



MINUTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

Tuesday 9th May 2006 commencing at 9.05am.

PRESENT:

Councillors J A C Hayes, (Mayor and Chairman), J H Bowell, E A Green, J C Gribbin, T L Hunt, R H McWilliam, D F Saul, B R Sowter and E R Walker.

General Manager, A V Burgess; Acting Director Shire Services, Tom Vermeulen; Director Sustainable Services, R B Pitt; Acting Director Corporate Services and Minute Taker Pat Hanrahan; and Donna Pearson.



DECLARATIONS OF INTEREST

Councillor McWilliam declared an interest in the item DSDS2 for the reason that he is a former owner of a unit next door to the development.



CONSIDERATION OF CONFIDENTIAL REPORTS

2006. 295

RESOLVED:

*Moved: Cl. Saul
Seconded: Cl. McWilliam*

That the confidential reports be considered in the confidential section of the meeting.



CONSIDERATION OF LATE REPORTS

2006. 296

RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Walker*

That the late reports be considered in conjunction with the relevant Director's reports.



MINUTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL DATED 11TH APRIL 2006

2006. 297

RESOLVED:

*Moved: Cl. Bowell
Seconded: Cl. Walker*

That the Minutes of the Ordinary Meeting of Kempsey Shire Council dated 11th April 2006 be confirmed.



MINUTES OF THE EXTRAORDINARY MEETING OF KEMPSEY SHIRE COUNCIL DATED 12TH APRIL 2006, 20TH APRIL 2006 AND 27TH APRIL 2006

2006. 298

RESOLVED:

*Moved: Cl. McWilliam
Seconded: Cl. Walker*

That the Minutes of the Extraordinary Meeting of Kempsey Shire Council dated 12th, 20th and 27th April 2006 be confirmed subject to the attendance of Councillor McWilliam be included at the re-adjournment of the meeting on 20th April 2006.



Councillor McWilliam declared an interest in the item DSDS2 for the reason that he is a former owner of a unit next door to the development and retired from the Council Chambers during the public forum address on this item.

PUBLIC FORUM

Mr Alan Rudge addressed Council speaking in favour of item DSDS2 6 Home Units 35 McIntyre St South West Rocks.



Councillor McWilliam returned to the Chambers.

CONSIDERATION OF REPORTS RELATING TO PUBLIC FORUM – Report DSDS2

2006. 299

RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Walker*

That the items dealt with in Public Forum be brought forward and dealt with immediately.

Councillor McWilliam declared an interest in the following item DSDS2 for the reason that he is a former owner of a unit next door to the development and retired from the Chamber.

DSDS2	PROPOSED DEVELOPMENT OF 6 RESIDENTIAL UNITS - 35 MCINTYRE STREET, SOUTH WEST ROCKS
FILE: T6-06-98 GGL	{Folio No. 320512}

SUMMARY:

Reporting that Council has received a Development Application to, erect a residential flat building containing six units which requires a variation to Kempsey Local Environment Plan, 1987 and Development Control Plan 22. There have been three (3) objections received for the proposed development.



2006. 300 RESOLVED:

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

- A. That the applicant be invited to submit amended plans providing for: -**
- a) a reduction in height to comply with Councils Height of Buildings Policy**
 - b) increased setback of the eastern and rear boundaries to comply with DCP22**
 - c) redesign to provide for any fence on the boundary to not exceed 1.8metres in height**
 - d) demonstration that solar access for adjoining dwellings is reasonably maintained**
 - e) satisfactory design to provide visual privacy between the development and adjoining residences to the east.**
- B. That if amended plan or written notice of the applicants intention to submit amended plans, is not received within 30 days of the applicant being notified of Council decision that the application be refused for the following reasons:-**
- a) The building does not comply with clause 24 of Kempsey LEP1987 as the applicant has failed to demonstrate that compliance is impractical due to the topography of the site as specified in Council's Height of Building Policy**
 - b) The objection under SEPP1 fails to demonstrate that the standard is unreasonable in the circumstances**

- c) The development does not comply with the side setbacks contained in DCP22
- d) The development would impact on the solar access for the dwellings in the adjoining land
- e) The development would result in significant overlooking of adjoining residential living areas
- f) Approval of the development would set an undesirable precedent for similar proposal in the locality and the Shire.

Councillor Hunt recorded his vote against the foregoing Resolution.

Councillor McWilliam returned to the Chambers.



ADOPTION OF AGENDA ORDER OF BUSINESS

2006. 301

RESOLVED:

*Moved: Cl. Walker
Seconded: Cl. Sowter*

That the Agenda Order of Business be adopted with the notation that item DSS7 has been withdrawn from the Agenda.



MAYORAL REPORT

MM1	MEETINGS IN SYDNEY FILE:165 CC:483 JACH (NRN) {Folio No.320502}
-----	--

SUMMARY:

To inform Council of progress in the Resource Sharing initiatives around the State and our application for a Special Rate increase.



2006. 302

RESOLVED:

*Moved: Cl. Hunt
Seconded: Cl. McWilliam*

That the information be noted.

MAYORAL SUPPLEMENTARY REPORT

MM2 SUPP.	GENERAL MANGER'S PERFORMANCE REVIEW FILE: S10-13 JACH	{ Folio No. * }
--------------	--	-----------------

SUMMARY:

Advising Council that a quarterly performance review of the General Manager was held on 9 May 2006.



