19 {Folio No. 475410}**

**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 1 and 2 to have a total area of approximately 55.51 hectares and 7.17 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: Russell & Phyllis Brady  
 C/- Hadlow Design Services  
 Subject Property: Lot 11 DP833663 and Lot 1122 DP774974  
 661 Plummers Lane, Rainbow Reach  
 Zone: 1(a1) (Rural "A1" Zone)

**2012. 97 RESOLVED:** *Moved: Cl. Howell*  
*Seconded: Cl. Walker*

**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:

<b>PARAMETERS OF THIS CONSENT</b>
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**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./ Document	Supporting	Version	Prepared by	Dated
Site Plan (ref: 51951-04 – Sheet 1 / 1)		-	Hadlow Design Services	10/01/2012

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.

**2** This consent is for boundary re-alignment only. No physical works are approved under this consent. No existing structures are approved or assumed to be approved by this consent.

<b>THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE</b>
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**3** 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

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 1 and proposed Lot 2. 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.

- 4 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:
- a) The development proposal is to comply with the subdivision layout identified on the drawing prepared by Hadlow Design Services numbered 51951-04 dated 10 January 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 issue of subdivision certificate and in perpetuity, the land surrounding the existing dwellings on proposed Lots 1 and 2, to a distance of 20 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'.

#### General Advice – consent authority to note

- To further improve the level of protection, afforded to a dwelling, from possible bushfire impact, the NSW RFS recommends that both the existing dwellings on the proposed Lots 1 and 2, be upgraded in accordance with the 'Best Practice Guideline to Bush Fire Protection – Upgrading of Existing Buildings' Version 1 / 25 February 2011.
- 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'.

- 5 Prior to the issue of a Subdivision Certificate an approval under Section 68 of the *Local Government Act 1993* for on-site effluent disposal on proposed Lot 2 shall be obtained from Council and installed on the site. The application for Section 68 approval shall be accompanied by a report 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. The Subdivision Certificate shall not be issued until the on-site effluent disposal system has been completed in accordance with the Section 68 approval.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

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

### 1.3 Proposed Dual Occupancy

File: T6-12-06 {Folio No. 475410}

#### SUMMARY

Reporting that Council has received a development application for the purpose of a Dual Occupancy Building utilising the existing dwelling, for which objections have been received.

Applicant: Hopkins Consultants Pty Ltd  
 Subject Property: Lot 14 DP 12188, 11 Hilary Street, South West Rocks  
 Zone: 2(c) (Residential "C" Zone)

2012. 112 RESOLVED:

*Moved: Cl. Green  
 Seconded: Cl. Walker*

- A That Development Application T6-12-06 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
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Plan No./ Supporting Document	Version	Prepared by	Dated
Drawing No. 26343-0001, Sheet 01 of 07, Site Plan	10/2/2012	Hopkins Consultants	10/2/2012
Drawing No. 26343-0001, Sheet 02 of 07, Ground Floor Plan	10/2/2012	Hopkins Consultants	10/2/2012
Drawing No. 26343-0001, Sheet 03 of 07, First Floor Plan	10/2/2012	Hopkins Consultants	10/2/2012
Drawing No. 26343-0001, Sheet 04 of 07, Western and Eastern Elevation	10/2/2012	Hopkins Consultants	10/2/2012
Drawing No. 26343-0001, Sheet 05 of 07, Northern Elevation, Southern Elevation, Section A and Retaining Wall Plan	10/2/2012	Hopkins Consultants	10/2/2012
Drawing No. 26343-0001, Sheet 06 of 07, Services and Stormwater Plan.	10/2/2012	Hopkins Consultants	10/2/2012

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.

In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply to:

- a) To the extent to which an exemption is on force under clause 187 or 188 of the *Environmental Planning and Assessment Regulation 2000* (EPAR), subject to the terms of any condition or requirement referred to in clause 187(6) or 188(4) of the EPAR; or
- b) To the erection of a temporary building.

- 3 In accordance with Clause 94 of the *Environmental Planning & Assessment Regulation 2000*, Council requires the existing building(s), subject to a development application, be brought into total compliance with the fire safety provisions of the

**Building Code of Australia.**

- 4 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.

**THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE FOR THE SITE**

- 5 A Fire Safety Schedule shall be issued by an appropriately qualified person and provided to council in accordance with Clause 168 of the *Environmental and Assessment Regulation 2000*. This schedule shall specify current and proposed fire safety measures and nominate standard of performance. The Fire Safety Schedule shall 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. The Fire Safety Schedule must be approved as part of the Construction Certificate.
- 6 Details of any mechanical ventilation and/or air conditioning system complying with AS1668.1-1998 and AS1668.2-1991, the Building Code of Australia and relevant Australian Standards must be prepared by a suitably qualified person certified in accordance with Clause A2.2(a)(iii) of the Building Code of Australia. The mechanical ventilation plans and specifications must be approved as part of the Construction Certificate.
- 7 Provide two specifications for the Class 2 and 10a buildings detailing the appropriate clauses of the Building Code of Australia and relevant Australian Standards. The Specifications must be approved as part of the Construction Certificate.
- 8 The applicant's consultants, with the appropriate engineering qualifications, are to provide BCA 2011 certified plans and specifications and these plans are to be approved as part of the Construction Certificate for the following:
- a) Mechanical;
  - b) Electrical;
  - c) Hydraulic;
  - d) Civil & Structural.
- 9 The following are to be provided as part of the Construction Certificate:
- a) Fire test certificates for the tested prototype windows to be installed on the western elevation;
  - b) Details of how the carport will be fire separated from the Class 2 part of the building;
  - c) Manufacturers specifications detailing the 90/90/90 external wall's light weight construction;
  - d) Manufacturer's specifications detailing the 60 minute

- incipient spread ceiling's light weight construction;
- e) Method of fire rating the carport column indicated less than 1.5m from the eastern side boundary.

Note: The walls within 1.5m of the western boundary are to be fire rated.

- 10 An approval under Section 68 of the *Local Government Act 1993* to carry out water supply work and sewerage work shall be obtained from Council for any and all sewerage or water reticulation works and provided to the Principal Certifying Authority (PCA) prior to the issue of any Construction Certificate.
- 11 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.
- 12 The application for a Construction Certificate is to include plans and specifications that indicate the measures to be employed to control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins. Stabilisation of any cut or filled area using endemic grass species is to be undertaken as soon as practically possible. The sediment and erosion control plan is to be designed in accordance with the requirements of the Landcom Blue Book, "Soils and Construction – Managing Urban Stormwater".

The plans must be in compliance with Council's current Council's Adopted Engineering Standard. Such plans and specifications must be approved as part of the Construction Certificate.

- 13 A Long Service Levy must be paid to the Long Service Payments Corporation prior to the issue of a Construction Certificate. This amount payable is currently based on 0.35% of the cost of work. This is a State Government Levy and is subject to change.

These payments may be made at Council's Administration Office. Cheques are to be made payable to Council.

- 14 Prior to the issue of any Construction Certificate engineer's details for all proposed works, including footings, foundations, reinforced concrete slab, structural components, details of cut and fill, retaining walls, driveways, etc. shall be provided to the Principal Certifying Authority (PCA) 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*. All engineer's

details must be approved as part of the Construction Certificate.

- 15 Prior to the issue of any Construction Certificate engineer's details for a stormwater drainage system designed to direct all stormwater to a Council approved stormwater drainage system to prevent discharge runoff onto adjoining land shall be submitted to Principal Certifying Authority (PCA) for approval. The drainage system shall be designed for 1 in 5 year storm event. This system must be designed in accordance with AS/NZS 3500.3:2003 - *Plumbing and drainage, Part 3: Stormwater drainage*, and Council's Adopted Engineering Standard. All piped drainage lines over adjoining land shall be located within drainage easements. All such engineer's details shall be approved as part of the Construction Certificate.

If any works are required within the road reserve, an approval under Section 68 of the *Local Government Act 1993* to carry out stormwater drainage work shall be obtained from Council and provided to the Principal Certifying Authority (PCA) prior to the issue of a Construction Certificate. Engineering plans and specifications are to be submitted in triplicate and must include details in accordance with Appendix C of AS/NZS 3500.3:2003 - *Plumbing and drainage, Part 3: Stormwater drainage*, and Council's Adopted Engineering Standard. All costs are the responsibility of the proponent.

The stormwater drainage works are to be generally in accordance with the approved Services and Stormwater Plan.

- 16 The Principal Certifying Authority (PCA) is to ensure that the proposed development is constructed in accordance with the requirements of BASIX Certificate 417917M, dated 5 March 2012. The plans submitted for approval with the Construction Certificate must 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.

