



KEMPSEY
Shire Council

MINUTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

Tuesday 7th April 2009 commencing at 9.01 a.m.

PRESENT:

Councillors J H Bowell (Mayor and Chairman), E A Campbell, E A Green, J A C Hayes, J C Gribbin, D F Saul, A D Snowsill, J A Sproule and E R Walker

General Manager, A V Burgess; Director Shire Services, B J Morris; Director Sustainable Development Services, R B Pitt; Acting Director Corporate & Community Services, K E Oliver; Acting Manager Administration, K R Woods; and Minute Taker D M Pearson.

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OPENING PRAYER

"Dear Lord, help us in our deliberations today so that our decisions will be for the greater good for the whole of Kempsey Shire - Amen".

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WELCOME

The Mayor welcomed to the meeting; teachers, Year 12 TPC students and 'The Baldies' group, men learning (or building upon) their life skills, so as to gain the confidence to participate in the community.

DECLARATIONS OF INTEREST

Councillor Green declared an interest in item GM2 Confidential for the reason that she is the Chair of the Board for the Management Committee of the Macleay Vocational College.

Councillor Hayes declared an interest in item DCCS1 Confidential for the reason that she is Chairman of the Mid North Coast Community Housing Committee.

Councillor Walker declared an interest in the item DSS10 for the reason that he leased an area of land at Back Creek.

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ONE MINUTE SILENCE

One minute silence was held in respect for Mrs Hanrahan who died 6th April 2009.

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CONSIDERATION OF CONFIDENTIAL REPORTS

2009. 207 RESOLVED: *Moved: Cl. Hayes*
Seconded: Cl. Sproule

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

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MINUTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL DATED 10TH MARCH 2009

2009. 208 RESOLVED: *Moved: Green*
Seconded: Gribbin

That the Minutes of the Ordinary Meeting of Kempsey Shire Council dated 10th March 2009 be adopted.

MINUTES OF THE EXTRAORDINARY MEETING OF KEMPSEY SHIRE COUNCIL DATED 16TH MARCH 2009

2009. 209 RESOLVED: *Moved: Green*
Seconded: Gribbin

That the Minutes of the Extraordinary Meeting of Kempsey Shire Council dated 16th March 2009 be adopted.

MINUTES OF THE WORKS INSPECTION COMMITTEE MEETING OF KEMPSEY SHIRE COUNCIL DATED 23RD MARCH 2009

2009. 210 RESOLVED: *Moved: Gribbin*
Seconded: Green

That the Minutes of the Works Inspection Committee Meeting of Kempsey Shire Council dated 23rd March 2009 be adopted.

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PUBLIC FORUM

1. - Ms Jan Eason addressed Council regarding item GM2 Confidential Macleay Vocational College.

2. - Mr Mike Dutton addressed Council speaking in relation to item DSDS13 Section 82A Review of Determination.
3. - Mr Mike Dutton addressed Council speaking in relation to item DSDS14 Proposed Rezoning for a Crematorium and Funeral Parlor.

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CONSIDERATION OF LATE REPORTS

2009. 211 RESOLVED: *Moved: Sproule
Seconded: Green*

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

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CONSIDERATION OF REPORTS RELATING TO PUBLIC FORUM – Reports DSDS13, DSDS14 and GM2 Confidential.

2009. 212 RESOLVED: *Moved: Walker
Seconded: Hayes*

That the reports relating to the items dealt with in Public Forum be brought forward and dealt with immediately with the exception of GM2 which is to be dealt with in the Confidential Section of the Meeting.

DSDS13	SECTION 82A REVIEW OF DETERMINATION
FILE: T6-07-76 PJC	{Folio No. 395196}

SUMMARY:

Reporting that Council has received an application to review a determination under section 82A of the *Environmental Planning & Assessment Act, 1979*

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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MOVED: *Moved: Cl. Green
Seconded: Cl. Snowsill*

A. That the application to review Development Consent No. T6-07-76 to delete condition no. 8 be declined.

B. That condition of consent no. 8 of Development Consent No. T6-07-76 be varied to read as follows:

Contribution to be paid towards provision or improvement of amenities or services within three (3) months from the date of

this determination.

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
Rural Roads	Rural Roads Developer	May 2000
Open Space	Section 94 Contribution for Outdoor Recreation	Sep 2001

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 will be adjusted in accordance with the relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment. The contribution rates for specific dates are available from Council offices during office hours. Payments will only be accepted by cash or bank cheque.

Schedule of Contributions pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.

Public amenity or service	Unit type	No. of Units	Contribution Rate (Amount per Unit)	Contribution Levied	Date until which Contribution rate is applicable
Arterial Road (Collombatti Road)	ET	1	\$9,836	\$9,836.00	30 th June 2009
Catchment Access Road (Huges Access)	ET	1	\$2542	\$2,542.00	20 th June 2009
Outdoor Recreation	ET	1	\$441	\$441.00	20 th June 2009
TOTAL				\$12,819.00	

An Amendment was MOVED:

*Moved: Cl. Hayes
Seconded: Cl. Gribbin*

That this matter be deferred for one month to allow the applicant to prove existing use rights.

2009. 213 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.

A Division on this decision resulted in the following votes.

F = Voted For

A = Voted Against

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

**DSDS14 PROPOSED REZONING FOR A CREMATORIUM (INCLUDING FUNERAL CHAPEL), AND FUNERAL PARLOUR (INCLUDING MORTUARY)
FILE: T5-108 PJC {Folio No. 395200}**

SUMMARY:

Reporting that Council has received an application to rezone a rural zoned parcel of land to permit a crematorium including funeral chapel, funeral parlour, mortuary and memorial gardens.

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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MOVED:

*Moved: Cl. Hayes
Seconded: Cl. Gribbin*

- A. That, in accordance with Section 54 of the Environmental Planning and Assessment Act, Council prepare a draft Local Environmental Plan to permit the establishment of a crematorium (including funeral chapel) and associated memorial gardens on Lot241 DP752437, Everinghams Lane Frederickton.
- B. That the Department of Planning and the Local Environmental Plan Review Panel be requested to grant a Gateway Approval to allow preparation of the draft LEP;
- C. That if the Department of Planning and LEP Review Panel supports Council's decision to prepare the rezoning, the following matters be addressed in the preparation of the draft LEP:
 - 1. Suitable separation distances between the proposed crematorium and existing and proposed dwelling houses in Everinghams Lane, consideration of the appropriate lot size to contain the development, and the future uses of the residual area of 1(c) zone within the subject land;
 - 2. The design to be amended to separate the memorial gardens from the car park;
 - 3. Submission of a revised concept plan incorporating the above to be prepared in consultation with Council;
 - 4. Submission of a revised Traffic Impact Statement to the satisfaction of Council;
 - 5. Submission of an assessment of the impact of the proposed development on water supply services in Everinghams Lane,

- to the satisfaction of Macleay Water;
6. Submission of a report indicating how onsite sewage management is to be achieved for the proposed development;
 7. Any other issue identified by the Department of Planning, or as a result of section 62 consultation with government departments, prior to public exhibition.

An Amendment was MOVED:

*Moved: Cl. Sproule
Seconded: Cl. **

That this matter be listed for works inspection.

The Amendment LAPSED for want of a SECONDER.

2009. 214 The MOTION was PUT to the MEETING and was CARRIED.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

Bowell	F	Campbell	F	Green	F	Gribbin	F	Hayes	F	Saul	F	Snowsill	F
Sproule	A	Walker	F										

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ADOPTION OF AGENDA ORDER OF BUSINESS

2009. 215 RESOLVED:

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

That the following items be dealt with in conjunction;

NOM3 & DSS12
DCCS7 & DCCS14

and the remaining Agenda Order of Business be adopted.

MAYORAL REPORT

MM1	CARAVAN PARKS LEVY COMMITTEE FILE: 314 CC: LA20082, 120 MAYOR	{Folio No. 395133}
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SUMMARY:

Reporting on attendance at a meeting of the Committee held in Sydney on Friday 13th March 2009

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2009. 216 RESOLVED:

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

1. That application be made for a grant from the local parks and reserve funds for the preparation of a Plan of Management for the Kemp Street playing fields.
2. That consideration be given to the installation of electricity meters on power heads servicing holiday vans on Council's Caravan Parks.

