



KEMPSEY
Shire Council

MINUTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

9th June 2009 commencing at 9.06 a.m

PRESENT:

Councillors J H Bowell (Mayor and Chairman), E A Campbell, E A Green, J A C Hayes, 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; Manager Administration, P J Hanrahan; 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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APOLOGY:

2009. 383 RESOLVED:

*Moved: Cl. Bowell
Seconded: Cl. Campbell*

That the apology submitted by Councillor Gribbin for non-attendance at the meeting be accepted and leave of absence granted.

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DECLARATIONS OF INTEREST

Councillor Campbell declared an interest in item NOM1 (Auction Sale of Surplus Council Lands) and confidential item DCCS1 (Auction Sale of Surplus Council Lands) for the reason that she was the under bidder for one of the properties referred to in the report.

Councillor Hayes declared an interest in item DSDS11 (Building and Development) for the reason she is Chairperson of Kempsey Showground Trust who are one of the applicants listed in the report.

Councillor Walker declared a non-pecuniary interest in item DSS3 (Fishing Fleet Facilities – Back Creek, South West Rocks) for the reason

that he has the lease for dredging sand at Back Creek.

CONSIDERATION OF CONFIDENTIAL REPORTS

2009. 384 RESOLVED:

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

- 1 That item NOM1 (Auction Sale of Surplus Council Lands) be dealt with in the confidential session of the meeting in conjunction with confidential report DCCS1 for the reason that discussion on this involves information, that would, if disclosed, confer a commercial advantage on a person with whom Council proposes to conduct business (LG Act section 10A(2)(c).
- 2 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 12TH MAY 2009

2009. 385 RESOLVED:

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

That the Minutes of the Ordinary Meeting of Kempsey Shire Council dated 12th May 2009 be confirmed.

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MINUTES OF THE EXTRAORDINARY MEETING OF KEMPSEY SHIRE COUNCIL DATED 15TH MAY 2009

2009. 386 RESOLVED:

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

That the Minutes of the Extraordinary Meeting of Kempsey Shire Council dated 15th May 2009 be confirmed.

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The Mayor welcomed the children from Bellbrook Primary School present at the meeting.

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PUBLIC FORUM

1. - Ms Martina Rosas addressed Council regarding item DSS9 Supplementary (Boonanghi Forest Road).

2. - Mr Bob Ryan addressed Council regarding item DSDS3 (Local Environmental Study - Old School House site South West Rocks).
3. - Mr Mike Dutton addressed Council regarding item DSDS5 (Section 82A Review of Determination).

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CONSIDERATION OF LATE REPORTS

2009. 387 RESOLVED: *Moved: Cl. Hayes*
Seconded: Cl. Walker

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 DSS9, DSDS3 and DSDS5

2009. 388 RESOLVED: *Moved: Cl. Green*
Seconded: Cl. Hayes

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

DSS9	BOONANGHI FOREST ROAD		
SUPP.	FILE: R BOONANGHI	BJM	{Folio No. 400914}

SUMMARY:

Reporting on the current status and condition of Boonanghi Forest Road

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2009. 389 RESOLVED: *Moved: Cl. Hayes*
Seconded: Cl. Green

- 1 That Boonanghi Forest Road be included on the Natural Disaster Funding register in which Roads and Traffic Authority will determine the level of repair to be provided.**
- 2 That Council further investigate building and septic approvals for properties on Boonanghi Forest Road.**
- 3 That Council maintains its stance and does not accept the transfer of Boonanghi Forest Road from the Department of Lands.**

DSDS3 LOCAL ENVIRONMENTAL STUDY (LES) - OLD SCHOOL SITE, GREGORY STREET, SOUTH WEST ROCKS

SUMMARY:

Reporting that a Local Environmental Study (LES) and draft Local Environmental Plan (LEP) for the Old School House, South West Rocks, has been prepared for which Council's endorsement is sought to place the LES and draft Local Environmental Plan (LEP) on public exhibition.

SECTION 375A OF LOCAL GOVERNMENT ACT, 1993 REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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2009. 390 **RESOLVED:** *Moved: Cl. Walker
Seconded: Cl. Green*

- A. That the draft LEP Amendment No 100 be forwarded to the Director General under s64 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) together with a covering report on S62 consultations.
- B. That the Director General be requested to issue a S65 Certificate allowing the draft plan to be exhibited in accordance with s66 of the (EP&A Act).
- C. That upon receipt of the S65 Certificate, the LES and draft LEP Amendment No 100 Instrument and Plan together with supporting documentation as required under S66 of the (EP&A Act) be placed on public exhibition for a period of no less than 60 days.
- D. That Council prepare a draft Development Control Plan for the site incorporating the recommendations made in the LES, including the provisions of the draft LEP,
- E. That the Draft LEP, accompanying LES and draft DCP be exhibited concurrently.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

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

SUMMARY:

Reporting that additional information has been lodged for a section 82A Review of determination for the continued use of a dwelling at 154 Hughes Access, Collombatti.

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

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Director Sustainable Development Services recommendation:

- 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
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Arterial Road (Collombatti Road)	ET	1	\$9,836	\$9,836.00	30.6.09
Catchment Access Road (Hughes Access)	ET	1	\$2542	\$2,542.00	20.6.09
Outdoor Recreation	ET	1	\$441	\$441.00	20.6.09
TOTAL				\$12,819.00	

C. That the applicant be advised that Council is prepared to consider further representations in respect a mutually agreeable schedule of payments to reduce the financial burden.

MOVED:

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

That the Director Sustainable Development Services recommendation be adopted.

An AMENDMENT was MOVED:

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

That this item be listed for a works inspection.

2009. 391 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	Hayes	F	Saul	F	Snowsill	F
Sproule	F	Walker	F								

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SUSPENSION OF STANDING ORDERS

LATE BUSINESS	QUEENS BIRTHDAY HONOURS LIST FILE: * MAYOR (NRN) {Folio No. *}
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This item was deemed by the Mayor to be of great urgency.

2009. 392 RESOLVED:

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

That Standing Orders be suspended to allow Council to pay tribute to Ms Val Melville for receiving a Queens Birthday Honours List Award.

2009. 393 RESOLVED:

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

That Council congratulate Mrs Val Melville for receiving an OAM in the Queens Birthday Honours.

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ADOPTION OF AGENDA ORDER OF BUSINESS

2009. 394 RESOLVED:

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

That the Agenda Order of Business be adopted.

MAYORAL REPORT

MM1	MEMBER FOR OXLEY		
	FILE: 25	MAYOR (NRN)	{ Folio No. 400730 }

SUMMARY:

Mr Andrew Stoner MP, Member for Oxley, has recently celebrated ten years in NSW Parliament.

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2009. 395 RESOLVED:

Moved: Cl. Howell

That Mr Andrew Stoner MP be congratulated on the celebration of his ten years in the NSW Parliament.

MM2	APPOINTMENT OF NEW GENERAL MANAGER		
	FILE: 1252	MAYOR	{ Folio No. 400731 }

SUMMARY:

Reporting that the contractual arrangements have been completed with Mr David Rawlings to commence duty with Council on Monday 6th July 2009

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2009. 396 RESOLVED:

Moved: Cl. Howell

- 1 That Council record its appreciation, with feedback on some issues, of the process undertaken by Mr Mark Anderson, Local Government Employment Solutions.

