



PLANNING VOTES - MINUTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

17 February 2015 commencing at 5.30pm

ITEM 1 RESIDENTIAL FLAT BUILDING (8 UNITS)

REPORT SUMMARY

Reporting that an application has been received involving the demolition of an existing residential flat building and construction of a new residential flat building which requires a variation greater than 10% to the height development standard under Kempsey Local Environmental Plan (KLEP) 2013.

2015.19 RESOLVED: *Moved: Cl. Shields
Seconded: Cl. Morris*

1. That the variation sought to the height development standard under KLEP 2013 be supported.
2. That development consent be granted to development application T6-14-328 for demolition of a residential flat building and construction of a new residential flat building (eight units and basement car park) at 2 Memorial Avenue, South West Rocks subject to the conditions contained in [\(Appendix A - Page 1\)](#).
3. That the objector be advised of Council’s decision.

A Division resulted in the following votes.

F = Voted For
A = Voted Against

Campbell	F	Green	F	Kesby	F	McGinn	F	Morris	F
Patterson	F	Saul	F	Shields	F	Williams	F		

ITEM 2 TWO LOT SUBDIVISION

REPORT SUMMARY

Reporting that an application for a two lot subdivision is reported to Council for determination as it involves a variation greater than 10% to the minimum lot size development standard under Kempsey Local Environmental Plan (KLEP) 2013.

2015.20

RESOLVED:

*Moved: Cl. Saul
Seconded: Cl. Shields*

1. That the variation sought to the minimum lot size development standard under KLEP 2013 be supported.
2. That development consent be granted to development application T6-14-356 for a two lot subdivision at 9 Rippon Place, South West Rocks subject to the conditions contained in [\(Appendix F - Page 32\)](#)

A Division resulted in the following votes.

F = Voted For

A = Voted Against

Campbell	F	Green	F	Kesby	F	McGinn	F	Morris	F
Patterson	F	Saul	F	Shields	F	Williams	F		

ITEM 3 TWO LOT SUBDIVISION WITH SEPP 1

REPORT SUMMARY

Development application T6-13-362 for a two (2) lot subdivision is reported to Council for determination as it involves a variation greater than 10% to the lot size development standard under Kempsey Local Environmental Plan (KLEP) 1987.

2015.21

RESOLVED:

*Moved: Cl. Patterson
Seconded: Cl. Williams*

1. That the variation sought to the minimum lot size development standard under KLEP 2013 be supported, consistent with the concurrence from the Department of Planning and Environment.
2. That development consent be granted to development application T6-13-362 for a two lot subdivision of Lot 11 DP708538, Link Road, Kundabung subject to the conditions contained in [\(Appendix I - Page 39\)](#).

A Division resulted in the following votes.

F = Voted For

A = Voted Against

Campbell	F	Green	F	Kesby	F	McGinn	F	Morris	F
Patterson	F	Saul	F	Shields	F	Williams	F		

PARAMETERS OF THIS CONSENT

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

Plan No./ Supporting Document	Version	Prepared by	Dated
Title Sheet (Project number 1020; Drawing # DA000)	Revision 4	buck&simple	30 OCT 2014
Site Plan – Proposed (Project number 1020; Drawing # DA050)	Revision 3	buck&simple	June 2014
Basement & Ground Level - Proposed (Project number 1020; Drawing # DA110)	Revision 4	buck&simple	June 2014
Level 2, 3 & Roof - Proposed (Project number 1020; Drawing # DA111)	Revision 3	buck&simple	June 2014
Elevations (Project number 1020; Drawing # DA400)	Revision 3	buck&simple	June 2014
Materials Schedule (Project number 1020; Drawing # DA800)	Revision 3	buck&simple	June 2014
Landscape Concept Plan (Project number 1020; Drawing # DA080)	Revision 3	buck&simple	June 2014
Compliance Diagrams (Project number 1020; Drawing # DA070)	Revision 2	buck&simple	June 2014
Section 01 & 02 (Project number 1020; Drawing # DA300)	Revision 3	buck&simple	June 2014
Perspective Views (Project number 1020; Drawing # DA910)	Revision 3	buck&simple	June 2014
Perspective Views (Project number 1020; Drawing # DA911)	Revision 2	buck&simple	June 2014
Statement of Environmental	Revision 2	buck&simple	05 December