MM2 AUSTRALIA DAY - AMBASSADOR
FILE: 247 MAYOR (NRN) {Folio No. 395137}

SUMMARY:

Reporting that a letter of thanks has been received from Mr Warren Mundine

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2009. 217 **RESOLVED:** *Moved: Cl. Bowell*

That the information be noted.

MM3 CRESCENT HEAD WORKS
FILE: 198 MAYOR (NRN) CC: PJH, BJM {Folio No. 395138}

SUMMARY:

Reporting that Council has established the Crescent Head Works Prioritisation Committee

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2009. 218 **RESOLVED:** *Moved: Cl. Bowell*

1. That expressions of interest be invited from the Crescent Head community for the appointment of three community representatives to this Committee.
2. That the Director of Shire Services be requested to provide details of appropriate work programs for improvement works at Crescent Head.

MM4 MID NORTH COAST AREA CONSULTATIVE COMMITTEE
FILE: 283 MAYOR {Folio No. 395144}

SUMMARY:

Reporting that the office of the Committee closed on 27th March 2009

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2009. 219 RESOLVED: *Moved: Cl. Howell*

That Mr Peter Milner and staff be thanked for his support and assistance to Council, with best wishes for the future.

**MM5 CROWN LAND SOUTH WEST ROCKS
FILE: LA5054 MAYOR (NRN) {Folio No. 395147}**

SUMMARY:

Reporting on advice from the Minister for Lands the Hon Tony Kelly MLC

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2009. 220 RESOLVED: *Moved: Cl. Howell*

That the information be noted and the matter be reviewed in November 2009

**MM6 ECONOMIC DEVELOPMENT OFFICE
FILE: 398 CC: LA1112 MAYOR (NRN) {Folio No. 395153}**

SUMMARY:

Reporting on a suggestion by the Macleay Development & Promotion Board that the office of the Economic Development be relocated to the Civic Centre

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2009. 221 RESOLVED: *Moved: Cl. Howell*

That the matter of accommodation for the Economic Development Office be considered as part of the review by the new General Manager.

**MM7 NORTH COAST ACADEMY OF SPORT
FILE: 25 MAYOR {Folio No. 395157}**

SUMMARY:

Reporting on attendance at the presentations of Awards held at Tweed Heads on Saturday 28th March 2009.

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2009. 222 RESOLVED: *Moved: Cl. Howell*

1. That the North Coast Academy of Sport be congratulated on the programs provided for athletes within the area.
2. That Elodie O'Sullivan be congratulated on her award as Most Outstanding athlete in the Softball Program.

MM11 SUPP	RECRUITMENT OF NEW GENERAL MANAGER FILE: 1252 MAYOR (NRN)	{Folio No. 395388}
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SUMMARY:

Reporting on the initial process undertaken

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2009. 226 RESOLVED: *Moved: Cl. Bowell*

That the information be noted.

MM12 SUPP	AUSTRALIAN ELECTORAL COMMISSION FILE: 1049 MAYOR (NRN)	{Folio No. *}
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SUMMARY:

Reporting on proposals for the redistribution of electoral boundaries within the Federal Government.

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2009. 227 RESOLVED: *Moved: Cl. Bowell*

That the Australian Electoral Commission be advised that the preferred option is for the whole of the Shire to be within one Electorate, e.g. combined with Port Macquarie Hastings Council area with a total population of 94,353.

NOTICE OF MOTION

NOM1	ENERGY CONSUMPTION AND GREENHOUSE GAS EMISSION SAVINGS FILE: 707 MAYOR (NRN)	{Folio No. 395164}
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2009. 228 RESOLVED: *Moved: Cl. Sproule
Seconded: Cl. Hayes*

1. That Kempsey Shire Council commits to undergo a comprehensive energy audit across all of Council's energy consuming services, e.g. sporting fields and street lighting, and all Council buildings and infrastructure. This will not only identify ways to reduce energy consumption and greenhouse (CO2) gas emissions, but will improve Council's fiscal / financial bottom line.
2. That Kempsey Shire Council investigates the purchase of "GreenPower" through all available sources.
3. That Kempsey Shire Council develops an Energy Management Policy or Plan which identifies ways to reduce energy consumption and greenhouse gas emissions across the Shire.

Seconded: Cl. Gribbin

That Council advises residents:

- 1 That Council advises residents that a variation in bin size must be made in writing to Council by the property owner.
- 2 That Council advises residents that no cost will be incurred to change a mixed solid waste bin size for the first change within 12 months of 6 April 2009, although a fee in the order of \$50.00 will be incurred after the initial 12 month period or for additional changes.
- 3 That Council advises residents that the additional fee applicable for a 240 litre bin will be in the order of \$75.00 per year.

An Amendment was MOVED:

*Moved: Cl. Hayes
Seconded: Cl. Saul*

That this matter be deferred until the review has been undertaken and that residents who make enquires about larger bins be advised that the review is being undertaken.

2009. 230 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.

Councillor Green recorded her vote against the foregoing Resolution.

DELEGATE'S REPORT

DR1	AUSTRALIAN COASTAL COUNCILS CONFERENCE
FILE: 357	MAYOR {Folio No. 395171}

SUMMARY:

To inform Council of the proceedings of the Australian Coastal Councils Conference held 2nd – 4th March 2009.

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MOVED:

*Moved: Cl. Hayes
Seconded: Cl. Green*

1. That the information be noted.
2. That Council notify the National Sea Change Taskforce that it would like to host the 2010 Conference at South West Rocks.

An Amendment was MOVED:

*Moved: Cl. Howell
Seconded: Cl. Saul*

That this matter be deferred for further consideration until the next Council meeting or budget meeting whichever occurs first.

2009. 231 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.

Councillors Green and Hayes recorded their votes against the foregoing Resolution.

DR2	NSW LOCAL GOVERNMENT SHIRES ASSOCIATION TOURISM CONFERENCE 2009 FILE: 165 MAYOR (NRN)	{Folio No. 395173}
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SUMMARY:

Reporting on the NSW Local Government Shires Association Tourism Conference 2009 held in Kiama 10th – 12th March

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2009. 232 **RESOLVED:** *Moved: Cl. Campbell
Seconded: Cl. Sproule*

1. That the information be noted.
2. That Kempsey Shire Council consider including representation to NSW Local Government Shires Tourism Association Conference 2010 in their Conference Program.

DR3	FLOODPLAIN MANAGEMENT AUTHORITIES AGM AND QUARTERLY MEETING FILE: 165 MAYOR	{Folio No. 395173}
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SUMMARY:

Reporting on attendance at Floodplain Management Authorities AGM and Quarterly meeting

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2009. 233 **RESOLVED:** *Moved: Cl. Green
Seconded: Cl. Saul*

1. That the information be noted.
2. That Council include flood mitigation projects in grant funding requests under the Infrastructure Australia program.
3. That our current program of upgrading our flood drainage systems be continued as resources become available.
4. That Council continues to lobby both Federal and State elected representatives on the continuing need for adequate flood mitigation funding.

5. That Council includes the Flood Risk Management Education Programme at UTS in its staff development program for relevant staff.
6. That Council support required changes to the FMA Constitution as requests for input are received.

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At this stage 10.30 a.m. the Meeting adjourned for Morning Tea and upon resumption at 10.50 a.m. all present at the adjournment were in attendance.

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DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

DSDS1	REVIEW OF CONTRIBUTIONS	{ Folio No. 395178 }
	FILE: T6-06-313 RBP	

SUMMARY:

Reporting that Council has received a request to reduce required water and sewerage contributions for a proposed nursing home at Frederickton

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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Director Sustainable Services Department Recommendation:

That the applicant be advised that Council is prepared to modify the consent and will agree to issue a Certificate of Compliance pursuant to the Water Management Act 2000, subject to the following preconditions:-

1. Payment of a Sewerage developer charge in accordance with the Development Servicing Plan adopted by Council at the rate of \$6,704 per equivalent tenement, i.e. \$6,704 x 42.9 E.T = \$287,602 total for 2008 / 2009 (Indexed).
2. Payment of a Water Supply developer charge in accordance with the Development Servicing Plan adopted by Council at the rate of \$7,947 per equivalent tenement, i.e. \$7,947 x 42.9 E.T = \$340,926 total for 2008 / 2009 (Indexed).
3. Lodgement of a Bank Guarantee in favour of Kempsey Shire Council for the amount of \$658,687 prior to occupation of the premises in lieu of an additional upfront cash contribution towards the provision of water and sewerage. Upon receipt of a written request Council will consider relinquishing the Bank Guarantee, provided it can be demonstrated that actual flow rates do not exceed those specified in the Water Directorate Guidelines

on which Council's Developer Servicing Plan is based.