- 2 That the Secretary General Shires Association of NSW, Mr Bill Gillooly OAM be advised accordingly.

MM3 BELLBROOK PUBLIC SCHOOL
FILE: LA8939 MAYOR {Folio No. 400732}

SUMMARY:

Reporting on advice received through Mr Andrew Stoner MP, Member for Oxley, concerning the removal of asbestos from Bellbrook Public School letter attached.

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2009. 397 **RESOLVED:** *Moved: Cl. Howell*

1. That representations be made to the Minister for Education and Training and Minister for Women, the Hon Verity Firth MP, requesting that the funding for the upgrade of the toilet building at Bellbrook Public School be made available to allow replacement of a building containing asbestos.
2. That the Member for Oxley Mr Andrew Stoner MP be requested to support these representations.

MM4 MARINE PARKS
FILE: 658 MAYOR {Folio No. 400734}

SUMMARY:

Reporting on receipt of a reply to Councils representations.

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2009. 398 **RESOLVED:** *Moved: Cl. Howell*

That the information be noted and the National Parks and Wildlife Service be requested to advise on the outcome of the analysis of the Marine Parks Authority.

MM5 MAY FLOOD EVENT
FILE: 1291 MAYOR {Folio No. 400735}

SUMMARY:

Reporting on the visit of the Premier of NSW, the Hon Nathan Rees MP and Minister for Emergency Services, the Hon Steve Whan MP during the recent flood event

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Mayoral Recommendation:

That the support of all personnel providing assistance to the community of Kempsey Shire be recorded with appreciation.

2009. 399 RESOLVED:

Moved: Cl. Howell
Seconded: Cl. Hayes

1. That the support of all personnel providing assistance to the community of Kempsey Shire be recorded with appreciation.
2. That three (3) flood debriefings be held, one (1) in Kempsey CBD, one (1) in Smithtown / Gladstone and one (1) in the Upper Macleay.
3. That Council seek support from the Floodplain Management Authorities of NSW and Local Government and Shires Association for a joint submission in regard to the issues arising from the flood event.

MM6

CLOSING THE GAP

FILE: 18 CC: 88 MAYOR

{Folio No. 400736}

SUMMARY:

Reporting on a proposal for Council's consideration in respect to a partnership

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Mayoral Recommendation:

That representations be made to the Prime Minister of Australia the Hon Kevin Rudd MP and the Premier of New South Wales the Hon Nathan Rees MP for consideration of support for a proposal for council to work in partnership with the indigenous community of Kempsey Shire to establish employment and recreational facilities within South Kempsey on the basis that:

1. The Federal Government provide financial grants for the development of an appropriate business establishment and development of a sport and recreational facilities.
2. The State Government support the establishment of a sport and recreation facilities by the provision of the subject crown land and Sport and Recreation Grants.
3. Council provide an allotment within the South Kempsey Industrial area.

MOVED:

Moved: Cl. Howell
Seconded: Cl. Sproule

That the Mayoral recommendation be adopted.

An AMENDMENT was MOVED:

Moved: Cl. Hayes

Seconded: Cl. Walker

That this matter be deferred to allow receipt of further information on the continuing costs to Council.

2009. 400 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.

MM7	NUCLEAR FREE ALLIANCE
FILE: 37	MAYOR {Folio No. 400738}

SUMMARY:

Reporting that Council has been requested to consider the declaration of Kempsey Shire as a Nuclear Free Zone. Letter attached to report.

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Mayoral recommendation:

That Council make representation to the Federal Government to determine the present position in respect to this matter.

2009. 401 **RESOLVED:** *Moved: Cl. Howell*
Seconded: Cl. Hayes

1. That Council make representation to the Federal Government to determine the present position in respect to this matter.
2. That this matter be raised by the Mayor at the summit meeting between the Mayors and the Prime Minister.

MM8	KEMPSEY DISTRICT HOSPITAL
FILE: 265 CC:419	MAYOR (NRN) {Folio No. 400739}

SUMMARY:

Reporting that the NSW Government has launched the response to the recommendations made by Mr Peter Garling SC, following his inquiry into acute care services in NSW public hospitals.

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2009. 402 **RESOLVED:** *Moved: Cl. Howell*

That the information be noted.

An AMENDMENT was MOVED:

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

That the shade sails in Clyde Street Mall be removed and be replaced with funding from the sale of land which was allocated to implementation of the Kempsey CBD Masterplan

The AMENDMENT was PUT to the meeting and was LOST.

2009. 405 The MOTION was PUT to the MEETING and was CARRIED.

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

DELEGATE'S REPORT

DR1	REPORT ON ATTENDANCE AT ROADS AND TRANSPORT CONGRESS - MAY FILE: 19 MAYOR(NRN) CC:SDS, APC {Folio No. 400742}
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SUMMARY:

Reporting on attendance at the Roads and Transport Congress

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Delegate's recommendation:

1. That Council continue to develop a roads hierarchy with major transport links identified to support businesses and the road freight task.
2. That consideration be given to ensuring adequate budgetary provision to enable these main transport routes to be constructed / reconstructed with a suitable pavement thickness to ensure the longevity of the road.
3. That Council consider increasing S94 charges for new industrial / business developments which would have identifiable transport systems servicing them, requiring additional pavement strengthening and standards.
4. That Council consider nominating a delegate to attend the Australian Local Government Association National Local Roads Congress.

2009. 406 RESOLVED:

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

That the Delegates recommendation be adopted with the addition of:-

5. That council support the Shires Association Conference Motion in regard to road funding which is printed below:-

- “1 *That the Shires Association prepare a detailed submission in conjunction with IPWEA describing the deepening road asset funding crisis as documented in the Road Asset Benchmarking Reports.*
2. *combine with the road freight industry to achieve higher road user charges, conditional upon the funds generated being allocated to local road authorities.*
3. *encourage each of the above authorities to support the NSW Roads and Traffic Authority in its efforts to achieve road funding equity.*
4. *that the submission, supporting an increase in R2R funding be conveyed to the ALGA and be taken to the National Local Roads and Transport Congress in November, seeking support for a review of National road funding.*
5. *lead to a combined approach to the Federal Government and Minister Albanese requesting a review of national road funding.”*

DR2	MISSION AUSTRALIA KEMPSEY	
	FILE: 25 MAYOR (NRN)	{Folio No. 400743}

SUMMARY:

Reporting on attendance at the official opening of Mission Australia Kempsey on Wednesday 29th April 2009 - representing the Mayor.

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2009. 407 **RESOLVED:** *Moved: Cl. Campbell
Seconded: Cl. Hayes*

That the information be noted.

DR3	9th ANNUAL SCIENCE & ENGINEERING CHALLENGE	
	FILE: 25 MAYOR (NRN)	{Folio No. 400745}

SUMMARY:

Reporting on attendance at the Science & Engineering Challenge on Tuesday 19th May 2009 - representing the Mayor.

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Delegates recommendation:

That the information be noted.