Plan No./ Supporting Document	Version	Prepared by	Dated
Effects (including all appendices)			2014
BASIX Certificate 585721M	-	Gradwell Consulting	Monday, 03 November 2014

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

Design Amendment	Reason for Amendment
(a) The eastern-faces of the balconies of units 2 and 4 shall be screened so as to prevent any overlooking into windows of the adjoining property to the east.	(a) to protect the amenity of the adjoining properties.
(b) All windows on the eastern-face of the building shall be provided with measures so as to prevent any overlooking into windows of the adjoining property to the east (e.g., louvers, frosting, etc.).	(b) to protect the amenity of the adjoining properties.
(c) Treatment of the north-west corner of the subject site shall ensure adequate site lines are provided for the road reserve development and the adjoining neighbouring driveway to the east.	(c) To ensure adequate lines of sight.
(d) The area to the north of the proposed driveway access within the Council road reserve shall be formed into a vehicular passing bay for a total driveway width of 5.5m. The remainder shall be appropriately landscaped.	(d) To limit traffic conflicts that may arise from vehicles attempting to simultaneously enter and exit the site by providing an alternative to reversing into the traveling lane.

All the above design elements shall be maintained as described in this condition in perpetuity of the development.

- 3 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.

PRESCRIBED CONDITIONS

- 4 The Applicant shall comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the Regulation.
- 5 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:

- 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.
- 6 If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- a) Protect and support the building, structure or work from possible damage from the excavation; and
- b) Where necessary, underpin the building, structure or work to prevent any such damage.

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

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

- 7 In order for the development of land to proceed in a coordinated and orderly manner and to avoid potential conflicts with this consent, prior to the issue of any Construction Certificate the Applicant shall surrender all unnecessary development consents over the land in the manner prescribed by Clause 97 of the Regulation.
- 8 Prior to the issue of any Construction Certificate that includes any water, sewer and stormwater works, the relevant approval/s under Section 68 of the *Local Government*

Act 1993 shall be obtained from Council. These approvals shall be included by the Certifier as part of the relevant Construction Certificate.

- 9 Prior to the issue of any Construction Certificate that includes works within the road reserve, an approval under Section 138 of the *Roads Act 1993* shall be obtained from Council. This approval shall be included by the Certifier as part of the relevant Construction Certificate.
- 10 Prior to the issue of any Construction Certificate that includes civil works, a geotechnical report shall be provided to the Certifier for approval. This geotechnical report shall be prepared by an appropriately qualified, experienced and practicing Engineer. This geotechnical report shall be approved by the Certifier as part of the relevant Construction Certificate and any recommendations shall be appropriately adopted.
- 11 Prior to the issue of any Construction Certificate that includes civil works, engineer's details for all proposed civil works relevant to the Construction Certificate, including foundation, cut and fill, retaining walls, driveway and car parking area pavement, etc., shall be provided to the Certifier for approval. All engineer's details shall be prepared by an appropriately qualified, experienced and practicing Engineer in accordance with Council's *Development Control Plan 2013* and the current Building Code of Australia. These engineer's details shall be approved by the Certifier as part of the relevant Construction Certificate.
- 12 Prior to the issue of any Construction Certificate that includes above ground works, a landscape plan shall be provided to the Certifier for approval. This landscape plan shall be prepared by an appropriately qualified and experienced professional, and shall include planting schedule (including a range of plant sizes), a maintenance schedule (including a measures to maintain and encourage the growth of the vertical landscaping), and a re-planting regime for any plants that are damaged, dead, or removed for any reason. This landscape plan shall be approved by the Certifier as part of the relevant Construction Certificate.
- 13 Prior to the issue of any Construction Certificate that includes above ground works or car park level works, a report prepared in accordance with *Crime Prevention Through Environmental Design* principles shall be provided to the Certifier for approval. This report shall be prepared by an appropriately qualified and experienced professional, and shall include a schedule of safety measure to be implemented in the development (e.g., lighting requirements, restricting access to the basement car park, ensuring private open space areas a lockable, etc.). This report shall be approved by the Certifier as part of the relevant Construction Certificate.
- 14 Prior to the issue of any Construction Certificate any part of the building, plans and specifications shall be provided to the Certifier demonstrating compliance with BASIX Certificate 585721M, dated Monday, 3 November 2014, as relevant to the unit/s. All such plans and specifications shall be approved by the Certifier as part of the relevant Construction Certificate.
- 15 Prior to the issue of any Construction Certificate details of the layout, design and security of bicycle facilities shall be provided to the Certifier for approval. These details shall comply with the minimum requirements of Australian Standard AS 2890.3 – 1993 Parking Facilities Part 3: Bicycle Parking Facilities. These details shall be approved by the Certifier as part of the relevant Construction Certificate.