2006. 303 **RESOLVED:**

*Moved: Cl. Hayes
Seconded: Cl. Hunt*

That the information be noted and it be noted that the panel recommendation should read "that the General Manager's performance for the period under review is satisfactory and that recognition be given to the General Manager and staff for the work being undertaken, the complexity of the work and the amount of work being achieved".

NOTICE OF MOTION

NOM1	DRAFT HERITAGE STUDY FILE: 138 RBP (NRN)	{ Folio No. 320503 }
------	---	----------------------

That, in respect to the Draft Heritage Study, the inclusion of any reference on Section 149(5) Certificates be restricted to those premises, the owners of which have not requested that their premises be excluded from the study.

This foregoing item NOM1 was WITHDRAWN at the request of Councillor Bowell.

NOM2	POLICE AND COMMUNITY YOUTH CENTRE FILE: 343 GRW (NRN)	{ Folio No. 320504 }
------	--	----------------------

2006. 304 **RESOLVED:**

*Moved: Cl. Bowell
Seconded: Cl. Saul*

That a report be submitted to the June meeting of Council outlining the present position with the enhancement of the Youth Referral Service and Youth Learning Centre at the Police and Community Youth Centre.

**NOM3 PORT MACQUAIRE – HASTINGS COUNCIL AIRPORT
FILE: 183 CC:264 SJR {Folio No. 320505}**

2006. 305 RESOLVED:

*Moved: Cl. Bowell
Seconded: Cl. Green*

That Kempsey Shire Council offer its support to the Port Macquarie – Hastings Council in any future upgrade of its airport to Jet standard.

**NOM4 CUSTOMER FIRST CENTRE COSTINGS
FILE: 584 AVB {Folio No. 320506}**

2006. 306 RESOLVED:

*Moved: Cl. Bowell
Seconded: Cl. Gribbin*

That the General Manager submits a report to the June Ordinary Meeting of Council detailing:-

- a. the cost of Direct Management costs of the Customer First / Public Relations area
- b. the cost for the employment of the relevant staff in the respective departments prior to their transfer
- c. the reduction in Direct Management costs within the respective departments following the transfer of such staff
- d. the overall increase in Direct Management costs to Council with the completion of the Customer First / Public Relations area.

**NOM5 PROFESSIONAL DEVELOPMENT COSTS
FILE: 563 AVB {Folio No. 320507}**

2006. 307 RESOLVED:

*Moved: Cl. Bowell
Seconded: Cl. Saul*

1. That the General Manager submit a report to Council outlining how costs for Professional Development and Staff Travelling - other travelling expenses, (attendance at conferences etc) can be reduced in the 2006 / 2007 Direct Management costs by 25%.

2. That the General Manager report to Council on the actual cost to Council of the recent 'Seachange' Conference attended by the Mayor and General Manager.

NOM6 COUNTRY MAYORS ASSOCIATION MEMBERSHIP
FILE: 344 AVB (NRN) {Folio No. 320508}

MOVED:

Moved: Cl. Howell
Seconded: Cl. Gribbin

That Kempsey Shire Council discontinue its membership of the Country Mayors Association of New South Wales from 30th June 2006.

The MOTION was PUT to the Meeting and was LOST.

Councillors Gribbin and Saul recorded their votes against the foregoing decision.

NOM7 SEWERAGE DEVELOPER CHARGES
FILE: 556 AMB (NRN) CC:JCC {Folio No. 320509}

MOVED:

Moved: Cl. Hunt
Seconded: Cl. Green

That Council adopt a sewerage developer charge which allows for the proposed increase in the charge to be phased in over a two (2) year period.

The forgoing MOTION was WITHDRAWN at the request of Councillors Hunt and Green.

RESCISSION MOTION

RM1 TENDER NO.798 - 4 SHORE TOURIST PARKS AND GOOLAWAH CAMPING GROUND
FILE: 798 CC: 142 GBS {Folio No. 320510}

MOVED:

Moved: Cl. Howell
Seconded: Cl. McWilliam

That resolution number 2006.201 from the Extraordinary Budget Meeting held Tuesday 28th March 2006 as printed below;

- "1. That Council accept the tender submitted by Family Holiday Experiences Pty Ltd under Option A for the

contract management of the Goolawah Reserve for a period of 5 years from 1st July 2006.

2. That the General Manager be authorised to negotiate a contract with Family Holiday Experiences Pty Ltd in accordance with the tender specification and the tender submitted.

be rescinded.

The MOTION was PUT to the Meeting and was LOST.

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

DSDS1	PROPOSED DWELLING - POINT PLOMER ROAD
FILE: T6-05-94 TJN	{ Folio No. 320511 }

SUMMARY:

Reporting that Council has received an application to erect a dwelling for which an objection has been received. [\(Appendix A\)](#).



Director Sustainable Development Services Recommendation:

That the application be approved subject to the following conditions:

1. The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.
2. the pool house and tennis pavilion is not approved for or to be used for human habitation, industrial or commercial purposes. It is to be used ancillary to the dwelling house by people residing on site.
3. This consent has been issued on the basis that Council has been appointed as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.
4. This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.