2009. 408 **RESOLVED:** *Moved: Cl. Campbell*

Seconded: Cl. Sproule

- 1 That the information be noted.
2. That a letter of congratulations and thanks be forwarded to the Rotary Club of Kempsey West
3. That Council continue to support this program
4. That Kempsey Advisory Training Enterprises (KATE) be noted as a sponsor of the program.

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

DSDS1	DRAFT LOCAL ENVIRONMENTAL PLAN (LEP)
	AMENDMENT - NO 98
FILE: T5-98	GLR {Folio No. 400747}

SUMMARY:

Reporting on the progress of a Draft Local Environmental Plan (LEP) at South Kempsey

SECTION 375A OF LOCAL GOVERNMENT ACT, 1993 REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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2009. 409 **RESOLVED:** *Moved: Cl. Green
Seconded: Cl. Walker*

That Council resolve to cease the preparation of Draft LEP 98 to rezone Lot 3 DP337328 at 5 Nicholson Street, South Kempsey.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

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

DSDS2	AGE CARE FACILITY – SOUTH WEST ROCKS
FILE: T6-07-318	KJA {Folio No. 400748}

SUMMARY:

Reporting that a request to modify the conditions of consent has been received (T6-07-318) for an Aged Care Facility at South West Rocks.

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

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2009. 410 RESOLVED:

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

- A. That the application to delete condition number 54 from Development Approval No. T6-07-318 be approved.
- 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:-
1. Payment of a Sewerage developer charge in accordance with the Development Servicing Plan adopted by Council at the rate of \$6,451 per equivalent tenement, i.e. \$6,451 x 20.2 E.T = \$135,400.00 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 \$7,647 per equivalent tenement, i.e. \$7,647 x 16.8 E.T = \$133,492.00 total for 2008 / 2009 (Indexed).
 3. Either:
 - a) Lodgement of Bank Guarantee in favour of Kempsey Shire Council for the amount of \$246,588 prior to occupation of the premises in lieu of an additional upfront cash contribution towards the provision of water and sewage. 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 on which the ET rate specified in Advices 1 and 2 above having regard to Water Directorate Guidelines.
- Or,
- b) The applicant shall enter into a suitable Deed of Agreement with Council in lieu of payment of \$246,588 (Indexed 2008 / 09) prior to release of the Occupation Certificate. Such agreement shall provide:-
 - i. That the owner agrees to install a suitable meter to monitor outflows from the onsite water reservoir connected to sanitary facilities prior to discharge into Council's sewerage system.
 - ii. That in the event monitoring of water usage indicates flows are greater than referred to in Advices 1 and 2 above, the owner agrees to pay Council the amount applicable under Council's Developer Servicing Plans on a pro rata ET basis up to \$246,588 (Indexed 2008 / 09).
 - iii. That in the event monitoring of water usage and sewer outflows indicates flows are less than referred to in Advices 1 and 2 above, Council agrees to provide a credit towards any

water and sewerage contributions applying to any future application made for further development within the Shire. Such credit shall be based on Council's Developer Servicing Plans and shall be expressed on an ET basis.

- iv. That the agreement be registered in the form of a Caveat on the title of the subject land in a form that binds successive owners.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

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

**DSDS3 LOCAL ENVIRONMENTAL STUDY (LES) - OLD SCHOOL SITE, GREGORY STREET, SOUTH WEST ROCKS
FILE: T5-100 KJH / RBP {Folio No. 400750}**

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

**DSDS4 HERITAGE GRANT APPLICATION
FILE: 138 KJA {Folio No. 400751}**

SUMMARY:

Reporting that a 'Jobs Fund' grant application has been submitted to the Australian Government for maintenance and renovations on five (5) local heritage listed community halls within the Shire

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2009. 411 **RESOLVED:** *Moved: Cl. Hayes
Seconded: Cl. Walker*

That the information be noted.

**DSDS5 SECTION 82A REVIEW OF DETERMINATION
FILE: T6-07-76 PJC {Folio No. 400762}**

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

**DSDS6 REVIEW OF CONTRIBUTIONS
FILE: T6-06-313 RBP {Folio No. 400763}**

SUMMARY:

Reporting that Council has received a request to enter into an agreement in respect to contributions required for an aged care facility at Frederickton.

SECTION 375A OF LOCAL GOVERNMENT ACT, 1993 REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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2009. 412 RESOLVED:

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

A. That the applicant be advised that Council is prepared to consider an application to modify the consent to:-

- Amend condition 105 to require the issuing of a Certificate of Compliance (Section 305 of the Water Management Act) prior to occupation of the premises;
- Delete Condition 106 to be replaced by an advice;
- Staging of the occupation of nursing home beds.

B. That the applicant be advised that Council 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 41.1 E.T = \$275,534 total for 2008 / 2009 (Indexed annually) prior to release of the Occupation Certificate.

NOTE: This advice will be revised upon receipt of the application to stage the occupation of the premises to include an additional payment being the difference between the CPI and cash rate at the time of payment.

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 40.1 E.T = \$318,675 total for 2008 / 2009 (Indexed annually) prior to release of the Occupation Certificate.

NOTE: This advice will be revised upon receipt of the application to stage the occupation of the premises to include an additional payment being the difference between the CPI and cash rate at the time of payment.

3. The applicant shall enter into a suitable Deed of Agreement with Council in lieu of payment of \$658,687 (Indexed 2008 / 09) prior to release of the Occupation Certificate. Such agreement shall provide:-

- a) That the owner agrees to install a suitable meter to monitor discharge into Council's sewerage system.

- b) That in the event monitoring of water usage and sewer outflows indicates flows are greater than referred to in Advices 1 and 2 above, the owner agrees to pay Council the amount applicable under Council's Developer Servicing Plans on a pro rata ET basis up to \$658,687 (Indexed 2008 / 09).
- c) That in the event monitoring of water usage and sewer outflows indicates flows are less than referred to in Advices 1 and 2 above, Council agrees to provide a credit towards any water and sewerage contributions applying to any future application made for further development of the land. Such credit shall be based on Council's Developer Servicing Plans and shall be expressed on an ET basis.
- d) That the agreement be registered in the form of a Caveat on the title of the subject land in a form that binds successive owners.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

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

DSDS7 NOMINATIONS FOR JOINT REGIONAL PLANNING PANEL
FILE: 579 RBP {Folio No. 400764}

SUMMARY:

Reporting that Council has been requested to nominate representatives to serve on the Northern Region Joint Regional Planning Panel (JRPP)

SECTION 375A OF LOCAL GOVERNMENT ACT, 1993 REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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2009. 413 RESOLVED:

Moved: Cl. Hayes
Seconded: Cl. Sproule

- A. That if forthcoming Council accept the nomination of the Mayor and Director Environment and Planning of Nambucca Shire Council to represent Kempsey Shire Council on the JRPP for matters applicable to Kempsey Shire with the Deputy Mayor of Nambucca Shire being the alternative representative on a provisional basis only.
- B. That Council nominate the Mayor and Director Sustainable Development Services on the JRPP for matters applicable to

Nambucca Shire with the Deputy Mayor being the alternative representative on a provisional basis only.