- 16** Prior to the issue of any Construction Certificate plans and details demonstrating compliance with the following traffic and parking requirements shall be provided to the Certifier for approval. These plans and details shall ensure:
- a) All vehicles enter and leave the site in a forward direction;
 - b) Car parking associated with the proposal (including queuing areas, grades, turn paths, sight distance requirements, aisle widths, and parking bays) must be in accordance with AS 2890;
 - b) Appropriate pedestrian advisory signs are to be provided at the egress from the car park;
 - c) All works/regulatory signposting associated with the proposed developments shall be at no cost to the relevant roads authority; and
 - d) The swept path of the longest vehicle entering and exiting the site, as well as manoeuvrability through the site, shall be in accordance with AUSTRROADS.

These plans and details shall be approved by the Certifier as part of the relevant Construction Certificate.

- 17** Prior to the issue of any Construction Certificate stormwater engineer's details shall be provided to the Certifier for approval. All stormwater shall be directed to Council's drainage system, and shall be designed in accordance with AS/NZS 3500.3:2003 - Plumbing and drainage, Part 3: Stormwater drainage, Council's *Development Control Plan 2013*, and *Australian Rainfall and Runoff*. These stormwater engineer's details shall be approved by the Certifier as part of any Construction Certificate.
- 18** Prior to the issue of any Construction Certificate that includes earthworks a Sediment and Erosion Control Plan shall be submitted to the Certifier for approval. This Sediment and Erosion Control Plan shall be prepared by an appropriately experienced and qualified professional, in accordance with the most recent version of the Landcom publication "*Managing Urban Stormwater - Soils and Construction*." This Sediment and Erosion Control Plan shall include measures to manage weeds in and around the disturbed areas. This Sediment and Erosion Control Plan shall be approved by the Certifier as part of the relevant Construction Certificate.
- 19** Prior to the issue of any Construction Certificate a Site Waste Minimisation and Management Plan (SWMMP) shall be provided to the Certifier for approval. This SWMMP shall be prepared in accordance with Council's *Development Control Plan 2013*. This SWMMP shall be approved by the Certifier as part of any Construction Certificate.
- 20** Prior to the issue of any Construction Certificate for above ground works outdoor lighting details in accordance with *AS/NZ1158.3: 1999 Pedestrian Area (Category P) Lighting* and *AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting* shall be submitted the Certifier for approval. These outdoor lighting details shall be approved by the Certifier as part of the relevant Construction Certificate.
- 21** Prior to the issue of any Construction Certificate for above ground works a reflectivity report shall be submitted the Certifier for approval. This reflectivity report shall

demonstrate that all building materials used on the facades and roof of the buildings shall have a maximum normal specular reflectivity of visible light of 20 per cent and shall be designed so as not to result in glare at nearby properties and/or that causes any discomfort or threatens the safety of pedestrians or drivers. This reflectivity report shall be approved by the Certifier as part of the relevant Construction Certificate.

- 22** Prior to the issue of any Construction Certificate the contributions set out in the following Schedule shall be paid to Council. 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
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	South West Rocks Section 94 Contribution Plan	Feb 2008
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 Customer First Centre located at 22 Tozer Street West Kempsey.

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.