5. A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
6. Two days prior to commencing Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
7. The buildings are not to be occupied until all conditions of Council's consent have been complied with to the satisfaction of Council and an Occupation Certificate has been obtained.
8. before the commencement of site works, demolition or building, the following activities must be completed:
 - (a) Installation of soil erosion and sedimentation control devices.
 - (b) Installation of safety fencing / hoardings between the property and the street
 - (c) Protection barriers for existing trees
 - (d) Installation of builder's toilets
 - (e) Installation of signage in prominent, visible position including:
 - "Unauthorised site entry is prohibited"
 - Name and phone number of builder or other responsible person for contact outside working hours.
9. Approval is subject to the condition that the builder or person who does the residential building work Complies with the applicable requirements of Part 6 of the Home building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that Complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6.

Details are to be submitted to Council prior to work commencing.
10. before work commences, the Council must be informed in writing of the name and contractor licence number of the licensee who has been contracted to do or intends to do the work.
11. All excavation and backfilling are to be executed safely and in accordance with appropriate professional standards, and are to be properly guarded and protected to prevent them from being dangerous to life or property.
12. Compliance with the Building Code of Australia.

All building work must be carried out in accordance with the requirements of the (BCA).

A construction certificate shall not be issued until the Principal Certifying Authority (PCA) is satisfied that the plans and specifications comply with the BCA.

13. A Survey Report is to be submitted on completion of the slab to ensure the location of the building is in accordance with the approval issued.
14. Means of implementation of the BASIX certificate are to be submitted prior to release of the construction certificate. Namely how it is proposed to collect all stormwater runoff within the proposed dam.
15. the hours of operation of the construction are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
16. Building materials are not to be stored within the road reserve or any other public place.
17. Excavated material from the site is not to be placed within the road reserve or any other public place.
18. Construction of a vehicular access from the road formation to the property boundary in accordance with Council's Standard for Access to Rural Properties. Applicant is to consult Council's Sustainable Development Services Department for requirements before commencing construction.
19. Engineering details for the driveway are to be submitted and approved prior to release of the Construction Certificate.
20. Submission of a survey showing the location, height, and crown area of all trees within the required asset protection zone (as identified by conditions 26 and 27) for consideration of Council prior to release of the Construction Certificate. Any hollow bearing or potential hollow bearing trees within the area are to be identified by a suitably qualified ecological consultant.

Planning for Bushfire Protection 2001.

21. Construction shall comply with AS 3959 – 1999 level 2 “Construction of Buildings in Bushfire Prone Areas”.
22. The structure shall incorporate gutterless roofing or leafless guttering to prevent the build up of flammable material.
23. Roller doors, tilt-a-doors and the like shall be sealed to prevent entry of embers into the structure.

24. In recognition of the potentially unreliable reticulated water supply in the area a 5,000litre dedicated water supply tank shall be provided. A 65mm store fitting and ball or gate valve shall be installed in the tank.
25. Access shall comply with section 4.3.2 Planning for Bushfire Protection 2001.
26. The property around the dwelling on the western side to a distance of 25metres shall be maintained as an Inner Protection Area (IPA) as outlined within section 4.2.2 in Planning for Bushfire Protection.
27. The property around dwelling on the northern, eastern and southern sides to a distance of 30 metres shall be maintained as an Inner Protection Area (IPA) and 10metres shall be maintained as an Outer Protection Area (OPA) as outlined within section 4.2.2 in Planning for Bushfire Protection 2001.
28. Prior to issue of the Construction Certificate, an Integrated Property Management Plan (IPMP) shall be submitted, and approved by Council. The IPMP shall be prepared by a suitably qualified consultant, and shall incorporate the recommendations of the following specialists reports submitted with the application:
 - a) EPBC Act 1999 – MNES, Threatened Species Act 1995, SEPP 44 – Koala Habitat Assessments by Darkheart Eco-Consultancy dated January 2004,
 - b) Bushfire Protection Assessment by Conacher Travers dated April 2004.
29. The IPMP shall be certified by each author of the specialist reports as achieving the recommendations contained therein.
30. The IPMP shall, in particular, includes:
 - a) The identification of the need to remove any hollow bearing or potential hollow bearing trees identified by the survey required by Condition 20, in order to achieve the bushfire protection recommendations. Where there is an identified need to remove any of these trees, the IPMP shall incorporate any additional ameliorative measures recommended by Darkheart Eco-Consultancy (or a suitably qualified ecologist).
 - b) The identification of the limit of clearing required to provide the asset protection zone, and ensure that no clearing beyond this occurs.

- c) **Compensatory vegetation planting of the lower cleared section of the site.**
 - d) **Retention of the paperbark forest along the drainage line including plantings to extend along the drainage line to the eastern boundary of the lot, and shall include the planting of Forest Red Gum.**
 - e) **Onsite effluent disposal to be designed to be located as far as practical from the drainage line.**
 - f) **Surface water run-off from the house site and access road to be directed to appropriate silt traps before entering the drainage line.**
 - g) **Management of disposal of any cleared vegetation from the site to minimise any impacts on retained vegetation.**
- 31. Implementation of the IPMP prior to the issue of the occupation certificate.**
- 32. The site is to be managed at all times in accordance with the IPMP.**
- 33. Prior to issue of the Occupation Certificate, it will be necessary to create a suitable restricted as to user on the title of the lot**
- a) **Prohibiting the keeping of dogs**
 - b) **Requiring management of the site in accordance with the approval Integrated Property Management Plan.**

Such restriction shall nominate Kempsey Shier Council as the sole party to vary or modify and be in a form that binds successive owners.