2009. 234 RESOLVED:

*Moved: Cl. Hayes
Seconded: Cl. Gribbin*

That this matter be deferred to allow any impact of changes to Council policy to be reported to Council.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

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

DSDS2	CONSTRUCT ADDITIONAL DWELLING & SUBDIVISION ON COMPLETION
FILE: T6-04-407	KJA {Folio No. 395183}

SUMMARY:

Reporting that an application to modify the conditions of consent for a two storey second dwelling and subdivision has been received which requires a variation to Development Control Plan (DCP) 37 Hat Head and for which objections have been received.

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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2009. 235 RESOLVED:

*Moved: Cl. Hayes
Seconded: Cl. Green*

A. That the modified consent be granted subject to the following conditions:-

1. Development is to be in accordance with approved plans
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
Site plan 50882-21	C	Hadlow Design Services	24 th Feb 2009
Onsite Wastewater Assessment Including Amendments		Martens and Associates	December 2008 and 5 th March 2009

In the event of any inconsistency between conditions of this

development consent and the plans / supporting documents referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. 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.
3. 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.
4. A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
5. Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
6. The dwelling is not to be occupied until all conditions of Council's consent have been complied with and an Occupation Certificate has been obtained from Council or an accredited certifier and submitted to Council.
7. 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.
8. Any damage to the footway area in Oak Street shall be restored to the satisfaction of Council prior to the issue of an Occupation Certificate.
9. The plans for the required Construction Certificate are to detail the proposed stormwater system compliance with Section 4.1.3 of Council's Development Control Plan 37 – Hat Head.
10. Section 88E Instrument requirements
A Section 88E Instrument is to be submitted with the application for a construction certificate and are to provide for the items

listed in the following table:

Item for inclusion in Plan of Subdivision and / or Section 88E Instrument	Details of Item
Restriction on the number of persons to reside in the dwelling 2 at any one time	The maximum number of occupants to reside (which means either permanently, temporarily or overnight) in proposed Dwelling 2 is to be limited to 5 persons at any one time.

11. The number of occupants to reside in Dwelling 2 is to be limited to 5 persons at one time as specified in the Onsite Wastewater Assessment produced by Martens Consulting Engineers as endorsed under this consent.
12. The fence fronting Oak Street is to be limited to 1.2m in height.
13. Deleted
14. Deleted
15. Each allotment is to be serviced by a separate water meter and sewer connections. The applicant or owner is to meet the full cost.
16. Submission of an application for Subdivision Certificate pursuant to Section 4A of the Environmental Planning and Assessment Act 1979, which authorises the registration of the plan of subdivision.
17. On-site sewage management (OSMS) system Section 68 approval required
An approval under Section 68 of the Local Government Act 1993 for on-site effluent disposal must be obtained from Council. Installation of the OSMS and associated land application area must be in compliance with the On-Site Wastewater Assessment by Martens consulting Engineers received by Council.

The OSMS must be inspected by Council every year. The owner must apply for renewal of Approval to Operate on expiration and pay any associated Council fees.

In the instance of OSMS failure, Council reserves the right to require the entire system including the Land Application Area to be improved and / or upgraded. Any remedial work will need to be undertaken by a licensed plumber and in accordance with the Geotechnical Report submitted.
18. Applicant is to submit with the final plan of subdivision copies of any instruments under Section 88B or E of the Conveyancing Act 1919 relevant to any restrictive covenants, easements or rights of way created by or affected by the subdivision.
19. The plan of subdivision is to provide for any relevant easements for sewerage, stormwater and water infrastructure over proposed Lots 1 & 2.

20. An Arborist report must be presented and endorsed by Council prior to any pruning, clearing or removal of any tree on the site or adjoining road reserve. This is to clearly detailing any pruning or removal required as part of the construction and occupation of the dwelling, the provision of any servicing requirement or the construction of driveways.
21. Submission of an application(s) to Council pursuant to Section 68 of the Local Government Act 1993 for the following, prior to the issue of a Construction Certificate:-
- i) Installing a temporary structure on land.
 - ii) Carrying out water supply work.
 - iii) Drawing water from a Council water supply or a standpipe or selling water so drawn.
 - iv) Installing, altering, disconnecting or removing a meter connected to a service pipe.
 - v) Carrying out sewerage work.
 - vi) Carrying out stormwater drainage work.
 - vii) Connecting a private drain or sewer with a public drain or sewer under the control of a Council or with a drain or sewer which connects with such a public drain or sewer.
22. 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.
23. 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
24. 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.
25. A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours

26. Details of proposed hoarding to be submitted, in writing, prior to the commencement of building operations

27. A builder's toilet complying with Clause 78I of the Environmental Planning and Assessment Regulation, and connected directly to the sewer is required on site throughout the entire building operation.

Note: Clause 78I requires that the toilet must be provided before any work is commenced.

28. 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.

29. A Survey Certificate is to be submitted upon completion of the roof framing to ensure that the top plate is at or below 6.2 metres natural ground level.

30. The dwelling shall be constructed to include all of the energy efficiency requirements contained within the single residence scorecard submitted with the application dated 13/7/04.

31. Building materials are not to be stored within the road reserve or any other public place.

32. Excavated material from the site is not to be placed within the road reserve or any other public place.

33. Submission of a detailed landscaping plan providing for the establishment of suitable species endemic to the area, including the number and species of plants to be planted and the means of establishing the landscaping beds prior to release of the Construction Certificate. The landscaping plan is to be approved by the Manager of Planning and Natural Resources.

34. Runoff and soil erosion controls shall be installed in accordance with the approved Erosion Control prior to work commencing on the site. The controls shall incorporate:-

a) diversion of uncontaminated upsite runoff around cleared and / or disturbed areas and areas to be cleared and / or disturbed.

b) *sediment control fences at the downslope perimeter of the cleared and / or disturbed area to prevent unwanted sediment and other debris escaping from the land.*

c) maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of

construction.

Protection of any kerb inlet pit located downstream of the site in accordance with Council's Engineering Guidelines for subdivision and development (drawing No SW20).

Note:

- i) Any roof drainage system is to be connected to the required discharged point at the building frame inspection stage.
 - ii) Any material spilled or deposited on the road reserve or in the gutter is to be removed immediately.
35. Submission of an application for a Certificate of Compliance pursuant to Section 305 of the Water Management Act 2000 and the lodgment of a Certificate of Compliance indicating that the requirements of Section 306 of the Water Management Act 2000 have been met, prior to release of the Subdivision Certificate / Construction Certificate, which ever occurs first.
36. Deleted
37. An Arborist report must be presented to Council prior to any pruning or clearing, clearly detailing any pruning required as part of the construction of the dwelling, the provision of any servicing requirement or the construction of driveways prior to any pruning.
38. Maintenance of fencing to protect trees
Fencing required to protect trees to be retained is to be maintained for the duration of the site clearing, preparation and construction works. During site works and construction all measures are to be taken to prevent damage to trees and other vegetation (including root systems) to be retained. Where any damage is caused to trees to be retained, remedial action must be carried out to the specifications of a tree surgeon.

No building materials or other items are to be placed or stored within the fenced off areas.

A qualified arborist experienced in tree management must be present on a full or part-time basis to advise on the maintenance of the trees for their protection for the duration of the project.

39. Trees to be protected

Trees to be retained are to be protected by a fence so as to minimise disturbance to existing ground conditions within the dripline of the trees. The fence is to be constructed:

- a. with a minimum height of 1.2 metres;
- b. outside the dripline of the tree;
- c. of steel star pickets at a maximum distance of 2 metres between pickets;
- d. using a minimum of 3 strands of steel wire;

- e. to enclose the tree; and
- f. with orange barrier mesh, or similar, attached to the outside of the fence and continuing around its perimeter.

The fence is to be maintained for the duration of the site clearing, preparation and construction works.