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 Receipting Codes
Community Services – Library	Increase in Occupation Rate	1.4	\$344.00	\$481.60	30 June 2015	AYC1
Community Services - MBP	Increase in Occupation Rate	1.4	\$422.00	\$590.80	30 June 2015	AYC2

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 Receipting Codes
Open Space Acquisitions	Increase in Occupation Rate	1.4	\$412.00	\$576.80	30 June 2015	AYC3
Open Space Increased capacity	Increase in Occupation Rate	1.4	\$1,328.00	\$1,859.20	30 June 2015	AYC4
Bushland	Increase in Occupation Rate	1.4	\$29.00	\$40.60	30 June 2015	AYC5
Traffic and Transport Management	Increase in Occupation Rate	1.4	\$1,250.00	\$1,750.00	30 June 2015	AYC6
Public Domain Improvements	Increase in Occupation Rate	1.4	\$177.00	\$247.80	30 June 2015	AYC7
Stormwater Management	Increase in Occupation Rate	1.4	\$1,201.00	\$1,681.40	30 June 2015	AYC8
Support Services – Bushfire	Increase in Occupation Rate	1.4	\$33.00	\$46.20	30 June 2015	AYC9
Support Services – Surf Life Savings	Increase in Occupation Rate	1.4	\$41.00	\$57.40	30 June 2015	AYC10
Plan Studies	Increase in Occupation Rate	1.4	\$70.00	\$98.00	30 June 2015	AYC11
Sub total				\$7,429.80		
S94 Administration	6% of total Section 94 charge applicable			\$445.79		AY
TOTAL				\$7,875.59		

- 23** Prior to the issue of any Construction Certificate a Certificate of Compliance pursuant of Section 305 of the *Water Management Act 2000* shall be obtained from Council and provided to the Certifier.
- 24** Prior to the issue of any Construction Certificate a Long Service Levy shall be paid to the Long Service Payments Corporation. The amount payable is currently based on 0.35% of the cost of the work. This is a State Government Levy and is subject to change without notice. The requirements of the State Government supersede this condition.

This payment may be made at Council's Customer Service Centre. Cheques shall be made payable to Kempsey Shire Council.

<p>THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH PRIOR TO ANY WORKS COMMENCING</p>
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- 25** Prior to the commencement of any works on the site, a Construction Environmental

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

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

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

- 26** 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.
- 27** Prior to the commencement of any works adequate erosion and sedimentation controls shall be in place in accordance with the approved Sediment and Erosion Control Plan.
- 28** Prior to the commencement of any works a sign or signs shall be erected in a prominent position at the frontage to the site:
- a) Showing the name, address and telephone number of the Principal Certifying Authority (PCA) for the work;
 - b) Showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
 - c) Stating that unauthorised entry to the work site is prohibited.

The sign/s shall be maintained while the building work, subdivision work or demolition work is being carried out, and shall be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

- 29** Prior to the commencement of any works the Applicant is to negotiate with the utility authorities in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure.
- 30** Prior to the commencement of any works written advice shall be obtained from the electricity supply authority and an approved telecommunications carrier stating that satisfactory arrangements have been made to ensure provision of adequate services.

THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH DURING ANY WORKS
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- 31** All works shall be undertaken in accordance with all approved plans/documents.
- 32** All demolition works shall be undertaken in accordance with the provision of *Australian Standard AS 2601 – The Demolition of Structures*.

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

Any asbestos wastes or suspected asbestos wastes associated with demolition works shall be disposed of in accordance with the requirements of "*Working with Asbestos Guide 2008*", the *Occupational Health and Safety Act 2000*, the *Occupational Health and Safety Regulations 2008*, and any other 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.

- 33** All demolition works shall be completed within three (3) months of commencement of demolition works. At completion the site shall be free of any remnant structures and/or demolition waste, and grassing undertaken to stabilize all disturbed areas.
- 34** 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 7:00am to 6:00pm.
 - b) Saturday, from 8:00am to 1:00pm.