- 36. Payment of a cash contribution towards the provision of additional open space in accordance with Council's Section 94 Plan for Outdoor Recreation at the rate of \$410 for dwellings on lots which have not been previously paid in accordance with Council's Section 94 Plan prior to issue of the Construction Certificate.**

A copy of Council's Section 94 Contribution Plan may be inspected at Council's offices, corner Elbow and Tozer Streets, West Kempsey.

Advices

- 37. All contractors engaged in construction works involving the disturbance to subsurface sediments should be advised of their legal requirements with regard to Aboriginal cultural materials. Under the terms of the National Parks and Wildlife Act 1974 it is illegal for any person to knowingly disturb, deface, damage or destruction of an 'Aboriginal object'**

without first obtaining written consent to do so from the Department of Environment and Conservation. Should any materials thought to be of Aboriginal origin be detected during any stage of construction, work must immediately cease in their locality. Appropriate management advice should then be sought from both the DEC Northern Zone Cultural Heritage Unit at Coffs Harbour and the Kempsey LALC and Dunghutti Elders Council. Work should not resume in the subject locality until formal written clearance has been given by these organizations.

MOVED:

*Moved: Cl. Walker
Seconded: Cl. Sowter*

That the Director Sustainable Development Service's recommendation be adopted.

An Amendment was MOVED:

*Moved: Cl. Hayes
Seconded: Cl. Walker*

That this matter be listed for a Works Inspection.

2006. 308 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.



At this stage 10.33a.m the Meeting adjourned for Morning Tea and upon resumption at 11.05 a.m. all present at the adjournment were in attendance.



DSDS2	PROPOSED DEVELOPMENT OF 6 RESIDENTIAL UNITS - 35 MCINTYRE STREET, SOUTH WEST ROCKS
	FILE: T6-06-98 GGL {Folio No. 320512}

This item DSDS2 was dealt with earlier in the meeting immediately following PUBLIC FORUM.

DSDS3	PROPOSED REZONING - 153 MACLEAY STREET, FREDERICKTON
	DRAFT KEMPSEY LOCAL ENVIRONMENTAL PLAN 1987 (AMENDMENT 101)
	FILE: T5-101 SDS {Folio No. 320513}

SUMMARY:

Reporting that a request to proceed to rezone land at 153 Macleay Street Frederickton to facilitate residential development has been refused by the Department of Planning.



2006. 309 **RESOLVED:**

*Moved: Cl. Green
Seconded: Cl. Sowter*

That the Director General of Planning be requested to reconsider his decision not to issue a Written Authorisation to Exercise Delegation provided in this report.

DSDS4	RESIGNATIONS FROM ESD COMMITTEE
FILE: 298 NDH	{Folio No. 320514}

SUMMARY:

Reporting the resignation of another member of the ESD Committee and the recommendation for the appointment of a replacement.



Director Sustainable Development Services Recommendation:

- A. That Council send a letter of thanks Alison Brown for her contribution to the Committee; and**
- B. That Council determine whether to appoint a replacement to the position made vacant by the resignation of Alison Brown as recommended by the ESD Committee.**

MOVED:

*Moved: Cl. McWilliam
Seconded: Cl. Walker*

- A. That Council send a letter of thanks Alison Brown for her contribution to the Committee; and**
- B. That the committee continue without a replacement at this stage.**

An Amendment was MOVED:

*Moved: Cl. Bowell
Seconded: Cl. Gribbin*

- A. That Council send a letter of thanks Alison Brown for her contribution to the Committee; and**

B. That Mr Hinchey be invited to join the committee on the understanding he brings himself up to date with the committee matters.

The AMENDMENT was PUT to the Meeting and was LOST.

2006. 310 The MOTION was PUT to the MEETING and was CARRIED.

Councillors Bowell and Gribbin recorded their votes against the foregoing Resolution.

DSDS5	BUILDING AND DEVELOPMENT
	FILE: 329 RBP

SUMMARY:

Reporting that the following applications have been approved:



2006. 311 **RESOLVED:**

Moved: Cl. Green
Seconded: Cl. Hunt

That the information be noted.

DIRECTOR SHIRE SERVICES REPORT

DSS1	KEMPSEY SHIRE COUNCIL SENIORS
	LUNCHEON
	FILE: 467 AF (NRN) {Folio No. 320515}

SUMMARY:

Reporting on Kempsey Shire Council's Seniors Luncheon held on Thursday 6th April 2006.



2006. 312 **RESOLVED:**

Moved: Cl. Sowter
Seconded: Cl. McWilliam

That the information be noted.

DSS2	WATER SUPPLY EXTRACTION LICENCE
	CHANGES UPDATE
	FILE: 332 & 667 EU (NRN) {Folio No. 320516}

SUMMARY:

Reporting on Water Supply Extraction Licence Changes.



2006. 313 **RESOLVED:**

*Moved: Cl. Sowter
Seconded: Cl. Saul*

That the information be noted.

DSS3	WATER SUPPLY – EMERGENCY BORES
FILE: 332 EU (NRN)	{Folio No. 320517}

SUMMARY:

Reporting on Council's Kinchela Emergency Bores along Hat Head Road.