- C. That Council delegate its authority to the General Manager to ratify Council's nomination in the event concerns relating to conflicts of interest are not addressed by the Department of Planning.
- D. That in the event Nambucca Shire Council does not formally agree to the proposed resource sharing arrangement, that Council continue to defer nominating any members for the JRPP until satisfactory clarification of the matters raised in Council's submission to the Department of Planning has been provided.

A Division on this decision resulted in the following votes.

F = Voted For

A = Voted Against

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

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PRESENTATION

At this stage 10.30 a.m. Council's staff member Mr David Kraaymaat was presented with the April Staff Excellence Award by the General Manager and the Mayor.

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At this stage 10.40 a.m. the Meeting adjourned for Morning Tea and upon resumption at 11.02 a.m. all present at the adjournment were in attendance.

DSDS8	ECONOMIC DEVELOPMENT MANAGER'S MONTHLY REPORT
FILE: 584	DBH {Folio No. 400765}

SUMMARY:

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

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2009. 414 RESOLVED:

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

That the information be noted.

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At this stage the Mayor thanked the ladies from the Bellbrook Progress Association who provided the morning tea for the Council meeting.

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DSDS9	PROPOSED DREDGING WORKS FOR AUSTRAL STREET BOAT RAMP, FISHERMENS REACH AND KILLICK CREEK FILE: 60 CC:794 RFK CC: DPW {Folio No. 400766}
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SUMMARY:

Reporting on possible funding options for dredging works associated with Strategy H of the Killick Creek Estuary Management Plan and to undertake environmental assessments to facilitate other priority dredging in the Shire.

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Director Sustainable Services Department Recommendation:

- A. That Council consider providing \$140,000 to seek matching of funds to undertake the environmental assessments for the Austral Street and Fishermen's Reach areas.
- B. That Council consider providing \$100,000 to seek matching funds to undertake Strategy H of the Killick Creek EMP.
- C. That Council continues to investigate external funding options.
- D. That Council continue discussions with the Department of Lands to determine the feasibility of Department of Lands paying for the full cost of extracting the sand shoals and depositing the extracted material on Crown Land for the purpose of future development of Lot 7011 DP1055574, Reserve R63725.

2009. 415 RESOLVED:

Moved: Cl. Walker
Seconded: Cl. Sproule

- 1. That Council continues to investigate external funding options.
- 2. That Council continue discussions with the Department of Lands to determine the feasibility of Department of Lands paying for the full cost of extracting the sand shoals and depositing the extracted material on Crown Land for the purpose of future development of Lot 7011 DP1055574, Reserve R63725.

DSDS10	REVOTES 2008 / 09 FILE: 153 RBP CC: DPW {Folio No. 400767}
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SUMMARY:

Reporting that consideration needs to be given to revote funds allocated to projects for 2008 / 09 administered by Council's Sustainable Development Services Department.

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2009. 416 RESOLVED:

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

That Council resolve to revote / carryover the funds remaining as at 30th June 2009 from the 2008 / 09 Budget to the 2009 / 10 Budget in accordance with the above report.

Councillor Hayes declared an interest in the following item for the reason that she is administrator of the Kempsey Showground and retired from the Chamber.

DSDS11 BUILDING AND DEVELOPMENT FILE: 329 RBP
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SUMMARY:

Reporting that the following applications have been approved:

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2009. 417 RESOLVED:

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

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	Saul	F	Snowsill	F
Sproule	F	Walker	F						

Councillor Hayes returned to the Chambers.

DIRECTOR SHIRE SERVICES REPORT

DSS1 PRICING OF RECYCLED WATER - SOUTH WEST ROCKS COUNTRY CLUB FILE: 694 GTS {Folio No. 400768}
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SUMMARY:

Reporting on the pricing of recycled water for the supply of same to the South West Rocks Country Club (golf course)

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2009. 418 RESOLVED:

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

That a three year agreement be offered to the South West Rocks Country Club in relation to bulk usage and access charges for recycled water. For the initial agreement, 40% of the prevailing potable rate for each year and nil access charges will apply for the full three years.

DSS2	ESTABLISHMENT OF WATER & SEWERAGE STEERING COMMITTEE AND BELLBROOK WATER TREATMENT PLANT STEERING COMMITTEE FILE: 1294, 1296 GTS (NRN) CC: CLH {Folio No. 400770}
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SUMMARY:

Reporting on the need to establish relevant steering committees

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2009. 419 RESOLVED:

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

- 1 That Council establish a Bellbrook Water Treatment Plant Steering Committee of a membership set out in the Report.
- 2 That Council appoint by election its Councillor delegate to the Bellbrook Water Treatment Plant Steering Committee.

At this stage the Mayor called for nominations for a Councillor delegate and one (1) nomination was received, being Councillor Hayes.

2009. 420 RESOLVED:

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

That Councillor Hayes be the Councillor delegate to the Bellbrook Water Treatment Plant Steering Committee

Councillor Walker declared a non-pecuniary interest in the following item for the reason that he has the lease for dredging sand at Back Creek, South West Rocks. Councillor Walker remained in the Chambers.

DSS3	FISHING FLEET FACILITIES – BACK CREEK, SOUTH WEST ROCKS FILE: LA22499 BJM {Folio No. 400771}
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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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2009. 421 RESOLVED:

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

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.

DSS4	MANDATORY CONNECTION TO RECYCLED WATER SYSTEMS AND USE OF RECYCLED WATER
FILE: 365 CS	{Folio No. 400772}

SUMMARY:

Council at its meeting on 10th March 2009 resolved that the draft Recycled Water Connections and Use Policy be placed on public exhibition.

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2009. 422 RESOLVED:

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

That Council adopts the Recycled Water Connections and Use Policy as shown attached to the report.

DSS5	THUNGUTTI WATER SUPPLY AND SEWERAGE SYSTEMS – SHORT TERM OPERATION BY MACLEAY WATER
FILE: 377 PA/AMB	{Folio No. 400774}

SUMMARY:

Reporting on the request for Macleay Water to operate the Thungutti Water supply and sewerage system

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2009. 423 RESOLVED:

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

- 1 That Council's concurrence is given for Macleay Water to operate the Thungutti water supply and sewerage systems.
- 2 That Council accept the broad principles that will form the basis of a contract for Macleay Water to operate the Thungutti water supply and sewerage systems.
- 3 That the General Manager be delegated authority to negotiate the contract and affix the Council Seal to the Contract.
- 4 That Council be advised, in a later report, of the finalised contract.

**DSS6 APPLICATION FOR CLOSURE AND SALE OF PART
MITCHELL STREET AT SOUTH WEST ROCKS
FILE: LA5358 IJR {Folio No. 400776}**

SUMMARY:

A report to consider an application for the closure and sale to the adjoining landowner of an unused part of the road reserve in Mitchell Street, South West Rocks, situated between Orara Street and McIntyre Street.