- 17 The particulars of 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
South West Rocks	South West Rocks Section 94 Contribution Plan	Feb 2008
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 Management	South West Rocks Section 94 Contribution Plan	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
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 for the development. 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 the 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 receiving Codes
Community Services – Library	Increase in Occupation Rate	1.4	\$321	\$449	30 June 2012	AYC1
Community Services – MPB	Increase in Occupation Rate	1.4	\$393	\$550	30 June 2012	AYC2
Open Space Acquisitions	Increase in Occupation Rate	1.4	\$383	\$536	30 June 2012	AYC3
Open Space Increased Capacity	Increase in Occupation Rate	1.4	\$1,237	\$1,732	30 June 2012	AYC4
Bushland	Increase in Occupation Rate	1.4	\$27	\$38	30 June 2012	AYC5
Traffic and Transport Management	Increase in Occupation Rate	1.4	\$1,164	\$1,630	30 June 2012	AYC6
Public Domain Improvements	Increase in Occupation Rate	1.4	\$165	\$231	30 June 2012	AYC7
Stormwater Management	Increase in Occupation Rate	1.4	\$1,118	\$1,565	30 June 2012	AYC8
Support Services – Bushfire	Increase in Occupation Rate	1.4	\$31	\$43	30 June 2012	AYC9
Support Services – Surf Life Savings	Increase in Occupation Rate	1.4	\$38	\$53	30 June 2012	AYC10
Plan Studies	Increase in Occupation Rate	1.4	\$65	\$91	30 June 2012	AYC11

<b>Sub-total</b>		<b>\$6,919</b>	
<b>S94 Administration</b>	<b>6% of total Section 94 charge applicable</b>	<b>\$415</b>	<b>AY</b>
<b>TOTAL</b>		<b>\$7,334</b>	

- 18 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 Principal Certifying Authority (PCA).

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

- 19 The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. Such landscaping plan must incorporate adequate detail to demonstrate compliance with the provisions of Development Control Plan No 22 – Local Housing Strategy (Urban Areas Other Than Crescent Head 2003). The landscaping plan must indicate:

- a) Proposed location for planted shrubs and trees;
- b) Landscaping comprising mainly of endemic plant species;
- c) Botanical name of shrubs and trees;
- d) Mature height of trees to be planted;
- e) Location of grassed and paved areas;
- f) Screening of clothes drying areas and garbage receptacles from public view;
- g) Location of common taps and/or irrigation system to ensure all landscape works can be adequately watered;
- h) An effective physical barrier between public spaces, vehicles, accessways, parking areas and the surrounding landscape area;
- i) Provision of landscaping between the side boundary closest to the driveway and the edge of the driveway, consisting predominantly of shrubs and trees. The landscape area between the driveway and the boundary is to have a minimum width of 1.0m;
- j) Provision of 1.8m high timber paling fencing around the private open space areas. The 1.8m fence adjacent to the High/Hillary Street frontages is to be set back from the front boundary by a minimum distance of 1.0m and landscaping provided between the front boundary and the fence; and
- k) Provision of 1.8m high timber paling fence along the full length of the western (replacing the existing paling fence) boundaries.

The plan is to be prepared by a suitably qualified landscape architect/ architect/ ecologist who have appropriate experience and competence in landscaping.

Such plans and specifications must be approved as part of the Construction Certificate.

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

- 20 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.
- 21 Prior to any building, construction or demolition works commencing evidence shall be provided to the Principal Certifying Authority (PCA) of public liability insurance cover for a minimum of \$10 million. Council shall be nominated as an interested party on the policy.
- 22 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 building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

No sign is to have an area in excess of one (1)m<sup>2</sup>.

- 23 Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (a) In the case of work for which a principal contractor is required to be appointed:
    - (i) The name and licence number of the principal contractor; and
    - (ii) The name of the insurer by which the work is insured under Part 6 of that Act.
  - (b) In the case or work to be done by an owner-builder:
    - (i) The name of the owner-builder; and
    - (ii) Of the owner-builder is required to hold an owner-builder permit under the Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the above information becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

- 24 All erosion and sedimentation controls shall be in place in accordance with Council's guidelines prior to the commencement of any works.
- 25 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 Council's sewer infrastructure, or to an approved temporary water closet.

<p style="text-align: center;"><b>THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH DURING CONSTRUCTION</b></p>
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- 26 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.

- 27 Construction noise is to be limited as follows:
- a) For construction periods of four (4) week 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 20dB(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).