- 40. **No filling around trees**
No soil or fill material is to be placed within the dripline of a tree so as to cause changes in surface level by more than 50mm from the existing level and such soil is not to be compacted. Such soil fill must not be finer than that being covered in situ, e.g. clay must not be placed over loam soil.
- 41. Under the New South Wales Health Department certificate of accreditation for these type of systems, the owners are required to enter into a quarterly (3 monthly) service contract with a qualified service agent as approved by Kempsey Shire Council. The copy of each service report is to be forwarded Council within seven days of each service and is registered onto the Councils system.

Section 68 approval

PLAN OF PROPOSED AERATED WASTEWATER TREATMENT SYSTEM (AWTS) INSTALLATION FOR NOVA CLEAR SYSTEM

Further to your application for an approval under Part C of the Table to Section 68 of the Local Government Act for approval to install an Aerated Wastewater Treatment system. I advise the approval is granted in respect to the following:

Activity: Install an Nova Clear system, with all wastes connected
Number of persons: 5
Location: LOT 3 DP 758505, 26 STRAIGHT ST, HAT HEAD
Owner: JAMES W

Approval is subject to the following conditions imposed in accordance with the requirements of Section 68 of the Local Government Act 1993, AS/NZS 1547:2000, and the Environment and Health Protection Guidelines:

- 1 The system together with all plumbing and drainage work from the individual sanitary fitments to the septic system must be installed by a licensed plumber and in accordance with the requirements of the Local Government Act and Regulations, Australian Standard 3500 and the New South Wales Code of Practice for Plumbing and Drainage.

Note:

- (a) The invert of the outlet pipe from the system is to be a minimum of 150mm above the finished ground level at the absorption trench.

- (b) With installation of a yard gully please ensure:
- (i) That the top level of the fitting is to be not less than 150mm below the floor level of the building; and
 - (ii) That the top of the fitting is kept 75mm above ground level surrounding.

2 Information available to Council in respect to the permeability of the soil indicates that an irrigation area(s) with a minimum trench 13.4 long x 0.82m wide x 0.6m deep is required.

3 The owner shall enter into a quarterly service contract with the manufacturers, distributor or his agent as approved by Kempsey Shire Council.

4 A copy of the quarterly Service Report shall be forwarded by the service contractor to Council within seven (7) days of each service for the life of the aerated tank.

5 The irrigated land application area must not be used to grow vegetables or fruit for human consumption.

6 In the event that the effluent irrigation system causes a nuisance, Council reserves the right to require the irrigation area to be improved and / or increased in size.

7 INSPECTIONS

The following inspections are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area.

Inspections required:

- (a) Treatment and application systems on the day of completion.

Note:

Accounts will be forwarded for inspections which are required and / or / undertaken in addition to those inspections for which a pre-payment has been made.

8 OPERATION

Operation approval is required and will be considered following a satisfactory works inspection.

9 The wastewater treatment plant is to be located not less than 1.5 metres from any building and 900mm from the side boundary unless otherwise approved by Council.

- 10 Vehicular traffic is to be excluded from the Land Application Area. A barrier to protect the installation from vehicular damage may be required.
- 11 Effluent from the AWTS must not be permitted to discharge into any natural waterway or storm water drain.
- 12 Soaker hoses, garden sprinklers and standard water hoses and fittings are not acceptable as a means of effluent disposal. These are subject to abuse by children, pets and the occupier of the premises.
- 13 The allotments on which the building, treatment system, and the Land Application Area are situated, and maintained in one ownership and are not separately disposed of whilst the septic tank is in use.
- 14 No water supply or any source of water supply used for drinking or domestic purposes or for stock is likely to be polluted or rendered unwholesome by the disposal of effluent from the proposed septic tank.
- 15 Manually operated cisterns are installed. Cisterns with internal overflows are not to be installed.
- 16 Deleted.
- 17 All inspection openings and access points shall be sealed after each inspection to create airtight seals.
- 18 The wastewater treatment device shall comply with conditions of accreditation imposed by the Director-General of NSW Health.
- 19 The owner / occupier must maintain the disposal area in regard to adequate cover, elimination of weeds, and maintenance of grass.
- 20 All effluent land application areas must be completely prepared or landscaped to the satisfaction of the local Council before:
 - (a) in the case of a new dwelling, occupation of the dwelling
 - (b) in any case, commissioning of the AWTS.
- 21 Installation of the OSMS and associated land application area must be in compliance with the On-Site Wastewater Assessment by Martens Consulting Engineers received by Council.
- 22 The OSMS must be inspected by Council every year. The owner must apply for renewal of approval to operate on expiration and pay any associated Council fees.
- 23 In the instance of OSMS failure, Council reserves the right to require the entire system including the land application area

to be improved and / or upgraded. Any remedial work will need to be undertaken by a licenced plumber in accordance with the Geotechnical Report submitted.

This approval shall not extend to and shall not affect the rights of the Council in respect of any matter appearing in or arising out of such Plans and Specifications which is not in conformity with the Local Government Act and the Regulations 1993 thereunder.

Section 100, Local Government Act 1993, provides that an applicant may request Council to review a determination. The request must be made within twenty eight (28) days after the date of determination and if required the approved fee paid.

Section 176, Local Government Act 1993 provides that an applicant who is dissatisfied with the determination of Council in respect to the application may appeal to the Land and Environment Court within twelve (12) months on the endorsement date of this approval.

Should you have any queries concerning the foregoing conditions of approval, please contact the Sustainable Development Services, Kempsey Shire Council, Civic Centre, Corner Elbow and Tozer Streets, West Kempsey, 2440.

- B. That the applicant be advised that a Certificate of Compliance pursuant to Division 5 of the Water Management Act 2000 will be issued by Council, subject to the following matters being complied with:-
 - a Payment of a contribution towards the augmentation of sewerage headworks at the rate of \$5,237 per equivalent tenement, i.e. $\$7,396 \times 0.66 \text{ E.T} = \$5,237$. (Indexed 2004 / 2005)
 - b Payment of a contribution towards district water supply at the rate of \$799 per equivalent tenement, i.e. $\$1,211 \times 0.66 \text{ E.T} = \799 . (Indexed 2004 / 2005)
 - c Payment of a contribution towards water supply headworks at the rate of \$2,443 per equivalent tenement, i.e. $\$3,702 \times 0.66 \text{ E.T} = \$2,443$. (Indexed 2004 / 2005)

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

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

DSDS3	STRATEGIC PLANNING PROGRAM
FILE: 584 RBP	{ Folio No. 395184 }

SUMMARY:

Reporting on the progress of the Strategic Planning Program for 2008 / 09

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2009. 236 **RESOLVED:** *Moved: Cl. Hayes*
Seconded: Cl. Green

- A. That Council note the report and endorse the recommended priorities attached to each project.
- B. That Council resolve not to accept any requests for spot rezonings until after the Standard LEP has been approved and other current high priority projects have progressed.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

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

DSDS4 LOCAL ENVIRONMENTAL PLAN AMENDMENT NO 102
HERITAGE AMENDMENT
FILE: T5-102 GLR {Folio No. 395185}

SUMMARY:

Reporting that the Heritage Local Environmental Plan (LEP) was gazetted on 6th March 2009

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2009. 237 **RESOLVED:** *Moved: Cl. Green*
Seconded: Cl. Hayes

That the information be noted.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

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

DSDS5 DRAFT COMPREHENSIVE KOALA PLAN OF MANAGEMENT
FILE: 1053 NDH CC: MRB {Folio No. 395186}

SUMMARY:

Reporting that the Draft Comprehensive Koala Plan of Management for the eastern portion of the Kempsey Shire Local Government Area (LGA) has been prepared for Council's endorsement for the purposes of public exhibition

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2009. 238 RESOLVED:

*Moved: Cl. Green
Seconded: Cl. Sproule*

That the draft Comprehensive Koala Plan of Management for the eastern portion of the Kempsey Shire LGA be endorsed for the purposes of public exhibition.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

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

**DSDS6 FEBRUARY 2009 FISH KILLS – MACLEAY RIVER, BELMORE RIVER, KINCHELA CREEK & KILLICK CREEK
FILE: 1275 CC: 267 RFK {Folio No. 395187}**

SUMMARY:

Reporting on the fish kill events that occurred in the Macleay River, Belmore River, Kinchela Creek and Killick Creek systems, associated with the February 2009 flood and heavy rainfall event.