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2009. 424 RESOLVED:

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

- 1 That, subject to the creation of easements for drainage and electricity supply, Council support the closure of that part of Mitchell Street, South West Rocks, as depicted in the plan attached to this report.**
- 2 That compensation as assessed by a licensed valuer appointed by Council, at the adjoining land owner expense, form the basis of compensation payable by the landowner to Council.**
- 3 That the matter only proceed if all costs for the sale and transfer of the land be borne by the adjoining land owner.**
- 3 That the Common Seal of Council be affixed to:**
 - a. Plan of road closure and first title creation**
 - b. Land and Property Information Transfer Form**

**DSS7 BOYTERS LANE SPORTING FACILITIES DEVELOPMENT
FILE: 1259 BJM (NRN) {Folio No. 400777}**

SUMMARY:

Reporting on the current status of Boyters Lane Sporting Facilities development

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2009. 425 RESOLVED:

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

That the report be received and noted.

**DSS8 REVOTES AND WORKS-IN-PROGRESS
FILE: 153 BJM CC: DPW (NRN) {Folio No. 400779}**

SUMMARY:

Reporting on Capital Works which will not be completed by 30 June 2009 for which revotes to 2009 / 10 are sought.

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2009. 426 RESOLVED:

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

That the projects identified for revote in the Appendix to this Report be revoted for the 2009 / 10 financial year.

DSS9	BOONANGHI FOREST ROAD
SUPP	FILE: R BOONANGHI BJM {Folio No. 400914}

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

DSS10	REAPPOINTMENT OF SES LOCAL AND UNIT
SUPP	CONTROLLERS
	FILE: 596 BJM {Folio No. 400917}

SUMMARY:

Reporting on the need to reappoint the SES Local and Unit Controllers for the Kempsey Local Government Area

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2009. 427 RESOLVED:

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

1. That Council support the reappointment of Mrs May Gill as the Local Controller of the Kempsey SES unit, Mr Barry Clenton as the Unit Controller of the South West Rocks SES unit and Mr Warren Hancock as the Unit Controller of the Gladstone SES unit.
2. That Council formally commend the SES Local and Unit Controllers for their dedication and support to the community during the three flood events this year.

DIRECTOR CORPORATE & COMMUNITY SERVICES REPORT

DCCS1	STATEMENT OF BANK BALANCES AS AT 31 st MAY 2009
	FILE: 1028 APC (NRN)

SUMMARY:

Reporting on the Statement of Bank Balances as at 31st May 2009

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2009. 428 RESOLVED:

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

That the information be noted.

DCCS2	STATEMENT OF INVESTMENTS AS AT 31st MAY 2009
FILE: 303	APC (NRN)

SUMMARY:

Reporting on the Statement of Investments as at 31st May 2009

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2009. 429 RESOLVED:

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

That the information be noted.

DCCS3	FLEET MANAGEMENT	
FILE: 151	CAD (NRN)	{Folio No. 400780}

SUMMARY:

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

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2009. 430 RESOLVED:

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

That the information be noted.

DCCS4	OPERATION OF KEMPSEY REGIONAL SALEYARDS
FILE: E2009-003	SJR {Folio No. 400781}

SUMMARY:

Reporting on the awarding of a Licence to Operate the Kempsey Regional Saleyards

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Acting Director Corporate and Community Services recommendation:

That the information be noted.

MOVED:

Moved: Cl. Hayes

Seconded: Cl. Saul

That the information be noted.

2009. 431 RESOLVED:

Moved: Cl. Hayes

That the MOTION be PUT.

2009. 432 RESOLVED:

Moved: Cl. Hayes
Seconded: Cl. Saul

That the information be noted.

Councillor Walker recorded his vote against the foregoing resolution.

DCCS5	MAYORAL AND COUNCILLOR FEES – REMUNERATION TRIBUNAL REPORT FILE: 276 PJH {Folio No. 400782}
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SUMMARY:

Reporting that the Local Government Remuneration Tribunal has handed down its report for the 2009 - 2010 year on fees to be paid to Mayors and Councillors

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2009. 433 RESOLVED:

Moved: Cl. Green
Seconded: Cl. Hayes

That the Mayoral and Councillor fees payable for the 2009 - 2010 year be the maximum allowed in category 3 as determined by the Local Government Remuneration Tribunal.

DCCS6	MINISTERIAL VISIT – THE HON. TONY KELLY MP MINISTER FOR LANDS AND FEDERAL MEMBER FOR COWPER VISIT – MR LUKE HARTSUYKER MP FILE: 579 KEO {Folio No. 400784}
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SUMMARY:

Reporting on the Ministerial visit by the Minister for Lands, The Hon. Tony Kelly MP on 15th May 2009 and the following visit by the Federal Member of Cowper, Luke Hartsuyker MP on 18th May 2009

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Acting Director Corporate and Community Services recommendation:

1 That Council formally thank the respective representatives for their attendance with Council.

2. That Council follow up on commitments stated by both representatives and outstanding issues.

2009. 434 RESOLVED:

*Moved: Cl. Saul
Seconded: Cl. Snowsill*

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

3. That Council make urgent representations to the Minister for Lands The Hon Tony Kelly MP to approve of the loan funds for Horseshoe Bay Caravan Park that were recommended by the Caravan Park Levy Committee on 13th March.
4. That Council follow up the offer for further information on the funding decision on the Boyters Lane Sporting Complex and arrange a suitable time to discuss the decision.

DCCS7	REPLACEMENT OF AMENITIES BLOCKS AT STUARTS POINT HOLIDAY PARK AND RESERVE FILE: 120 SJR (NRN) {Folio No. 400785}
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SUMMARY:

Reporting on progress in design and costing of a new Holiday Park amenities block and a block for public usage.

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Acting Director Corporate and Community Services recommendation:

That the information be noted.

2009. 435 RESOLVED:

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

- 1 That the information be noted.
2. That the funds from the sale of land be utilised to replace four (4) cabins at Horseshoe Bay Caravan Park and these funds be reimbursed to the sale of land reserve when the approval for loan funds is received.

DCCS8	AUSTRALIAN GOVERNMENT, DEPARTMENT OF EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS, JOBS FUND PROJECTS FILE: 1259 KEO (NRN) {Folio No. 400787}
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SUMMARY:

Reporting on the Proposal for Funding submitted for the Australian Government, Department of Education, Employment and Workplace Relations (DEEWR), Jobs Fund Projects

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2009. 436 RESOLVED:

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

That the information be noted.

DCCS9	COMMUNITY SAFETY AND CRIME PREVENTION PLAN 2005 - 2008 UPDATE
FILE: 761	MLB (NRN) {Folio No. 400790}

SUMMARY:

Reporting on the progress of the implementation of the Community Safety and Crime Prevention Plan 2005 - 2008

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2009. 437 RESOLVED:

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

That the progress report be noted.

DCCS10	KEMPSEY SHIRE 2004 - 2009 SOCIAL PLAN PROGRESS UPDATE
FILE: 70	MLB (NRN) {Folio No. 400791}

SUMMARY:

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

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2009. 438 RESOLVED:

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

That the progress report be noted.

DCCS11	CULTURAL PLAN 2002 - 2007 UPDATE
FILE: 625	MLB (NRN) {Folio No. 400792}

SUMMARY:

Reporting on the progress of the implementation of the Kempsey Shire Cultural Plan 2002

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2009. 439 RESOLVED:

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

That the progress report be noted.

DCCS12	AGEING 2022, ACTION ON AGEING STRATEGY
FILE: 1042	MLB (NRN) {Folio No. 400794}

SUMMARY:

Reporting on the exhibition of the Ageing 2022, Action on Ageing Strategy.