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

- 35** Construction noise is to be limited as follows:
- a) For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation shall not exceed the background level by more than 20 dB(A); or
 - b) For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation shall not exceed the background level by more than 10 dB(A).
- 36** Vibration shall be in accordance with *Environmental Noise Management Assessing Vibration: a Technical Guideline* (Department of Environment and Conservation, 2006).
- 37** A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall

be readily available for perusal at the request of any officer of the PCA, Council, and/or any other Government Agency.

- 38** All builders rubbish is to 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 are to be maintained clear of rubbish, building materials and all other items.
- 39** All erosion and sediment controls shall be maintained at all times in accordance with the approved Sediment and Erosion Control Plan until the site has been stabilised by permanent vegetation or hard surface.
- 39** The following hoarding requirements shall be complied with:
- a) No third party advertising is permitted to be displayed on the subject hoarding/fencing; and
 - b) The construction site manager shall be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its application.

THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH PRIOR TO THE OCCUPATION/USE OF ANY PART OF THE DEVELOPMENT

- 40** Prior to the occupation/use of any part of the development and/or the issue of any Occupation Certificate, all requirements of BASIX Certificate 585721M, dated Monday, 3 November 2014, as relevant to the unit for which occupation is sought, shall be completed in full.
- 41** The cost of repairing any damage caused to Council or other public authority's assets in the vicinity of the site as a result of construction works associated with the approved development, is to be met in full by the applicant/developer prior to the occupation/use of any part of the development.
- 42** Prior to the issue of any Occupation Certificate, all works/measures regarding landscaping, privacy, and crime prevention shall be completed in full.

THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES
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- 43** All landscaping shall be maintained in a healthy and managed state at all times. Should any planting die or be removed for any reason it shall be replaced by a replacement planting. Any replacement plantings must meet the minimum species criteria as detailed in the approved landscape plan.
- 44** All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.
- 45** All external Lighting shall comply with AS4282 *Control of the Obtrusive Effects of Outdoor Lighting* at all times.

- 46 The NSW Office of Water (NOW) have advised that if it is the applicant's estimation that water take will exceed 3ML/year then they must apply for a licence under Part 5 of the *Water Act 1912* prior to commencing the activity. In the event that this trigger is met, the following NOW conditions would apply:
- a) Before commencing any works or using any existing works for the purpose of dewatering an approval under Part 5 of the *Water Act 1912* must be obtained from the Department if the take of water exceeds 3ML/yr. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
 - b) An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the *Water Act 1912*.
 - c) When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or let lapse.
 - d) All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
 - e) All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
 - f) The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
 - g) All vegetation clearing must be authorised under the *Native Vegetation Conservation Act 1997*, if applicable.
 - h) The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
 - i) A license fee calculated in accordance with the *Water Act 1912* must be paid before a license can be granted.
 - j) The water extracted under the approval to be granted shall be used for the purpose of dewatering and for no other purpose. A proposed change in purpose will require a replacement license to be issued.
 - k) Works for construction of a bore must be completed within such period as specified by the Department.
 - l) Within two months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are specified in the approval.

- m) The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
- n) The licensee must allow authorised officers of the Department, and it's authorised agents reasonable access to the licensed works with vehicles and equipment at any time for the purposes of:
 - i) inspecting the said work
 - ii) taking samples of any water or material in the work and testing the samples.
- o) The licensee shall within 2 weeks of being notified install to the satisfaction of the Department in respect of location, type and construction an appliance(s) to measure the quantity of water extracted from the works. The appliance(s) to consist of either a measuring weir or weirs with automatic recorder, or meter or meter(s) of measurement as may be approved by the Department. The appliance(s) shall be maintained in good working order and condition. A record of all water extracted from the works shall be kept and supplied to the Department upon request. The licensee when requested must supply a test certificate as to the accuracy of the appliance(s) furnished either by the manufacturer or by some person duly qualified.
- p) The authorised work shall not be used for the discharge of polluted water into a river or lake otherwise than in accordance with the conditions of a licence granted under the protection of the Environment Operations Act 1997. A copy of the licence to discharge is to be provided to the Department.
- q) The maximum term of this licence shall be twelve (12) months.
- r) The volume of groundwater extracted from the work authorised by this licence shall not exceed 5 megalitres for the term of the licence.
- s) The authorised work shall not be used for the discharge of water unless the ph of the water is between 6.5 and 8.5, or the water has been treated to bring the ph to a level between 6.5 and 8.5 prior to discharge, or the water is discharged through the council's sewerage treatment system.
- t) The licensee shall test the ph of any water extracted from the work prior to the commencement of discharge and at least twice daily thereafter and record the date, time and result of each test in the site log. A copy of the records of the ph testing is to be returned with the form 'AG'.
- u) The work shall be managed in accordance with the constraints set out in an Acid Sulfate Soil Management Plan and Dewatering Management Plan approved by the Department.
- v) The retention or holding pond must be lined with an impermeable material (such as clay or geotextile) to prevent seepage, leakage or infiltration of treated water.