- 28 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 works during periods of high wind.**
- 29 **All builders rubbish is to be contained on 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.**
- 30 **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.**
- 31 **Sediment and erosion control measures in accordance with Council's Guidelines must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.**
- 32 **Support for neighbouring buildings**  
**If any excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, 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 the 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.**
- 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 **All asbestos wastes associated with demolition/renovation works are to be disposed of in accordance with the requirements of the Workcover Authority. The applicant/owner is to produce documentary evidence that this condition has been met. Council requires 48 hours notice prior to disposal at Council's waste depot.**

**THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO  
OCCUPATION OF THE BUILDING**

- 35** Prior to the issue of an Occupation Certificate and following the completion, installation and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, must be submitted to the Principal Certifying Authority.
- 36** Prior to the issue of any Occupation Certificate written evidence from Council shall be submitted to the Principal Certifying Authority (PCA) demonstrating that Council is satisfied that all water, sewer and stormwater works required by all relevant approvals under Section 68 of the *Local Government Act 1993* have been completed in full. Council shall not issue such written evidence until such time as 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, to the satisfaction of Council.
- 37** Prior to the issue of any Occupation Certificate all BASIX commitments shown on the following certificates, plans and specification shall be completed in full.

  - a) The BASIX Certificate 417917M, dated 5 March 2012, and the associated plans and specifications approved as part of the Construction Certificate.
- 38** Prior to the issue of any Occupation Certificate written evidence from Council shall be submitted to the Principal Certifying Authority (PCA) 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.
- 39** Prior to 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 (PCA) and any other relevant consent authority/s.
- 40** Screening is to be provided to the western and eastern walls of the upper level deck to prevent overlooking into adjoining properties.

- 41 The site must be landscaped in accordance with the approved plan.

**THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH AT ALL TIMES**

- 42 All car parking bays shown on the approved plans shall be maintained and reserved for car parking in perpetuity.
- 43 Landscaping within the front boundary setback is to be retained and maintained in perpetuity.

**ADVICE**

Certain additional approvals and action required by the applicant 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 a private 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. You cannot lawfully commence works without complying with this requirement; and
- 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. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

**Certificate of Compliance**

Prior to the issue of any Construction Certificate a Certificate of Compliance pursuant of Section 305 of the *Water Management Act 2000* shall be submitted to the Principal Certifying Authority (PCA).

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 (PCA) 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
Water	0.4 ET	\$8,658	\$3,463	30 June 2012
Sewer	0.75 ET	\$7,304	\$5,478	30 June 2012
<b>TOTAL</b>			<b>\$8,941</b>	

#### 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.

**B** That the objectors be advised of Council's decision.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

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

**1.4 Proposed Three Storey Dwelling and Change of Use of Existing Building to Secondary Dwelling, Alterations to Existing Building and Consideration of SEPP 1**  
**File: T6-10-242 {Folio No. 475411}**

#### SUMMARY

Reporting that Council has received a development application for the purpose of a proposed three storey dwelling and change of use of existing building to secondary dwelling, alterations to existing building and consideration of a SEPP 1 for which objections have been received.

Applicant:

Ms R Harvey

Subject Land:

Lot A DP303130 28 Main Street, Crescent Head



Zone: 2 (a) (Residential 'A' Zone)  
 Proposed Development: Change the use and alterations of the existing dwelling to comply as a secondary dwelling under SEPP (Affordable Rental Housing) 2009, construction of new three storey dwelling and consideration of a SEPP 1 application.

**2012. 126 RESOLVED:**

*Moved: Cl. Green  
 Seconded: Cl. Walker*

**A That Development Application T6-10-242 be refused for the following reasons:**

- 1 The proposal is not in accordance with the requirements of DCP Crescent – Crescent Head on the basis that the applicant has failed to demonstrate that the expected loss of views is reasonable and unavoidable;**
- 2 The proposal represents an inappropriate use of SEPP 1 as the applicant has failed to demonstrate that the development standard contained in Clause 24 of KLEP 1987 is unnecessary or unreasonable in the circumstances;**
- 3 The development would set an undesirable precedent; and**
- 4 The proposal is not in the public interest.**

**B That the objectors be advised of Council’s decision.**

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

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

<b>Bowell</b>	<b>F</b>	<b>Green</b>	<b>F</b>	<b>Gribbin</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>		

**The Deputy Mayor noted that the forgoing resolution was passed UNANIMOUSLY.**