2006. 314 **RESOLVED:**

*Moved: Cl. Green
Seconded: Cl. Hunt*

That the information be noted.

DSS4	ABORIGINAL ROAD SAFETY AWARENESS AND LICENSING PROGRAM
FILE: 211 MJT	{Folio No. 320518}

SUMMARY:

Reporting on the outcomes of the Aboriginal Road Safety Awareness and Licensing Program. (ARSAL)



Director Shire Services Recommendation:

- 1 That Council's Road Safety Officer accept the invitation to be a member of the working group, set up by the Homeless Persons Legal Service in partnership with the Public Interest Advocacy Service to progress the Reports recommendations through Parliament.
- 2 That Mr Andrew Stoner MP, State Member for Oxley, be requested to support the progress of the Report's recommendations through Parliament.

2006. 315 RESOLVED:

Moved: Cl. McWilliam

Seconded: Cl. Green

- 1 That Council accept the invitation to be a member of the working group, set up by the Homeless Persons Legal Service in partnership with the Public Interest Advocacy Service to progress the Reports recommendations through Parliament and the Road Safety Officer be Council's delegate.
- 2 That Mr Andrew Stoner MP, State Member for Oxley, be requested to support the progress of the Report's recommendations through Parliament.
- 3 That the information be referred to the Aboriginal Liaison Committee.

DSS5	2005 / 2006 CYCLEWAY PROGRAM
FILE: 211 NJT CC: APC	{Folio No. 320519}

SUMMARY:

Reporting on additional funding received from the RTA under the 2005 / 2006 Cycleway Program.



Director Shire Services Recommendation:

- 1 That Council accept the grant of \$15,000 for a total project cost of \$30,000 from the RTA.
- 2 That matching funding of \$15,000 be provided from Sec 94 Contributions for Recreation in South West Rocks.

2006. 316 RESOLVED:

Moved: Cl. Bowell

Seconded: Cl. Green

- 1 That Council accept the grant of \$15,000 for a total project cost of \$30,000 from the RTA.
- 2 That matching funding of up to \$15,000 be provided from Sec 94 Contributions for Recreation in South West Rocks.

DSS6	CHILL COOK MEALS KEMPSEY HOSPITAL
FILE: 46 GRW	{Folio No. 320520}

SUMMARY:

Invitation from Carmen Rechbauer (Manager Shared Business Services NSW Health) to Kempsey Councillors to undertake a tour of the kitchen facilities at Kempsey District Hospital.



Director Shire Services Recommendation:

That the information be noted and that the date and number of Councillors wishing to meet with officials from Area Food Services, Kempsey District Hospital, be confirmed.

2006. 317 RESOLVED:

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

1. That the information be noted.
2. That interested Councillors attend the inspection tour on Thursday 11th May 2006 at 11.30am.

DSS7	YOUTH INFORMATION REFERRAL SERVICE
	FILE: 343 (306648) GRW {Folio No. 320521}

The forgoing report DSS7 was WITHDRAWN at the request of the Acting Director Shire Services.

DSS8	COMMUNITY SERVICES GRANTS PROGRAM – AFFIXING COUNCIL SEAL TO DOCUMENTS
	FILE: 389 MLB CC:APC {Folio No. 320522}

SUMMARY:

Reporting on the need for Council to authorise the affixing of the Council seal on documents.



2006. 318 RESOLVED:

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

That Council's seal be affixed to all documentation received relating to the 2006 / 2007 Community Services Grants Program relating to the Aboriginal Liaison Officer's position.

DSS9	KEMPSEY SHIRE 2004 - 2009 SOCIAL PLAN PROGRESS UPDATE
	FILE: 70 MLB (NRN) {Folio No. 320523}

SUMMARY:

Reporting on the progress of the implementation of the Kempsey Shire Council 2004 - 2009 Social Plan.



2006. 319 **RESOLVED:**

*Moved: Cl. McWilliam
Seconded: Cl. Walker*

That the progress report be noted.

DSS10	CRESCENT HEAD POOL – WATER EFFICIENCY TANKS
	FILE: 857 JM (NRN) CC:APC {Folio No. 320524}

SUMMARY:

Reporting on Council's success in receiving an Australian Community Water Grant to construct two (2) 90,000 litre water storage tanks for the Crescent Head Public swimming pool.



2006. 320 **RESOLVED:**

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

That the information be noted.

DIRECTOR SHIRE SERVICES SUPPLEMENTARY REPORT

DSS11 SUPP.	NOXIOUS WEED DECLARATIONS IN KEMPSEY SHIRE
	FILE: 150 GWE {Folio No. 320794}

SUMMARY:

Reporting on proposed changes to the Noxious Weeds Declaration for Kempsey.



2006. 321 **RESOLVED:**

*Moved: Cl. Green
Seconded: Cl. Saul*

That Council write to the Department of Primary Industries and request an amendment to the Noxious Weed Declarations to include Mother of Millions on the Class 4 list and to remove Mistflower from the Noxious Weed Declarations for Kempsey Shire.

DIRECTOR CORPORATE SERVICES REPORT

DCS1	STATEMENT OF BANK BALANCES AS AT 30th APRIL 2006
FILE: 454	APC {Folio No. * }

SUMMARY:

Reporting on the Statement of Bank Balances as at 30th April 2006.