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2009. 440 RESOLVED:

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

That the Ageing 2022 - Action on Ageing Strategy and Action Plan be adopted.

DCCS13	DEPARTMENT OF AGEING, DISABILITY AND HOME CARE FUNDING
FILE: 543	JLM {Folio No. 400795}

SUMMARY:

Agreement is sought from Council to continue auspicing the Department of Ageing, Disability & Home Care existing services.

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Acting Director Corporate and Community Services recommendation:

That the Council seal be placed on the recurrent funding agreement between the Department of Ageing, Disability and Home Care and Council for a total of \$667,021.

2009. 441 RESOLVED:

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

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

2. That Council congratulate the staff on work they have done in these service areas.

DCCS14	NSW DEPARTMENT OF COMMUNITY SERVICES
FILE: 389	JLM {Folio No. 400796}

SUMMARY:

Agreement is sought from Council to accept the funding agreement from the NSW Department of Community Services to auspice the position of Community Development Officer – Aboriginal.

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2009. 442 RESOLVED:

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

That the Council seal be placed on the renewable funding agreement between the NSW Department of Community Services and Council for a total of \$45,486.

DCCS15	CRESCENT HEAD WORKS PRIORITISATION COMMITTEE – APPOINTMENT OF COMMUNITY MEMBERS
FILE: 198	PJH {Folio No. 400797}

SUMMARY:

Reporting on the nominations received from community members to serve on the Crescent Head Works Prioritisation Committee.

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2009. 443 RESOLVED:

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

That Council accepts all four (4) nominated community members in lieu of selecting three (3).

DCCS16 SUPP	SOUTH KEMPSEY PARK LACHLAN STREET – FURTHER SAFETY CONCERNS
FILE: 69	JLM {Folio No. 400884}

SUMMARY:

The Community Safety and Crime Prevention Working Party request that Council reconsider closing the South Kempsey Park, Lachlan Street, South Kempsey at night due to safety concerns.

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Acting Director Corporate and Community Services recommendation:

1. That the Crime Prevention Officer proceed with the purchase and installation of the cable gate at South Kempsey Park, Lachlan Street.
2. That the South Kempsey Park, Lachlan Street be closed at dusk and re-opened at dawn each day.

3. That Council liaise with the Roads and Traffic Authority to install the appropriate signage in relation to the park closures
4. That Council investigates a more suitable location for a Kempsey designated rest area.

2009. 444 RESOLVED:

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

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

5. That this matter be listed for consideration at the upcoming meeting of the former PACT committee.

DCCS17	NAIDOC WEEK MARCH
SUPP	FILE: 653 JLM {Folio No. 400886}

SUMMARY:

Request for the standard Event Management Application process be waived to allow approval for the NAIDOC Week March.

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2009. 445 RESOLVED:

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

That permission be granted for the NAIDOC committee to hold the March, under the following provisions:

1. A copy of the notice of intention to hold a public assembly submitted to the NSW Police is to be received at Council by 1st July 2009.
2. NSW Ambulance and NSW Fire Brigade services must be notified of your intention to hold the event and a copy of the letter received at Council by 1st July 2009.
3. The submission of a Contingency Plan is required. The NAIDOC committee must outline the events contingency plan if your event is forced to cease or close due to unforeseen circumstances.

The contingency plan should outline how the NAIDOC Committee will ensure the safety of the event, the organisers and participants should the event be forced to close due to inclement weather or other unforeseen circumstances. The NAIDOC committee's plan should include, but is not limited to, how the event organiser will deal with structural matters, spectator management and crowd control, traffic and transport, public health, medical care and environmental concerns. The contingency plan will be used to assess the risk associated with your event being held on Council managed land.

4. That the NAIDOC Committee Traffic Management Plan has been submitted to the Traffic Committee for further consideration.
5. That the NAIDOC Committee provide Council with a confirmation as to how the committee will operate Traffic Control.
6. That the NAIDOC Committee provide Council with a confirmation that the NAIDOC committee's event will be commencing at the Ambulance Station in Belgrave Street. (As there is conflicting information provided, stating the March will commence at Council Chambers and also having marshalling area at the Ambulance Station).
7. The applicant is liable for any damages or injuries sustained as a result of the activity.
8. Council managed land used for the staging of the event is left in a clean and tidy condition. Additional cleaning undertaken by Council on behalf of the applicant will incur costs.
9. Council reserves the right to cease the event if the applicant does not comply with these conditions of consent.
10. The maximum level of noise from musical performances or public address systems must not exceed 75 dB(A) at the nearest residential boundary.
11. All emergency services must be advised of any road closures prior to the event.
12. It is a requirement that First Aid is provided for the entirety of the Event.
13. That all of these requirements are met, and evidence provided to Council, by the 1st July 2009.
14. That the NAIDOC committee be notified that the standard process for lodging an event application will need to be followed in future years and that late applications will not be accepted.

DCCS18	REVOTES
SUPP	FILE: 153 KEO (NRN) CC: DWP {Folio No. 400892}

SUMMARY:

Reporting on Capital Works which will not be completed by 30th June 2009 for which revotes to 2009 / 10 are sought.

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2009. 446 **RESOLVED:**

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

That the unexpended funds as at 30th June 2009 in respect of the projects identified in the Appendix to the Directors Report be revoted for the 2009 / 10 year.

GENERAL MANAGER'S REPORT

GM1	OUTSTANDING REPORTS / RESOLUTIONS
FILE: 149	AVB (NRN) {Folio No. 400799}

SUMMARY:

Council's report on outstanding reports and resolutions

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2009. 447 **RESOLVED:** *Moved: Cl. Walker
Secoded: Cl. Hayes*

That the information be noted.

GM2	WORKS PROGRAM
FILE: 153	AVB (NRN) {Folio No. 400801}

SUMMARY:

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

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2009. 448 **RESOLVED:** *Moved: Cl. Green
Secoded: Cl. Snowsill*

That the information be noted.

GM3	DRAFT MANAGEMENT PLAN
FILE: 339	AVB {Folio No. 400802}

SUMMARY:

Reporting to Council on the results of the public exhibition of the Draft Management Plan

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2009. 449 **RESOLVED:** *Moved: Cl. Green
Secoded: Cl. Campbell*

1. That Council consider any submissions received on the 2009 / 10 Management Plan.

2. That any submissions received in respect of the Special Rate Variation be forwarded to the Department of Local Government.
3. That a date be set for an Extraordinary Council Meeting to adopt the Management Plan.

2009. 450 RESOLVED:

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

That the Extra-ordinary Council meeting be set for Tuesday 30th June 2009 commencing at 2.00 p.m.

GM4	INTEGRATED PLANNING AND REPORTING
FILE: 579	AVB (NRN) {Folio No. 400803}

SUMMARY:

To provide information on the Local Government Amendment (Planning and Reporting) Bill 2009

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2009. 451 RESOLVED:

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

That the information be noted.

GM5	TRAINING
FILE: 87 CC:367	AVB (NRN) {Folio No. 400806}

SUMMARY:

To provide details of training programs to be provided to all staff and Councillors.