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2009. 239 RESOLVED:

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

That the information be noted.

**DSDS7 ORDERS POLICY PART A & B
FILE: 001 DJW {Folio No. 395188}**

SUMMARY:

Reporting that draft Orders Policy was placed on public exhibition with no submissions received.

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2009. 240 RESOLVED:

*Moved: Cl. Green
Seconded: Cl. Sproule*

That Council resolve to adopt the Orders Policy Local Government Act

and Environmental Planning & Assessment Act, the subject of this report, effective from the date of public notification.

DSDS8	TESTING FOR HEAVY METALS IN THE MACLEAY RIVER
FILE: 588 JGR	{Folio No. 395189}

SUMMARY:

Reporting on the testing for heavy metals in the upper, middle and lower reaches of the Macleay River

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2009. 241 **RESOLVED:** *Moved: Cl. Walker
Seconded: Cl. Campbell*

That the information be noted.

DSDS9	BUILDING AND DEVELOPMENT
FILE: 329 RBP	

SUMMARY:

Reporting that the following applications have been approved during the month of March 2009

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2009. 242 **RESOLVED:** *Moved: Cl. Green
Seconded: Cl. Walker*

That the information be noted.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

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

DSDS10	CHANGES IN REGIONAL DEVELOPMENT
FILE: 283 CC: 198 DH	{Folio No. 395190}

SUMMARY:

Reporting on proposed changes to the Mid-North Area Consultative Committee and the Mid North Coast Regional Development Board

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2009. 243 RESOLVED:

*Moved: Cl. Sproule
Seconded: Cl. Walker*

That Council endorse the nomination of the Economic Development Manager to become a Board member of Regional Development Australia.

**DSDS11 ECONOMIC DEVELOPMENT MANAGER'S MONTHLY REPORT
FILE: 584 DH {Folio No. 395194}**

SUMMARY:

Reporting on the progress of the strategic initiatives of the Kempsey Shire Council Economic Development Plan 2007 – 2010

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2009. 244 RESOLVED:

*Moved: Cl. Saul
Seconded: Cl. Walker*

That the information be noted.

**DSDS12 TOURISM STRATEGIC PLAN IMPLEMENTATION REPORT
FILE: 383 DH {Folio No. 395192}**

SUMMARY:

Reporting on the implementation of the Macleay Valley Coast Tourism Strategic Plan January 2005 – December 2009

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2009. 245 RESOLVED:

*Moved: Cl. Saul
Seconded: Cl. Walker*

That the information be noted.

**DSDS13 SECTION 82A REVIEW OF DETERMINATION
FILE: T6-07-76 PJC {Folio No. 395196}**

This report was dealt with earlier in the meeting just after PUBLIC FORUM.

**DSDS14 PROPOSED REZONING FOR A CREMATORIUM (INCLUDING FUNERAL CHAPEL), AND FUNERAL PARLOUR (INCLUDING MORTUARY)
FILE: T5-108 PJC {Folio No. 395200}**

This report was dealt with earlier in the meeting just after PUBLIC FORUM.

DIRECTOR SHIRE SERVICES REPORT

DSS1	SUPPLY AND USE OF RECLAIMED EFFLUENT AT FREDERICKTON
FILE: 694 GTS	CC: MRB
	{Folio No. 395202}

SUMMARY:

Reporting on reclaimed water use from Frederickton Sewage Treatment Plant by the Frederickton Golf Club and the Mainey agricultural property

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Director Shire Services Recommendation:

That a dedicated effluent supply system to the Mainey property be brokered in accordance with the proposed revised arrangements set out in the report.

2009. 246 RESOLVED:

*Moved: Cl. Hayes
Seconded: Cl. Green*

That this matter be listed for works inspection.

DSS2	HAT HEAD SEWERAGE SCHEME – PROGRESS REPORT
FILE: 217 PGA , BY, AMB (NRN)	{Folio No. 395204}

SUMMARY:

Reporting on the capacity issues identified in Council's February 2009 report (DSS10) of the Hat Head Sewerage Scheme.

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Director Shire Services Recommendation:

- 1. That Council support progression of Option 3 and concurrent investigation of Options 2, 4 and 5**
- 2. That Council seek legal opinion on suspending further deferred commencement consents at Hat Head in respect of DCP 37 until sewage treatment capacity limitations can be resolved.**

MOVED:

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

That option 4 be progressed.

An Amendment was MOVED:

*Moved: Cl. Saul
Seconded: Cl. Walker*

That the Director Shire Services recommendation be adopted.

2009. 247 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.

Councillor Green recorded her vote against the foregoing Resolution.

DSS3	KEMPSEY GOLF CLUB REQUEST FOR WATER METER DOWNSIZING
FILE: LA2523 SLM	{Folio No. 395205}

SUMMARY:

Reporting on a request by the Kempsey Golf Club for downsizing of the current water meter

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2009. 248 **RESOLVED:** *Moved: Cl. Hayes
Seconded: Cl. Green*

1. That the Kempsey Golf Club be advised that pressure tests and correspondence investigations have found their requests to be invalid.
2. That the Kempsey Golf Club be notified to seek design advice from a qualified hydraulic engineer on possible internal solutions to their water supply pressure

DSS4	SUPPLY AND USE OF RECLAIMED WATER
FILE: 694 GTS (NRN) CC: MRB	{Folio No. 395208}

SUMMARY:

Reporting on the status of the draft Agreement for Supply and Use of Reclaimed Water and a draft Reclaimed Water Supply Policy.

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2009. 249 **RESOLVED:** *Moved: Cl. Gribbin
Seconded: Cl. Sproule*

- 1 That Council endorses the draft Agreement for Supply and Use of Reclaimed Water.
2. That the Agreement be placed on public exhibition and be referred back to Council for consideration prior to final acceptance.
3. That Council endorses the draft Reclaimed Water Supply Policy for the purposes of public exhibition.

SUMMARY:

Reporting on proposed amendments to the Water Supply and Connections Policy to allow appropriate redress of current problems being experienced with rural water supply connections in particular.

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Director Shire Services Recommendation:

1. That Council endorse the draft Water Supply and Connections Policy for the purposes of public exhibition.
2. That Council endorse an amnesty period as a transitional arrangement during new policy adoption process.

2009. 250 **RESOLVED:** *Moved: Cl. Sproule*
Seconded: Cl. Hayes

That Council endorse the draft Water Supply and Connections Policy for the purposes of public exhibition.

SUMMARY:

Reporting on the IPWEA NSW Division State Conference 2009

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Director Shire Services Recommendation:

1. That Council nominate a Councillor to attend the Local Roads Congress component of the IPWEA NSW Division State Conference and the IPWEA Awards Dinner, which will be held on 18 May 2008.
2. That Council consider the attendance at the IPWEA NSW Division State Conference by a Councillor.

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

That the information be noted.

An Amendment was MOVED: *Moved: Cl. Campbell*
Seconded: Cl. Gribbin

That the Director Shire Services Recommendation be adopted.

2009. 251 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.

Councillors Green and Hayes recorded their votes against the foregoing Resolution.

Councillors Gribbin, Hayes and Walker were nominated.

Voting by show of hands was conducted to elect Council's representative and the following votes were recorded.

	Councillor Gribbin	Councillor Hayes	Councillor Walker
Bowell			✓
Campbell			✓
Green			✓
Gribbin	✓		✓
Hayes			✓
Saul	✓		
Snowsill	✓		
Sproule			✓
Walker	✓		

The Mayor declared Councillor Walker as Council's representative to attend the Local Roads Congress component of the IPWEA NSW Division State Conference and the IPWEA Awards Dinner, which will be held on 18th May 2008.

2009. 252 RESOLVED: *Moved: Cl. Hayes
Seconded: Cl. Green*

That the General Manager be delegated authority to appoint an alternative delegate if Councillor Walker is unable to attend.

DSS7	AGREEMENT TO EXTEND POOL SEASON AT KEMPSEY POOL COMPLEX	FILE: 968	BJM (NRN)	{ Folio No. 395211 }
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SUMMARY:

Reporting on the agreement with the current Pool operators at the Kempsey McElhone Pool complex to extend the operating season due the installation of Pool heating

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Director Shire Services Recommendation:

That the information be noted.