2006. 322 **RESOLVED:**

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

That the information be noted.

DCS2	STATEMENT OF INVESTMENTS AS AT 30th APRIL 2006
FILE: 303	APC {Folio No. * }

SUMMARY:

Reporting on the Statement of Investments as at 30th April 2006.



2006. 323 **RESOLVED:**

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

That the information be noted.

DCS3	FLEET MANAGEMENT
FILE: 151 LFD (NRN)	{Folio No. 320525}

SUMMARY:

The Fleet Management Business Plan adopted by Council requires that Council be advised of Plant purchases each month.



Director Corporate Services recommendation:

That the information be noted.

2006. 324 RESOLVED:

*Moved: Cl. Hunt
Seconded: Cl. McWilliam*

That this matter be deferred to the next meeting of Council and the report provide further information in relation to the sale of the low loader.

DCS4	FLEET UTILISATION
FILE: 468	GBS (NRN) {Folio No. 320526}

SUMMARY:

Reporting on the latest Fleet Utilisation information.



2006. 325 RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Green*

That the information be noted.

DCS5	ROLE OF COMMITTEES
FILE: 433	PJH (NRN) {Folio No. 320527}

SUMMARY:

Reporting of the role of committees, particularly in respect to section 377 of the Local Government Act 1993.



2006. 326 RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Walker*

That Council's committee reporting procedures continue as per present arrangements with all advisory committees reporting to the appropriate Director.

DCS6	COUNCILLORS REQUESTS FOR ACCESS TO RECORDS
FILE: 367	PJH (NRN) {Folio No. 320528}

SUMMARY:

Reporting on requests by Councillors for access to records for the three (3) month period, February to April 2006.



2006. 327 **RESOLVED:**

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

That the information be noted.

DCS7	AFFIXING OF COUNCIL'S SEAL – LICENCE TO CROWN CASTLE AUSTRALIA FILE: LA1957 PJH CC:APC {Folio No. 320529}
-------------	--

SUMMARY:

Reporting on the need to affix Council's seal to Licence documents related to the use of Rudder Park, East Kempsey for telecommunications equipment.



2006. 328 **RESOLVED:**

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

That Council's seal to be affixed to the documents related to renewal licence with Crown Castle Pty Ltd for the use of part of Rudder Park, East Kempsey for communication facilities.

DCS8	CONSERVATION AGREEMENTS: IMPACT ON RATING AND ABANDONMENT OF RATES FILE: 562 WMS (NRN) {Folio No. 320530}
-------------	--

SUMMARY:

Reporting on the rateable status, and resulting abandonment of rates, on land subject to Conservation Agreements between land owners and the National Parks and Wildlife Service.



Director Corporate Services Recommendation:

1. That the 2005 / 2006 rates and charges totalling \$2794.50 be written off and abandoned under Section 131 (4) (b) of the Local Government (General) Regulation 2005.

2. That the existence of the conservation agreements is for the information of Council.

2006. 329 RESOLVED:

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

That the Director Corporate Services recommendation be adopted with the addition of:-

- 3 That the issue of Conservation Agreements be raised with the Mid North Coast Group of Councils (MIDGOC) and also be referred to the Country Mayors Association, Local Government and Shires Association and the Local Member Mr Andrew Stoner MP.

DIRECTOR CORPORATE SERVICES SUPPLEMENTARY REPORT

DCS9 SUPP.	FINANCIAL STATEMENT FOR THE PERIOD TO 31 st MARCH 2006 FILE: 321 APC (NRN) {Folio No. 320795}
---------------	--

SUMMARY:

Reporting that the Budget Review for the period ending 31 March 2006 has been prepared for all funds.



Director Corporate Services Recommendation:

That the Budget Review for the period ended 31 March 2006 is adopted and the variations contained therein be approved and financed from the sources as indicated.

2006. 330 RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Walker*

1. That the Budget Review for the period ended 31 March 2006 is adopted and the variations contained therein be approved and financed from the sources as indicated.
2. That given Council's low rate base that the staff be complimented on the number of activities undertaken for the available funds.



PRESENTATION

At 12.10pm Mr Steve Murray, Regional Director Department of Planning and Mr Greg Yates, Department of Planning Project Manager addressed Council on the Department of Planning Mid North Coast Strategy.



At 1.10p.m the Meeting adjourned for Luncheon and upon resumption at 2.01p.m all present at the adjournment were in attendance.



GENERAL MANAGER'S REPORT

GM1	OUTSTANDING REPORTS / RESOLUTIONS
FILE: 149 AVB (NRN)	{Folio No. 320531}

SUMMARY:

Council's report on outstanding reports and resolutions.



2006. 331 **RESOLVED:**

*Moved: Cl. Sowter
Seconded: Cl. McWilliam*

That the information be noted.

GM2	WORKS PROGRAM
FILE: 153 AVB (NRN)	{Folio No. 320532}

SUMMARY:

To outline progress of the capital works program for the 2005 / 06 year.



2006. 332 **RESOLVED:**

*Moved: Cl. Sowter
Seconded: Cl. Walker*

That the information be noted.

GM3	QUARTERLY REPORT ON IMPLEMENTATION OF 2005 - 2006 MANAGEMENT PLAN FILE: 339 JCC (NRN)	{Folio No. 320533}
------------	--	---------------------------

SUMMARY:

Reporting on the implementation of Council's 2005 / 2006 Management Plan.



