



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

Held at South West Rocks Surf Club

21 April 2015 commencing at 9.00am.

ITEM 4 ALTERATIONS AND SECOND-STOREY ADDITIONS TO DWELLING

REPORT SUMMARY

Reporting that an application has been received involving alterations and additions to add a second storey to an existing dwelling which requires a variation greater than 10% to the height development standard under Kempsey Local Environmental Plan (KLEP) 2013, for which objections have been received.

2015.59 RESOLVED: *Moved: Cl. Shields*
Seconded: Cl. McGinn

- 1 That this matter be listed for a works inspection.
- 2 That the inspection include consideration of the impact on the objector’s properties; subject to their consent.

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				

ITEM 5 DWELLING AND TWO LOT SUBDIVISION

REPORT SUMMARY

Reporting that an application has been received involving a proposed dwelling and two (2) lot residential subdivision which requires a variation greater than 10% to the minimum lot size development standard under Kempsey Local Environmental Plan (KLEP) 2013.

MOVED: *Moved: Cl. Patterson*
Seconded: Cl. McGinn

- 1 That the variation sought to the lot size development standard under KLEP 2013 be



supported.

- 2 That development consent be granted to development application T6-14-138 for a new dwelling and a two (2) lot subdivision at 41 Queen Street, Greenhill, subject to the conditions contained in [\(Appendix D - Page 16\)](#).

WORKSHOP

2015.71 RESOLVED: *Moved: Cl. Patterson
Seconded: Cl. Shields*

That Council move into workshop to allow discussion in open Council on the following item 5.

MOTION TO RESUME COUNCIL MEETING

2015.72 RESOLVED: *Moved: Cl. Shields
Seconded: Cl. Kesby*

That the formal Council meeting be resumed.

2015.73 The MOTION was PUT to the MEETING and was CARRIED.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

Campbell	F	Green	A	Kesby	F	McGinn	F	Morris	A
Patterson	F	Saul	A	Shields	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
SITE PLAN (DWG No: D2521; SHEET 1 OF 7)	Issue "L"	Collins W Collins Pty Ltd	04.02.15
FLOOR PLAN (DWG No: D2521; SHEET 2 OF 7)	Issue "L"	Collins W Collins Pty Ltd	04.02.15
ELEVATIONS (DWG No: D2521; SHEET 3 OF 7)	Issue "L"	Collins W Collins Pty Ltd	04.02.15
SUBDIVISION PLAN (DWG No: D2521; SHEET 5 OF 7)	Issue "L"	Collins W Collins Pty Ltd	04.02.15
BASIX Certificate 518063S_02	-	Collins W Collins Pty Ltd	Monday 5 May 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 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.
- 3 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 of work to be done by an owner-builder:
 - i) The name of the owner-builder, and
 - ii) If the owner-builder is required to hold an owner-builder permit under that 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 information notified above becomes out of date, further work must not be carried out unless the Principal Certifying Authority (PCA) for the development to which the work relates (not being the council) has given the council written notice of the updated information.

- 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 SHALL BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE FOR DWELLING
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- 5 Prior to the issue of any Construction Certificate for the dwelling evidence shall be provided to Council demonstrating that all contributions required by this consent have been paid in full.
- 6 Prior to the issue of any Construction Certificate an approval under Section 68 of the *Local Government Act 1993* for connection to water supply, sewer drainage, and stormwater drainage shall be obtained from Council. This approval shall be included by the Certifier as part of any Construction Certificate.
- 7 Prior to the issue of any Construction Certificate which includes driveway works and/or above ground works, an approval under Section 138 of the *Roads Act 1993* for works within the road reserve (e.g., the driveway) shall be obtained from Council. This approval shall be included by the Certifier as part of any Construction Certificate which includes driveway works and/or above ground works.
- 8 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 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. All engineer's details shall be approved by the Certifier as part of any Construction Certificate that includes civil works.

- 9 Prior to the issue of any Construction Certificate for the dwelling, plans and specifications shall be provided to the Certifier demonstrating compliance with BASIX Certificate 518063S_02, dated Monday, 05 May 2014. All such plans and specifications shall be approved by the Certifier as part of any Construction Certificate for the dwelling.
- 10 Prior to the issue of any Construction Certificate 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 any Construction Certificate.
- 11 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
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 (Kempsey Catchment)	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	AR4
Public Domain	EP	2.5	\$436.00	\$1,090.00	30 June 2015	APD
Outdoor Recreation (Kempsey Catchment)	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		

- 12 Prior to the issue of any Construction Certificate for the dwelling a Certificate of Compliance pursuant of Section 305 of the *Water Management Act 2000* shall be obtained from Council and provided to the Certifier.
- 13 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.

**THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH
PRIOR TO ANY WORKS COMMENCING**

- 14 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.
- 15 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.

- 16 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.

THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH DURING ANY BUILDING AND/OR CONSTRUCTION WORKS
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- 17 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.
- 18 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).
- 19 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.
- 20 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.

- 21 Any 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.

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

- 22 Prior to the occupation/use of any part of the development and/or the issue of any Occupation Certificate, all requirements of BASIX Certificate 518063S_02, dated Monday, 05 May 2014, and the associated plans and specifications approved as part of any Construction Certificate, shall be completed in full.
- 23 Prior to the occupation/use of any part of the development and/or the issue of any Occupation Certificate, the Certifier shall ensure 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.
- 24 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.

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

- 25 Prior to the issue of any Subdivision Certificate evidence shall be provided to Council that the entire dwelling approved as part of this consent has been completed to lock-up stage.
- 26 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.
- 27 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.
- 28 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 shall 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.

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 for the dwelling a Certificate of Compliance pursuant of Section 305 and Section 306 of the *Water Management Act 2000* shall be obtained from Council and submitted to the Certifier.

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.

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 ET	\$9,298.00	\$9,298.00	30 June 2015	AW
Sewer	1 ET	\$7,844.00	\$7,844.00	30 June 2015	AS
TOTAL			\$17,142.00		

- 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*.