ADVICE

- A** Certain additional approvals and action required by the by you prior to and during construction works. The *Environmental Planning and Assessment Act 1979* require you to:
- a) Obtain a Construction Certificate prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a *Construction Certificate*. An accredited certifier must obtain Council's approval to certain conditions of this development consent, where indicated before issuing the Construction Certificate.
 - b) Nominate a *Principal Certifying Authority* (PCA) which may be either Council or an accredited certifier and notify Council of that appointment. You cannot lawfully commence works without complying with this requirement.
 - c) Give Council at least two (2) days notice of your intention to commence the erection of a building before commencing construction works by lodging the '*Notice of Commencement of Building Works and Appointment of the Principal Certifying Authority*' form enclosed. You cannot lawfully commence works without complying with this requirement.
 - d) Obtain an *Occupation Certificate* before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign by lodging the '*Application for Occupation Certificate*' form enclosed. You cannot lawfully commence occupation or the use of a building without complying with this requirement.
- B** Prior to the issue of any Construction Certificate a Certificate of Compliance pursuant of Section 305 of the *Water Management Act 2000* shall be obtained from Council and submitted to the Principal Certifying Authority.

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

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 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	Office Use Only Receipting Codes
Water	1.2 ET	\$9,298.00	\$11,157.60	30 June 2015	AW
Sewer	1.50 ET	\$7,844.00	\$11,766.00	30 June 2015	AS
TOTAL			\$22,923.60		

- C** 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*.

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
Plan of Proposed Subdivision of Lot 2 DP1078114 (JOB No. 17050DA01.VCD, SHEET No. 1 OF 1)	1	M.W. Rogers & Associates Pty Ltd	19/12/14

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.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY SUBDIVISION CERTIFICATE FOR THE SITE
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- 2 Prior to the issue of any 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.
- 3 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
Easements for Services	The creation of any necessary easements for services as required by Council, the electricity supply authority, and the telecommunication authority. The instrument is to benefit and burden proposed allotments as is appropriate to the satisfaction of Council.
Rights of	The creation of suitable rights of carriageway over

Item for inclusion in Plan of Subdivision and/or Section 88B Instrument	Details of Item
carriageway	the existing access, burdening and benefitting each proposed allotment as appropriate.
Inter-allotment Drainage Easements	The creation of easements for drainage of water, with a minimum width of 1.5 metres, over all inter-allotment drainage pipelines and structures located within the proposed allotments. The easements are not to be in favour of Council.
Sewer Easements	The creation of easements for drainage of sewage over all sewage pipelines and structures located within the proposed allotments in accordance with Council's policy. The easement over the sewage pipeline is to have a minimum width of 3.0 metres. The easements are not to be in favour 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 Prior to the issue of any Subdivision Certificate a Certificate of Compliance pursuant of Section 305 of the *Water Management Act 2000* shall be obtained from Council and provided to the Principal Certifying Authority.
- 5 Prior to issue of subdivision certificate, evidence shall be provided to Council demonstrating that the dwelling complies with the 79BA advice issued on 6 January 2011 for DA T6-10-399

GENERAL TERMS OF APPROVAL – NSW RURAL FIRE SERVICE

- 6 The following conditions of consent have been imposed by the NSW Rural Fire Service as "general terms of approval" under the *Environmental Planning and Assessment Act 1979* and shall be complied with prior to the issue of a Subdivision Certificate and in perpetuity.
 1. The development proposal is to comply with the subdivision layout identified on the drawing prepared by M.W. Rogers and Associates Pty Ltd, numbered 17051DA01.VCD, dated 1 December 2014.