2006. 333 RESOLVED:

*Moved: Cl. Walker
Seconded: Cl. Sowter*

That the achievement of performance targets set by the 2005 / 2006 Management Plan for the period to the end of the March 2006 quarter be noted.

GM4	LOCAL GOVERNMENT LAND AND ENVIRONMENT CONFERENCE FILE: 165 AVB (NRN)	{Folio No. 320534}
------------	---	---------------------------

SUMMARY:

To advise Council that Marsdens are to again host this conference in 2006.



General Manager's Recommendation:

That Council nominate Councillors to attend the conference.

2006. 334 RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Howell*

That Councillors Howell, Gribbin, Hunt, McWilliam and the Mayor be authorised to attend the Local Government Land and Environment Conference.

GM5	2006 / 07 BUDGET FILE: 447 JCC (NRN)	{Folio No. 320535}
------------	---	---------------------------

SUMMARY:

To provide Council with information on an amended budget variation in respect of Council's Rubbish Tips activities.



General Manager’s Recommendation:

That Council confirms the action taken in funding an additional \$75,000 roads rehabilitation and \$3,822 increase in working funds from the additional operating revenue of \$78,822 from Rubbish Tips.

2006. 335 RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Walker*

That the additional operating revenue of \$78,822 from Rubbish Tips be allocated to Working Funds.

Councillor Gribbin recorded his vote against the foregoing resolution.

**GM6 2006 - 2007 DRAFT MANAGEMENT PLAN
FILE: 339 AVB (NRN) CC:MRB {Folio No. 320536}**

SUMMARY:

Reporting on preparation of the 2006 - 2007 Draft Management Plan.



2006. 336 RESOLVED:

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

That the 2006 - 2007 Draft Management Plan be placed on public exhibition for 28 days.



QUESTIONS WITHOUT NOTICE

COUNCILLOR E R WALKER

Q1

FILE: *

Can a tree in Short Street causing problems to the residents, which was the subject of a previous request, be investigated?

Responsible Officer

APV

This matter will be followed up.

Q2

FILE: *

Can action be taken at Riverbank Park Greenhill which is overgrown with noxious weeds?

Responsible Officer

APV

This matter will be investigated.

Q3

FILE: *

Can Council have a works inspection of the Columbarium wall at Crescent Head?

Responsible Officer

PJH

The Mayor will give consideration to this matter being included in the next works inspection.

COUNCILLOR B R SOWTER

Q1

FILE: *

Can consideration be given for a directional sign to the industrial area at SWR?

Responsible Officer

RBP

This matter will be investigated.

Q2

FILE: *

What is the situation with the proposed roadworks at Quarry Road Frederickton?

Responsible Officer

APV

The works are reliant on funds from the quarry operators and outstanding payments will be followed up.

Q3

FILE: *

What is the situation and the future proposals with regard to the Bellbrook water supply?

Responsible Officer

APV

A report will be prepared for the next Council Meeting.

COUNCILLOR D F SAUL

Q1

FILE: *

Can an inspection be undertaken of 77 Belmore St Smithtown in relation to it being overgrown and a harbourage for vermin?

Responsible Officer

RBP

This matter will be investigated.

Q2

FILE: *

What is progress with Mr Paul Lawrence's boundary adjustment application?

Responsible Officer

RBP

Council's officers have had discussions with Mr Lawrence's consultant Phillip Smith and the Director will follow up this matter.

COUNCILLOR R H McWILLIAM

Q1

FILE: *

Could Council inspect stormwater drain from Gordon Young Drive to Back Creek where there is no flow and an odour problem?

Responsible Officer

APV

This matter will be investigated.

COUNCILLOR T L HUNT

Q1

FILE: *

Regarding the road conditions in Hat Head Road area – has action been taken relating to the submission from Mr Glen Brown?

Responsible Officer

APV

This matter has been referred to the Acting Manager Works and the Acting Director Shire Services will follow up.

COUNCILLOR J C GRIBBIN

Q1

FILE: *

What is Council planning to do to alleviate the lack of water pressure to homes on the eastern side of Rafferty Crescent South West Rocks?

Responsible Officer

APV

This matter will be investigated.

Q2

FILE: *

Could I be supplied with the following:

- a. **what meetings did the Mayor, the General Manager and Councillors attend in March and April 2006**
- b. **what relevance did they have for this Council**
- c. **what were the costs to the ratepayers?**

Responsible Officer

JACH

The Mayor advised Councillor Gribbin that a Notice of Motion would be required for this type of request.

Q3

FILE: *

Will the Mayor and General Manager be participating in the audit of credit cards as requested by Mr Robert Palmer or will he need to seek the information under the Freedom of Information Act?

Responsible Officer

AVB

The release of information on credit card payments is releasing information on payments to creditors and the Department of Local Government have advised this is not permitted as it is in breach of the Privacy and Personal Information Protection Act and this advice has been confirmed in discussions the General Manager has had with the Deputy Director General, Department of Local Government and the Minister for Local Government on Tuesday 2nd May 2006.

COUNCILLOR E A GREEN

Q1

FILE: *

What are we doing about illegal dwellings throughout the shire and what number do we have? How are we monitoring this?