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2009. 452 RESOLVED:

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

That the information be noted.

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At this stage 12.24 p.m. the Meeting adjourned for Luncheon at which time the official turning of first sod at the Bellbrook Water Treatment Plant site was conducted by Senator Michael Forshaw, Australian Labor Party Senator. Also in attendance was Mr Paul Sekfy, Australian Labor Party candidate for Cowper.

Upon resumption at 1.35 p.m. all present at the adjournment were in attendance.

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QUESTIONS WITHOUT NOTICE

2009. 453 RESOLVED:

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

That the responses to questions without notice from 12th May 2009 Ordinary Meeting as printed in the agenda be noted.

COUNCILLOR E A CAMPBELL

Q1 FILE: *

Local residents thank Council on recent work to Spooners Avenue and work done so far on Kemps crossing. When will potholes be filled in on Kemps Crossing?

Responsible Officer BJM
The Director Shire Services will advise.

Q2 FILE: *

Can Council arrange to have the advanced noxious weed camphor laurel tree removed from the bridge? It is located on southern side at 3rd upright girder, left side facing north.

Responsible Officer BJM
The Director Shire Services advised that camphor laurels aren't a noxious weed but a noxious plant and therefore don't require removal but this tree will be trimmed if this is needed.

Q3 FILE: *

What is the current status of the investigation into the feasibility of linking the West Kempsey car park through to Elbow Street?

Responsible Officer KEO
The Director Corporate and Community Services advised that investigations are being undertaken by the Business Services Manager and this will be followed up.

COUNCILLOR E A GREEN

Q1 FILE: *

There appears to be no mention of Frederickton Town Improvement in the forward budget. What is the situation?

Responsible Officer AVB
The General Manager advised that he believed there is funding in the forward Town Improvement program for Frederickton and this will be checked.

Q2 FILE: *

Were there any issues during the flood regarding the house at corner Dangar Street and Tozer Street that had drainage problems?

Responsible Officer BJM
Staff have monitored throughout the May event and no evidence of water building up in back yard. A meeting with owners was arranged but couldn't be attended due to the Flood recovery meetings. Will be rescheduled.

Q3 FILE: *

Part of the Macleay River bank opposite 4 River Street has collapsed into river. What action is proposed?

Responsible Officer

BJM

That Director Shire Services advised that Council has engaged an engineering consultant to analyse worst cases of river slips from the flood event. A submission would then be prepared to Department of Commerce.

COUNCILLOR J A C HAYES

Q1

FILE: *

Could the Director enquire as to the condition of Saltwater Lagoon during the May floods bearing in mind sea level rise predictions?

Responsible Officer

BJM

The Director Shire Services advised that Saltwater lagoon was artificially opened during the event. The Director Sustainable Development Services advised that the affect on the lagoon itself was minor.

Q2

FILE: *

After the previous flood work was done on Warbro Brook Road and Willi Willi Road gravel was pushed up to the side of the roads and with this rain event water ran down gravel piles and made more damage to road than before. Can someone inspect this?

Responsible Officer

BJM

The Director Shire Services advised it will be checked. Normal procedure is to pull gravel out and compact down back on crown of road, not to leave a build up on side of road. The work to do this may not have been finished.

Q3

FILE: *

Councillor Hayes thanked the General Manager for doing such a good job over the last 10 years.

COUNCILLOR D F SAUL

Q1

FILE: *

Can Council carry over the funds allocated to the Nulla Cricket Club for resizing and refurbishing the cricket wickets at Verge Street fields?

Responsible Officer

BJM

The Director Shire Services will check if its on list of revotes.

Q2

FILE: *

Can Council waive excessive water charges for Smithtown and Gladstone residents whom had to wash sewerage and flood mud from their homes and yards as Council waived them in 2001?

Responsible Officer

BJM

The Director Shire Services advised that there has been discussions on this subject and a report will come back to Council on this.

COUNCILLOR J A SPROULE

Q1

FILE: *

Can the Director Shire Services please continue to keep Jann Eason of the Macleay Vocational College informed on progress on the 3 issues raised in her email of 22nd May which included water drainage at Robert Eggins Street and damage done by a J R Richards truck due to wet weather?

Responsible Officer

BJM

The Director Shire Services will continue to keep them advised.

COUNCILLOR E R WALKER

Q1 FILE: *

With location of fire hydrants at Crescent Head can something be put in place so that the fire brigade captains and volunteers know where the fire hydrants are located?

Responsible Officer BJM

The Director Shire Services will investigate, however recently Macleay water identified all hydrants at Crescent Head for this reason.

Q2 FILE: *

What is the situation regarding the sale of surplus land at South West Rocks?

Responsible Officer AVB

The General Manager advised that with the land converted from community to operational (5 or 6 blocks) they have been referred to Directors for information on subdivision of the lands. There is only one block at Victor Perry place that can be sold now.

COUNCILLOR J H BOWELL

Q1 FILE: *

What is the progress with submissions to Centroc and Councils concerning water utilities?

Responsible Officer BJM

Have not progressed at this stage.

Q2 FILE: *

What is the situation concerning a development at 12 Link Road Kundabung?

Responsible Officer RBP

The Director Sustainable Development advised this is a complex issue involving dedication of a road and will probably end up coming back to Council.

Q3 FILE: *

What is the situation regarding a Plan of Management for land on the north side of Stuarts Point hall involving an extended Library and other projects?

Responsible Officer BJM

The Director Shires Services will investigate.

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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. 454 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 SUSTAINABLE DEVELOPMENT SERVICES CONFIDENTIAL REPORT

DSDS1	DERELICT BUILDING	
CONF	FILE: 001 DJW	{ Folio No. 400807 }

Section 10A(2)(e) – Maintenance of Law

This report is submitted on a confidential basis as it involves information that would, if disclosed, prejudice the maintenance of law. (Local Government Act 1993, section 10A(2)(e))

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))

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 an Order has been issued to demolish a derelict building for which the owner has requested an extension of time.

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2009. 455 **RECOMMENDED:** *Moved: Cl. Hayes
Seconded: Cl. Green*

- A. That Council grant an extension to 31st December 2009 for the building to be repaired.
- B. That the owners be advised that in the event the building is not repaired to the satisfaction of Council, so as to be suitable for occupation in compliance with the Building Code of Australia, Council intends to issue a penalty infringement notice on each owner and proceed with action to demolish the building.

DSDS2	MODIFIED CONSENT - SOUTH WEST ROCKS
CONF	FILE: T6-07-318 KJA {Folio No. 400808}

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 that Council has received an application to modify a development consent.

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

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2009. 456 **RECOMMENDED:** *Moved: Cl. Hayes
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	Hayes	F	Saul	F	Snowsill	F
Sproule	F	Walker	F								

DSDS3	UNAUTHORISED USE
CONF	FILE: LA957 SRR {Folio No. 400811}

REASON: 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 status of compliance actions for unauthorised land uses at West Kempsey.

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

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2009. 457 **RECOMMENDED:**

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

That the owners be advised that unless all unauthorised uses of the land cease within 14 days of notice being given, that Council will commence action in the Land and Environment Court seeking orders requiring cessation of the uses and an order as to Council’s costs.

A Division on this decision resulted in the following votes.