2009. 253 RESOLVED: *Moved: Cl. Green
Seconded: Cl. Sproule*

That the information be noted and Council endorse the action that has been taken.

DSS8	REMOVAL OF SHADE SAILS – CLYDE STREET MALL
FILE: 369	BJM (NRN) {Folio No. 395212}

SUMMARY:

Reporting on the recommendation of the Kempsey Masterplan Implementation Committee of 25th March 2009, that consideration be given to removal of shade sails in Clyde Street Mall, due to poor condition.

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Director Shire Services Recommendation:

That Council proceed with the removal of the shade sails in the Clyde Street Mall.

2009. 254 **RESOLVED:** *Moved: Cl. Hayes
Seconded: Cl. Saul*

That the shade sails remain in place until the Master plan Committee has made a decision on the refurbishment of the Clyde Street Mall.

DSS9	TOZER STREET REPLANTINGS
FILE: 55	KLB (NRN) {Folio No. 395213}

SUMMARY:

Report regarding prospective supply and planting of suitable replacements for trees removed from Tozer Street, West Kempsey, during 2005.

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Director Shire Services Recommendation:

Due to the current economic climate Council should defer this project for future budgetary consideration.

2009. 255 **RESOLVED:** *Moved: Cl. Hayes
Seconded: Cl. Green*

That the residents of Tozer Street be canvassed on their preference.

Councillor Walker declared an interest in the following item and remained in the Chamber.

DSS10	FISHING FLEET FACILITIES – BACK CREEK, SOUTH WEST ROCKS
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SUMMARY:

Reporting on a proposal by Department of Lands to remove fishing fleet facilities consisting of moorings and the finger wharf at Back Creek, South West Rocks

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Director Shire Services Recommendation:

1. That Council objects to the proposed removal of the finger wharf at Back Creek, South West Rocks.
2. That Council advise the Department of Lands that it is not prepared to enter into a licence for the finger wharf at Back Creek South West Rocks.

2009. 256 RESOLVED:

*Moved: Cl. Hayes
Seconded: Cl. Campbell*

That this matter be listed for works inspection.

DSS11 LOWER MACLEAY FLOOD MITIGATION STRUCTURES
FILE: 1275 CC: FM560 BJM (NRN) {Folio No. 395230}

SUMMARY:

Reporting on the flood mitigation structures within the Lower Macleay Valley

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2009. 257 RESOLVED:

*Moved: Cl. Saul
Seconded: Cl. Hayes*

That the report be received and noted by Council.

DSS12 WASTE CONTRACT – FEES TO VARY BINS SIZE
FILE: 195 CC: 339, T2008-001, 153 BJM (NRN)
{Folio No. 395231}

This report was dealt with earlier in the meeting just after NOM3.

DIRECTOR CORPORATE AND COMMUNITY SERVICES REPORT

DCCS1 STATEMENT OF BANK BALANCES AS AT 25th MARCH 2009
FILE: 1028 APC (NRN)

SUMMARY:

Reporting on the Statement of Bank Balances as at 25th March 2009

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2009. 258 RESOLVED:

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

That the information be noted.

DCCS2	STATEMENT OF INVESTMENTS AS AT 30th MARCH 2009
FILE: 303	APC (NRN)

SUMMARY:

Reporting on the Statement of Investments as at 30th March 2009

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2009. 259 RESOLVED:

*Moved: Cl. Hayes
Seconded: Cl. Green*

That the information be noted.

DCCS3	FLEET MANAGEMENT	
FILE: 151	CAD (NRN)	{Folio No. 395232}

SUMMARY:

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

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2009. 260 RESOLVED:

*Moved: Cl. Green
Seconded: Cl. Sproule*

That the information be noted

DCCS4	JUNE ORDINARY MEETING AT BELLBROOK
FILE: 335	PJH (NRN) {Folio No. 395233}

SUMMARY:

Reporting on a possible change to the meeting date for the June 2009 Ordinary Meeting

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Director Corporate & Community Services Recommendation:

That the June Ordinary Meeting be deferred to Tuesday, 16th June 2009.

MOVED:

*Moved: Cl. Hayes
Seconded: Cl. Campbell*

That the June meeting remain on Tuesday 9th June and the pre-meeting be held at 8.30am on the same day.

An Amendment was **MOVED:**

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

That the June Ordinary Meeting be held Tuesday 9th June 2009.

2009. 261 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.

2009. 262 **RESOLVED:**

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

That the pre-meeting for May meeting not be held on the Monday but commencing at 8.30a.m. Tuesday and the Ordinary meeting commence at 10.30a.m.

DCCS5	KEMPSEY AIRPORT TAXIWAY	{Folio No. 395234}
FILE: 183	SJR (NRN)	

SUMMARY:

Updating Council on estimated costs of providing a taxiway at the airport

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Director Corporate & Community Services Recommendation:

1. That a basic taxiway be constructed to provide access for hangars 8 and 9.
2. That Council endorses the Preliminary Concept Plan for the development of Kempsey Airport which was tabled at the February 2009 meeting.

MOVED:

*Moved: Cl. Hayes
Seconded: Cl. Campbell*

1. That Council endorses the Preliminary Concept Plan for the development of Kempsey Airport which was tabled at the February 2009 meeting.
2. The proposed sale of land at the airport be expedited as a matter of urgency.

An Amendment was **MOVED:**

*Moved: Cl. Walker
Seconded: Cl. Saul*

That the Director Corporate & Community Services Recommendation be adopted.

The AMENDMENT was PUT to the Meeting and was LOST.

2009. 263 The MOTION was PUT to the MEETING and was CARRIED.

DCCS6	REVIEW OF FEES FOR HORSESHOE BAY HOLIDAY PARK
FILE: 120	SJR {Folio No. 395235}

SUMMARY:

Reporting on a review of fees to determine future tariffs and pricing structures to be applied as from January 2010.

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2009. 264 **RESOLVED:** *Moved: Cl. Green
Seconded: Cl. Hayes*

1. That the proposed fee structure as set out in the Director's report be adopted for the period effective from 23rd January 2010
2. That the Manager Business Services be empowered to approve of discounts on the standard fees for "special offers" as a promotional tool.

The following item DCCS7 and Item DCCS14 were dealt with in conjunction.

DCCS7	YOUTH ISSUES
FILE: 343	CC:1235 JLM {Folio No. 395236}

SUMMARY:

Reporting on issues of importance to youth within the Macleay Valley

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Director Corporate & Community Services Recommendation:

1. That the information be noted.
2. That the Youth Advisory Council members be thanked for their contributions.

2009. 265 **RESOLVED:** *Moved: Cl. Hayes
Seconded: Cl. Green*

That the Director Corporate & Community Services Recommendation be adopted with the addition of;

3. That Julie Byers from the Regional Coordination Management Unit be asked to review this report and be asked to address YAC on the issues within the report.

DCCS14	YOUTH ACCESS CENTRE (YAC)	
	FILE: LA2767 CC: 343	MLB {Folio No. 395243}

SUMMARY:

Reporting on the progress on the establishment of the Youth Access Centre (YAC) in the former SES Headquarters building, River Street, West Kempsey

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2009. 266 **RESOLVED:** *Moved: Cl. Hayes*
Seconded: Cl. Green

1. That an additional rent free period of six (6) months be given to further consolidate the centre as services have only recently begin occupy to the office space.
2. That Councillors be invited to the official opening of the Youth Access Centre.
3. That Councillors hold a works inspection on this item at a date to be advised.

DCCS8	DONATION REQUEST – CRESCENT HEAD LIONS CLUB	
	FILE: 3 CC: 330	JMC {Folio No. 395237}

SUMMARY:

Reporting on a request received from the Crescent Head Lions Club for Skyshow to be held on Sunday, 7th June 2009.

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2009. 267 **RESOLVED:** *Moved: Cl. Gribbin*
Seconded: Cl. Hayes

1. That Council donate \$200 towards the successful Skyshow Family fun day.
2. That the Crescent Head Lions Club be informed of Council's annual Donations Program and that any further donations sought should be applied for as part of this process.

