



## NOTICE OF MOTION

12<sup>th</sup> June 2007

<b>NOM3</b>	<b>EXHIBITION OF LOCAL ENVIRONMENTAL STUDY (LES) AND DRAFT LOCAL ENVIRONMENTAL PLAN (LEP) FORMER SHELL SITE, PHILLIP DRIVE, SOUTH WEST ROCKS</b>
	<b>FILE: T5-94 CLR JHB {Folio No. *} }</b>

I hereby give notice that I intend to move the following motion at the Ordinary Meeting of Kempsey Shire Council to be held on Tuesday, 12<sup>th</sup> June 2007.

- "1. That a report be presented to Council for reconsideration of endorsement of the draft Local Environmental Plan and Local Environmental Study for referral to the Department of Planning to seek authority to permit public exhibition.***
- 2. That the applicant be invited to make a further submission to Council in relation to the issue of contamination for inclusion in the report."***

Background:

At its meeting of the 23<sup>rd</sup> March 2004, Council considered a report relating to the rezoning of the ex Oil Terminal site at South West Rocks for the purpose of residential subdivision. Council subsequently resolved that no action be taken until Council is provided with a report from the EPA specifying the findings of the preliminary investigations of the land carried out in accordance with EPA Guidelines.

At its meeting of 25<sup>th</sup> May 2004, Council considered a detailed submission and presentation from a remediation consultant and subsequently resolved to rescind the previous resolution and to proceed to prepare a draft Local Environmental Plan (LEP) to rezone Lot 1 DP 445196, Phillip Drive, South West Rocks, for residential purposes.

A draft LEP and accompanying Local Environmental Study was subsequently prepared and presented to Council on 12<sup>th</sup> September 2006 to endorse for the purposes of referring the draft to the Department of Planning to permit public exhibition. Council subsequently resolved not support proceeding with rezoning until after the site is remediated by the developers.

### **Contamination**

In respect to contamination of the land and required remediation, the previous reports advised: -

- On-going contamination monitoring has established that soil and groundwater pollutants occur in concentrations higher than is acceptable for residential development.
- The LES addresses the need for remediation and recommends allowing this to occur after rezoning, provided it is remediated before development occurs.
- The draft LEP was intended to give effect to this requirement by prohibiting any development until the land is rehabilitated in accordance with a Remediation Action Plan (RAP).
- In respect to concerns raised by councillors relating to potential liability in the event standards and regulations were to change in the future, Council was advised that provided Council can demonstrate that it acted in good faith based on the best information available, that Council would not be liable in such circumstances.

**MOTION IMPLICATIONS:**

- ***Environmental***

*The LES concludes that the allotment is suitable for residential development, subject to the implementation of the Remediation action Plan (RAP) and management of environmental impacts. Appropriate arrangements need to be in place to ensure achievements of stormwater quality targets.*

- ***Social***

*The provision of additional land for residential development will give rise to a demand for social and community services. Prior to proceeding gazettal of the draft LEP it will be necessary to prepare, exhibit and adopt a Developer Contributions Plan for the provision at these services.*

- ***Economic (Financial)***

*The rezoning of the land will increase the potential growth of South West Rocks.*

*The increase demand for services and infrastructure as a result of future development of the land will require the preparation, exhibition and adoption of a Developer Contributions Plan, to ensure the development meets the full cost of the provision of these services.*

- ***Policy or Statutory***

*The LES has been prepared in consultation with relevant Government Departments and in accordance with requirements of the Environmental Planning & Assessment Act 1979 and the Contaminated Land Management Act 1997.*

*It will be necessary to submit the draft plan to the Department of Planning to either allow Council to exercise its delegation to issue the section 65 certificate or for the Department to issue the certificate. This will allow the LES and draft LEP to be exhibited for public comment.*

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**COUNCILLOR J H BOWELL**