**F = Voted For
A = Voted Against**

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

Councillor Campbell declared an interest in the following item for the reason that she was the under bidder at the auction of land referred to in the report and retired from the Chamber.

The following items DCCS1 Confidential and NOM 1 were dealt with in conjunction.

DCCS1	AUCTION SALE OF SURPLUS COUNCIL LANDS
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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 outcomes of the Auction of Surplus Council Lands held on 14th May 2009

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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.

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MOVED:

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

1. That Council accept the after auction offer of \$50,000 for 73 – 77 Tabrett Street, West Kempsey.
2. That Council accept the after auction offer \$18,000 for the sale of 33 Main Street, Bellbrook.
3. That Council accept the offer of \$72,500 for 70 Cyrus Saul Circuit, Frederickton.
4. That Council consent to the affixing of the common seal of Council to documents relating to all sales where required.

An AMENDMENT was MOVED:

Moved: Cl. Saul

*Seconded: Cl. **

1. That Council accept the after auction offer of \$50,000 for 73 – 77 Tabrett Street, West Kempsey.
2. That Council accept the after auction offer \$18,000 for the sale of 33 Main Street, Bellbrook.
3. That Council call for expressions of interest for 70 Cyrus Saul Circuit, Frederickton.
4. That Council consent to the affixing of the common seal of Council to documents relating to all sales where required.

The AMENDMENT LAPSED for want of a SECONDER

2009. 458 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	Green	F	Hayes	F	Saul	A	Snowsill	F
Sproule	F								

Councillor Campbell returned to the Chamber.

At this stage, 2.27 p.m., Councillor Hayes retired from the Chamber and apologised for non-attendance at the remainder of the Meeting.

DCCS2	AIRPORT TAXIWAY - NEW HANGER DEVELOPMENT
CONF	FILE: LA31496 KEO {Folio No. 400820}

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 correspondence received from legal representatives concerning the provision or lack there of a basic taxiway to the two (2) new hangers at the Kempsey Airport.

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2009. 459 RECOMMENDED:

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

That Council defer a decision regarding this matter and obtain legal advice in relation to the issues raised.

DCCS3	TENDER 2 X GRADERS
SUPP CONF.	FILE: T2009-003 CAD {Folio No. 400845}

REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

This report was submitted on a confidential basis as it involved 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)).

SUMMARY:

Reporting on tenders received for the purchase of two (2) graders and the sale of two (2) Caterpillar 120H graders (V1115 & V1800).

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2009. 460 RECOMMENDED:

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

1. That Council accept the tender from CJD Equipment Pty Ltd for the purchase of two (2) Volvo G930 graders, as per Council's tender specification, at a cost of \$634,000.00 (GST excl).
2. That Council accept the total sum of \$180,500.00 (GST excl) from CJD Equipment Pty Ltd for the trade of two (2) Caterpillar 120H graders (V1115 & V1800).
3. That tenderers be advised of Councils decision.

DCCS4	TENDER 2 X ROLLERS
SUPP CONF.	FILE: T2009-003 CAD {Folio No. 400846}

REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

This report was submitted on a confidential basis as it involved 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)).

SUMMARY:

Reporting on tenders received for the purchase of two (2) rollers and the sale of two (2) Multipac VV1100D rollers (V1152 & V1799).

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2009. 461 RECOMMENDED:

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

1. That Council accept the tender from Dynapac Australia Pty Ltd for the purchase of two Dynapac CA362D (2) rollers, as per Council's tender specification, at a cost of \$317,300.00.00 (GST excl).
2. That Council accept the total sum of \$80,000.00 (GST excl) from Dynapac Australia Pty Ltd for the trade of two (2) Multipac VV1100D rollers (V1152 & V1799).
3. That tenderers be advised of Councils decision.

DCCS5	TENDER EXCAVATOR
SUPP CONF	FILE: T2009-003 CAD {Folio No. 400847}

REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

This report was submitted on a confidential basis as it involved 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)).

SUMMARY:

Reporting on tenders received for the purchase of one (1) excavator and the sale of one (1) Hitachi EX200LC-5 excavator (V1149).

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2009. 462 RECOMMENDED:

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

1. That Council accept the tender from CJD Equipment Pty Ltd for the purchase of one (1) excavator, as per Council's tender specification, at a cost of \$254,600.00 (GST excl).
2. That Council accept the sum of \$44,000.00 (GST excl) from CJD Equipment Pty Ltd for the attachments.
3. That Council approve an allowance for the purchase of a general purpose grab, at a cost of no greater than \$34,000.00 (GST Excl)
4. That tenderers be advised of Councils decision.

DCCS6	TENDER – PRIME MOVER
SUPP CONF.	FILE: T2009-002 CAD {Folio No. 400848}

REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

This report was submitted on a confidential basis as it involved 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).

SUMMARY:

Reporting on tenders received for the purchase of one (1) prime mover and the sale of one (1) Mack prime mover (V1740).

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2009. 463 **RECOMMENDED:**

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

1. That Council accept the tender from Volvo Commercial Vehicles Australia for the purchase of one (1) prime mover, as per Council's tender specification, at a cost of \$214,792.00 (GST excl).
2. That Council accept the sum of \$25,000.00 (GST excl) from Volvo Commercial Vehicles Australia for the trade of one (1) Mack prime mover (V1740).
3. That tenderers be advised of Councils decision.

GENERAL MANAGER'S CONFIDENTIAL REPORT

GM1	VARIOUS LEGAL MATTERS - CURRENT POSITION
CONF	FILE: 155 AVB (NRN) {Folio No. 400824}

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. 464 **RECOMMENDED:**

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

That the information be noted.

GM2	ANNUAL PERFORMANCE APPRAISAL
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CONF

FILE: S10-13

AVB

{Folio No. 400826}

Item GM2 was dealt with after item GM4.

GM3

PLANT

CONF

FILE: S10-13 CC: 151

AVB

CC:CAD

{Folio No. 400828}

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))

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:

A suggested alteration to a contractual arrangement

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2009. 465 RECOMMENDED:

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

That clause 8.8 be amended to include “or market value whichever is the lesser”.

GM4

CIVIC VIEW PARTNERSHIP

CONF

FILE: 907

AVB

{Folio No. 400873}

Section 10A(2)(d)(ii) – Commercial Advantage on Competitor

This report is submitted on a confidential basis as it involves commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the council. (Local Government Act 1993, section 10A (2) (d) (ii))

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

SUMMARY:

To brief Council on the current financial position of the CivicView partnership

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2009. 466 RECOMMENDED:

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

That the information be noted.

GM2	ANNUAL PERFORMANCE APPRAISAL		
CONF	FILE: S10-13	AVB	{Folio No. 400826}

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))

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:

To review the performance of the General Manager for the year ended 30th June 2009.

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2009. 467 RECOMMENDED:

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

- 1 That the General Manager be thanked for his services to Kempsey Shire Council.
- 2 That the remuneration package of the General Manager be increased by 3.9%.

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OPEN COUNCIL

2009. 468 RESOLVED:

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

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. 469 RESOLVED:

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

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

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CONCLUSION:

There being no further business, the Meeting terminated at 3.18 p.m.

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