DCCS9	COMMUNITY GRANTS PROGRAM	
	FILE: 126 CC:3	MLB (NRN) {Folio No. 395238}

SUMMARY:

Reporting on amendments to the Donations Policy and Procedures

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2009. 268 RESOLVED: *Moved: Cl. Sproule
Seconded: Cl. Hayes*

That Draft Policy C21:07 Community Grants Program be adopted.

**DCCS10 IN LIVING MEMORY EXHIBITION LAUNCH
FILE: 261 CC: S10-13 GB CC: MRB {Folio No. 395239}**

SUMMARY:

Approximately 100 Aboriginal Elders attended the Elders' Preview and launch of the In Living Memory Exhibition presented by State Records of NSW and the Dept of Aboriginal Affairs.

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2009. 269 RESOLVED: *Moved: Cl. Sproule
Seconded: Cl. Green*

That Ruth Waite be commended for her sterling efforts in organising this highly successful travelling exhibition.

**DCCS11 REVIEW OF EVENTS MANAGEMENT POLICY AND PROCESS
C21:22
FILE: 126 JLM (NRN) {Folio No. 395240}**

SUMMARY:

Reporting on the progress of the review of Events Management Policy and Process

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2009. 270 RESOLVED: *Moved: Cl. Green
Seconded: Cl. Gribbin*

That the review of the Events Policy progress be noted.

**DCCS12 SENIORS WEEK ACTIVITIES
FILE: 467 AF {Folio No. 395241}**

SUMMARY:

Reporting on the success of Seniors Week functions co-ordinated by Council staff

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2009. 271 RESOLVED:

*Moved: Cl. Hayes
Seconded: Cl. Campbell*

1. That the stall holders who participated and set up their displays be thanked for their participation.
2. That the management, staff and chef at Kempsey Macleay RSL Club and the students from our three high schools be thanked for their continued level of high service at the Seniors Luncheon.
3. That the local businesses of Kempsey Retravisioin, Netherby House, Kempsey Fruit Market and Ben Bullen Mid North Coast Farm Stay be thanked for their donation of prizes and gift vouchers.
4. That the staff from Macleay Community Care Options be commended in organising two very successful Seniors Week activities.

DCCS13	SOUTH KEMPSEY PARK LACHLAN STREET – SAFETY CONCERNS FILE: 69 CC: LA18897 LY {Folio No. 395242}
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SUMMARY:

Reporting on the current safety concerns for motorists stopping at South Kempsey Park Lachlan Street, South Kempsey and suggested solutions.

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Director Corporate & Community Services Recommendation:

For Council's determination

2009. 272 RESOLVED:

*Moved: Cl. Hayes
Seconded: Cl. Sproule*

That appropriate signage be placed in South Kempsey Park acknowledging potential risks.

DCCS14	YOUTH ACCESS CENTRE (YAC) FILE: LA2767 CC: 343 MLB {Folio No. 395243}
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This report was dealt with earlier in the meeting just after DCCS7.

DCCS15	MID NORTH COAST GROUP OF COUNCILS HUMAN SERVICES GROUP FILE: 131 KEO (NRN) {Folio No. 395244}
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SUMMARY:

Reporting on the formation of the Mid North Coast Group of Councils (MNCGOC)
Human Services Group (Community Development Group)

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Director Corporate & Community Services Recommendation:

That the information be noted.

2009. 273 RESOLVED:

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

That this matter be provided to MIDGOC.

**DIRECTOR CORPORATE AND COMMUNITY SERVICES SUPPLEMENTARY
REPORT**

DCCS16	WORK FOR THE DOLE PROGRAM BETWEEN H & H
SUPP	ACCREDITED TRAINING AUSTRALASIA INC AND COUNCIL
FILE: 282	MLB (NRN) {Folio No. 395389}

SUMMARY:

Reporting on a proposed partnership with H & H Accredited Training Australasia Inc and Kempsey Shire Council to carry out projects at East Kempsey Cemetery

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Director Corporate & Community Services Recommendation:

That Council's seal be affixed to the Work for the Dole Program CWC / Sponsor Contract between H & H Accredited Training Australasia Inc and Kempsey Shire Council.

MOVED:

*Moved: Cl. Hayes
Seconded: Cl. Sproule*

That this matter be deferred until the allocations are clearer of training organisations on the Mid North Coast.

An Amendment was MOVED:

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

That the Director Corporate & Community Services Recommendation be adopted.

2009. 274 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.

Councillors Campbell, Gribbin and Hayes recorded their votes against the foregoing Resolution.

Councillor Hayes gave notice of her intention to lodge a Rescission Motion in regard to the foregoing resolution.

**GM5
SUPP**

SPECIAL RATE CONSULTATION

FILE: 483

AVB

{Folio No. *}

SUMMARY:

To advise Council of the results of the consultation undertaken for the Special Rate Variation.

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General Manager's Recommendation:

That Council apply for a special Rate Variation of 8%.

2009. 275 RESOLVED:

*Moved: Cl. Green
Seconded: Cl. Campbell*

That the General Manager's recommendation be adopted with the addition of;

That a vote of thanks be forwarded to the General Manager, Megan Barber and staff involved in the community consultation meetings.

Councillor Gribbin recorded his vote against the foregoing Resolution.

GENERAL MANAGER'S REPORT

GM1

OUTSTANDING REPORTS / RESOLUTIONS

FILE: 149

AVB (NRN)

{Folio No. 395245}

SUMMARY:

Council's report on outstanding reports and resolutions

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2009. 276 RESOLVED:

*Moved: Cl. Sproule
Seconded: Cl. Hayes*

That the information be noted.

GM2

WORKS PROGRAM

FILE: 153

AVB (NRN)

{Folio No. 395246}

SUMMARY:

To outline progress of the capital works program for the 2008 / 09 year

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2009. 277 RESOLVED:

*Moved: Cl. Gribbin
Seconded: Cl. Walker*

That the information be noted.

GM3	COUNTRY MAYORS MEETING
FILE: 344	AVB (NRN) {Folio No. 395247}

SUMMARY:

To advise Council of the proceedings of the Country Mayors Meeting held on 20th March 2009.

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2009. 278 **RESOLVED:** *Moved: Cl. Green
Seconded: Cl. Gribbin*

That the information be noted.

GM4	LANDSBOROUGH STREET CAR PARK REDEVELOPMENT
FILE:674 CC:LA5199, LA5200, LA5201, LA5661	AVB (NRN) {Folio No. 395248}

SUMMARY:

The Landsborough Street Car Park Redevelopment involves demolition of existing buildings and construction a new Council Library, 22 residential units, 3 commercial units, and public car park facilities. The purpose of the project is to provide the community of South West Rocks with a new purpose built library, improved car parking, Customer First facilities and a rental investment property(s) as an alternative income stream.

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General Manager's Recommendation:

That Council:

- (a) Prepares a Design Brief for the project.
- (b) Engages the services of an experienced architect through public tendering to complete the architectural final design and prepare the Development Application (DA).
- (c) Forward the details of the submissions received to the Architect for consideration when preparing the detailed design plans.

2009. 279 **RESOLVED:** *Moved: Cl. Green
Seconded: Cl. Snowsill*

- a. That Council prepares a Design Brief for the project.
- b. That Council call for tenders for the engagement of architectural services for the design of the Landsborough Street car park.
- c. That this matter be determined by Council together with the new General Manager.

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At this stage 12.32 p.m. the Meeting adjourned for Luncheon and upon resumption at 2.03 p.m. all present at the adjournment were in attendance.

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GENERAL MANAGER'S SUPPLEMENTARY REPORT

GM5	SPECIAL RATE CONSULTATION		
SUPP	FILE: 483	AVB	{Folio No. *}

This report was dealt with earlier in the meeting just after DCCS16.

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QUESTIONS WITHOUT NOTICE

2009. 280 RESOLVED:

*Moved: Cl. Hayes
Seconded: Cl. Green*

That the responses to Councillors Questions Without Notice from the Ordinary Meeting of 10th March be noted.

COUNCILLOR J A C HAYES

Q1 FILE: *

Could Council follow up on investigations in relation to paid undercover parking in Belgrave Street?

Responsible Officer BJM

The Director Shire Services will investigate.

COUNCILLOR J C GRIBBIN

Q1 FILE: *

Mr Bruce Simons the publican of the Great Northern Hotel wishes to thank Council and staff for their support

Responsible Officer *

*

Q2 FILE: *

Can we have someone check Councillors chairs?