Responsible Officer

RBP

Dwellings without consent are normally picked up following pre-purchase enquiries on property or inspections of on-site sewerage management systems and a number have come to light in recent times. Retrospective approvals cannot be given for these dwellings but approvals can be given for continuing use however some problems have arisen with the dwellings complying with building requirements. There are insufficient resources to have a specific staff member investigating all illegal dwellings throughout the Shire.

Q2

FILE: *

Can we have the jacaranda trees near the old Mitre 10 building in Eden Street trimmed on building side?

Responsible Officer

APV

This matter will be investigated.

Q3

FILE: *

What is Council doing about replanting the trees in Tozer Street?

Responsible Officer

APV

The tree planting was awaiting completion of water mains work and this will now be followed up.

COUNCILLOR J H BOWELL

Q1

FILE: *

If a Councillor in receiving a response to a Councillor Information request is warned "Council and Councillors need to be mindful of their obligations under the "Privacy and Personal Information Protection Act" and are liable to substantial penalties for unlawful disclosure of personal information to which access has been obtained in the course of their official duties and asks a supplementary question in open Council is the Act contravened?

Responsible Officer

PJH

The Act is not contravened if when a person is identified in questions or discussions at a Council meeting, that person would have reasonably expected their identity to be revealed. If the person would not expect their identity to be disclosed their permission needs to be obtained before any disclosure, otherwise there may be grounds for an alleged breach of the Act.

Q2

FILE: *

Is a plan available for the completion of the office redesign following the completion of the Customer First Centre and has Council complied with conditions of the Development Consent for the Customer First Centre?

Responsible Officer

AVB

Preliminary plans have been prepared for the office redesign and can be made available. The Development Consent was based on a staged development with only stage 1 undertaken. Public toilets and a Council Chambers on the ground floor are part of stage 2 should it proceed sometime in the future.

Q3

FILE: *

**Can the General Manager advise Council on the resolution 2006.92
"That to the extent that it is possible that management charges in
future draft budgets not be distributed throughout the various
services?"**

Responsible Officer

AVB

This resolution means that in future budgets the full cost of each service will not be shown against that particular service in the budget document as management costs of that function will be listed separately in future budget documents.



MOTION FOR CONFIDENTIAL COMMITTEE

2006. 337

RESOLVED:

*Moved: Cl. Howell
Seconded: Cl. Sowter*

That Council form itself into the Confidential Committee of the Whole, and at this stage the meeting be closed to the public to permit discussion of the confidential business items listed for the reasons as stated in the Agenda.



DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES CONFIDENTIAL REPORT

DSDS1 CONF.	BAKERS QUARRY LOFTUS ROAD CRESCENT HEAD FILE: T4-95-115 GAN (NRN) {Folio No. 320537}
------------------------	---

REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

This report is submitted on a confidential basis as it involves advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege. (Local Government Act 1993, section 10A(2)(G)).

Discussion of the matter in an open meeting would on balance be contrary to the public interest in protecting the legal advice received by Council which is to be used in Council's decision in this matter.

SUMMARY

The purpose of this report is to inform Council on investigations regarding the operations at Bakers Quarry and legal advice received in relation to potential breaches of the Environmental Planning and Assessment Act 1979.



2006. 338

RECOMMENDED:

*Moved: Cl. Bowell
Seconded: Cl. Sowter*

That the information be noted.

GENERAL MANAGER'S CONFIDENTIAL REPORT

GM1	LEGAL MATTERS	
	FILE: 155	AVB (NRN) {Folio No. 320538}

REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

Section 10A(2)(g) – Legal Proceedings

This report is submitted on a confidential basis as it involves advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege. (Local Government Act 1993, Section 10A(2)(g))

On balance, the public interest in preserving the confidentiality of the advice outweighs the public interest in openness and transparency in Council decision making by discussing the matter in open meeting.

SUMMARY:

Reporting on the current position regarding legal matters.



2006. 339

RECOMMENDED:

*Moved: Cl. Bowell
Seconded: Cl. Sowter*

That the information be noted.

GENERAL MANAGER'S CONFIDENTIAL SUPPLEMENTARY REPORT

GM2	COMPLAINTS AGAINST STAFF	
CONF SUPP	FILE: S10-13	AVB {Folio No. *} }

REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

Section 10A(2)(a) – Personnel Matters

This report is submitted on a confidential basis as it involves personnel matters concerning particular individuals (other than Councillors). (Local Government Act 1993, section 10A(2)(a))

SUMMARY:

To advise Council that the investigation process into the complaints against staff has now been completed.



2006. 340

RECOMMENDED:

*Moved: Cl. Sowter
Seconded: Cl. Walker*

That the information be noted.



REPORT OF THE MEETING OF THE COMMITTEE OF THE WHOLE

Upon resumption of Open Council, the following Report of the Committee of the Whole was submitted by the General Manager.



ADOPTION OF REPORT OF THE COMMITTEE OF THE WHOLE

2006. 341

RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Saul*

That the foregoing recommendations of the Committee of the Whole, as reported by the General Manager, be adopted.



DATE FOR WORKS INSPECTION

The Mayor advised the date for a Works Inspection of Council land, heritage sites and development matters would be Monday 29th May commencing 8.30am and continuing Tuesday 30th May.



CONCLUSION:

There being no further business, the Meeting terminated at 3.00p.m.