ADVICE

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.

PARAMETERS OF THIS CONSENT

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

Plan No./ Supporting Document	Version	Prepared by	Dated
PROPOSED SUBDIVISION OF LOT 11 DP 708538 LINK ROAD, KUNDABUNG (DRAWING NUMBER/REFERENCE 6814-01; SHEET NO. 1)	-	HOPKINS CONSULTANTS PTY LTD	22-10-2013

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** Any building work shall 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 of the *Environmental Planning and Assessment Regulation 2000*, 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 MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY SUBDIVISION CERTIFICATE

- 3** Prior to the issue of any Subdivision Certificate certification from appropriately qualified bushfire consultant shall be provided to Council demonstrating that all General Terms of Approval issued by the NSW Rural Fire Service have been completed in full.
- 4** Prior to the issue of any Subdivision Certificate written evidence from the electricity supply authority stating that satisfactory arrangements have been made for the provision of underground electricity supply throughout the development shall be provided to Council.
- 5** Prior to the issue of any Subdivision Certificate written evidence from the telecommunication authority stating that satisfactory arrangements have been made for the provision of underground telephone supply throughout the development shall be provided to Council.
- 6** Prior to the issue of any Subdivision Certificate the contributions set out in the following Schedule shall be paid to Council. 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
Local Roads and Traffic Infrastructure (Catchment 10)	Local Roads and Traffic Infrastructure Developer Contribution Plan 2009	January 2010
Public Domain	Kempsey Town Centre Public Domain Section 94 Development Contribution Plan	August 2010
Outdoor Recreation (Catchment 1)	Outdoor Recreation 2001	September 2001
Section 94 – Project Administration	Project Administration	10 August 2007

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

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	Office Use Only
Local Roads (Catchment 10)	EP	2.5	\$1,496.00	\$3,740.00	30 June 2015	AR10
Public Domain	EP	2.5	\$436.00	\$1,090.00	30 June 2015	APD
Outdoor Recreation (Catchment 1)	ET	1	\$516.00	\$516.00	30 June 2015	AX
Sub total				\$5,346.00		
S94 Administration	6% of total Section 94 charge applicable			\$320.76	30 June 2015	AY

TOTAL	\$5,666.76	
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7 Prior to the issue of any 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.

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
Easements for Services	The creation of any necessary easements for services as required by Council, the electricity supply authority, and the telecommunication 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.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH AT ALL TIMES

8 The following conditions of consent have been imposed by the NSW Rural Fire Service as "general terms of approval" under Section 91 of the *Environmental Planning and Assessment Act 1979* and the *Rural Fires Act 1997*, and shall be complied with at all times:

- a) The development proposal is to comply with the subdivision layout identified on the drawing prepared by Hopkins Consultants numbered 6814-01, dated 22 October 2013.

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 property around the existing dwelling on proposed Lot 1 for the following distances, 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':

- i) north and east for 20 metres;
- ii) south for 61 metres; and

- iii) west for 42 metres.

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:

- c) A 20,000 litre fire fighting water supply shall be provided for the existing dwelling on proposed Lot 1 in accordance with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.
- d) Electricity and gas services shall 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:

- e) Property access roads (including Amber Way) 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:

- f) The existing building on proposed Lot 1 is 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, weepholes and eaves. External doors are to be fitted with draft excluders.

Landscaping

- g) Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

General Advice – consent authority to note

Any future development application lodged within this subdivision under section 79BA of the 'Environmental Planning & Assessment Act 1979' will be subject to requirements as set out in 'Planning for Bush Fire Protection 2006'. The Service recognises that the continued use of the existing building on proposed Lot 2 as a dwelling is subject to DA T6-14-80. Any use of this building as a dwelling should comply with the recommendations provided by the Service on 22 April 2014 in relation to DA T6-14-80.