Responsible Officer KEO

The Director Corporate and Community Services will have the chairs inspected and take appropriate action.

Q3 FILE: *

Will the General Manager give me written permission to remove signs on the round-about near Bi-Lo at South West Rocks?

Responsible Officer RBP

The Director Sustainable Development Services will have the ranger to investigate.

COUNCILLOR E A CAMPBELL

Q1

FILE: *

What progress has been made with the Ponds Way drainage and access?

Responsible Officer

BJM

The Director Shire Services will investigate.

COUNCILLOR E R WALKER

Q1

FILE: *

3 Hopeton Street, block next door – part of conditions of lease is they have to have public liability insurance. Can Council find a way to allow the lease of this land without incorporating the high insurance costs?

Responsible Officer

KEO

The Director Corporate and Community Services will investigate.

Q2

FILE: *

At Bruce Mannings property 5 Hamden Lane – water is coming down hill and into his driveway. Can Council investigate?

Responsible Officer

BJM

The Director Shire Services will investigate.

Q3

FILE: *

Has a DA been approved for the house at Ryans Cut and one half a kilometre up the road?

Responsible Officer

RBP

The Director Sustainable Development Services will investigate.

COUNCILLOR J A SPROULE

Q1

FILE: *

The automatic rainfall gauge upriver at Bellbrook is not working – why?

Responsible Officer

BJM

The Director Shire Services advised water level gauge was working – rainfall gauge was not working but was repaired.

Q2

FILE: *

Is there any way traffic lights on Belgrave Street could be synchronised?

Responsible Officer

BJM

The Director Shire Services advised this matter will be referred to the Traffic Committee.

COUNCILLOR A D SNOWSILL

Q1

FILE: *

Kempsey Airport security – could Council ascertain what security is operational for the airport and the surrounds?

Responsible Officer

KEO

The Director Corporate and Community Services will advise.

COUNCILLOR D F SAUL

Q1

FILE: *

Can Council investigate the river water back filling through Council sumps 47 to 49 Belmore Street Smithtown?

Responsible Officer BJM
The Director Shire Services will investigate.

COUNCILLOR J H BOWELL

Q1 FILE: *

Roads around Stuarts Point (back roads) need attention.

Responsible Officer BJM

The Director Shire Services advised these roads are cut once per year if council wishes to do it more often they need to allocate more funds.

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MOTION FOR CONFIDENTIAL COMMITTEE

In accordance with the *Local Government Act 1993* and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

Set out below is section 10A(2) of the *Local Government Act 1993* in relation to matters which can be dealt with in the closed part of a meeting.

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed;
 - (i) prejudice the commercial position of the person who supplied it,
 - or
 - (ii) confer a commercial advantage on a competitor of the council,
 - or
 - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councillors, council staff or council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

2009. 281 RESOLVED:

***Moved: Cl. Hayes
Seconded: Cl. Green***

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.

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DIRECTOR SHIRE SERVICES CONFIDENTIAL REPORT

DSS1	TRAFFIC MANAGEMENT TENDER - T70809MNC
CONF.	FILE: 264 WCB CC: APC {Folio No. 395249}

Section 10A(2)(d)(i) – Commercial Position

This report is submitted on a confidential basis as it involves commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. (Local Government Act 1993, section 10A(2)(d)(i))

On balance, the public interest in preserving the confidentiality of the commercial information supplied, outweighs the public interest in openness and transparency in council decision making by discussing the matter in open meeting.

SUMMARY:

Tender evaluation regarding provision of Traffic Management services for period 1st May 2009 to the 31st March 2012 to Kempsey Shire Council LGA.

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2009. 282 **RECOMMENDED:**

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

That the suppliers representing best value to participating MNC member councils, Statewide Traffic Control Clearwater Asset Services be appointed as traffic management service providers for the period 1st May 2009 until the 31st March 2011 and that provision be allowed for a 12 month extension to the contract based on satisfactory supplier performance which will extend this tender through to the 31st March 2012

DSS2	SHERWOOD ROAD / PONDS WAY ENVIRONMENTAL
CONF	IMPROVEMENT PRECINCT: STATUS REPORT
	FILE: 223 GTS (NRN) {Folio No. 395250}

Section 10A(2)(d)(i) – Commercial Position

This report is submitted on a confidential basis as it involves commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. (Local Government Act 1993, section 10A(2)(d)(i))

On balance, the public interest in preserving the confidentiality of the commercial information supplied, outweighs the public interest in openness and transparency in council decision making by discussing the matter in open meeting.

SUMMARY:

Reporting on the status of the environmental improvement initiatives (including effluent treatment) at the Sherwood Road / The Ponds Way precinct

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2009. 283 RECOMMENDED:

*Moved: Cl. Green
Seconded: Cl. Hayes*

That the pilot plant be provided through engagement of a suitable contractor and Council staff.

DIRECTOR CORPORATE AND COMMUNITY SERVICES CONFIDENTIAL REPORT

Councillor Hayes declared an interest in the following item for the reason that she is Chairman of Mid North Coast Community Housing and retired from the Chamber.

**DCCS1 SALE OF AGED CARE UNITS
CONF FILE: LA19692 LA1800 LA3435 LA20868 KEO{Folio No395251}**

Section 10A(2)(c) – Commercial Advantage in Business Dealing

This report is submitted on a confidential basis as it involves information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business. (Local Government Act 1993, section 10A(2)(c)).

On balance, the public interest in preserving the confidentiality of the commercial information supplied, outweighs the public interest in openness and transparency in council decision making by discussing the matter in open meeting.

SUMMARY:

Reporting on the progress of the sale of the Aged Units to the Department of Housing

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2009. 284 RECOMMENDED:

*Moved: Cl. Campbell
Seconded: Cl. Walker*

- 1. That Council proceeds with the sale of 10 - 12 Leith Street and 9 Jack Williams Crescent at agreed values.**

2. That Council continue negotiations for 12 Lawson Street and 71 - 73 Leith Street.
3. That options concerning the Tozer Street units be presented to Council in a separate report.
4. That the proceeds of the sales be transferred to Reserve for future use on community capital works.

Councillor Hayes returned to the Chamber.

GENERAL MANAGER'S CONFIDENTIAL REPORT

GM1	VARIOUS LEGAL MATTERS - CURRENT POSITION
CONF	FILE: 155 AVB (NRN) {Folio No. 395252}

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

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2009. 285 **RECOMMENDED:**

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

That the information be noted.

Councillor Green declared an interest in the following item for the reason that she is the Chair of the Board for the Macleay Vocational College and retired from the Chamber.

GM2	MACLEAY VOCATIONAL COLLEGE
CONF	FILE: LA2608 CC: LA13688, LA13689, LA2139, LA2657 AVB {Folio No. 395253}

Section 10A(2)(d)(i) – Commercial Position

This report is submitted on a confidential basis as it involves commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. (Local Government Act 1993, section 10A(2)(d)(i))

On balance, the public interest in preserving the confidentiality of the

commercial information supplied, outweighs the public interest in openness and transparency in council decision making by discussing the matter in open meeting.

SUMMARY:

Reporting that Council has received a request for a land swap relating to the Macleay Vocational College

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General Manager's Recommended:

For Council's determination

2009. 286 RECOMMENDED:

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

That this matter be listed for works inspection.

Councillor Green returned to the Chamber.

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OPEN COUNCIL

2009. 287 RESOLVED:

*Moved: Cl. Gribbin
Seconded: Cl. Saul*

That the Open Council Meeting be resumed.

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.

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ADOPTION OF REPORT OF THE COMMITTEE OF THE WHOLE

2009. 288 RESOLVED:

*Moved: Cl. Gribbin
Seconded: Cl. Saul*

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

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WORKS INSPECTION DATE

The date for the next Works Inspection be set for Monday 27th April 2009 commencing at 8.30a.m.

This item was recommitted at the request of the General Manager.

GM5	SPECIAL RATE CONSULTATION		
SUPP	FILE: 483	AVB	{Folio No. *}

2009. 289 RESOLVED:

*Moved: Cl. Green
Seconded: Cl. Hayes*

That Council place on exhibition the draft management plan based on budgetary decisions made in today's meeting.

CONCLUSION:

There being no further business, the Meeting terminated at 2.45 p.m.

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