



MINUTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

Tuesday 10th March 2009 commencing at 9.01a.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; 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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DECLARATIONS OF INTEREST

Councillor Green declared an interest in item MM10 (Community Mental Health Forum) for the reason that she is chairperson of the Mental Health Forum.

CONSIDERATION OF CONFIDENTIAL REPORTS

2009. 112 RESOLVED: *Moved: Cl. Green*
Seconded: Cl. Gribbin

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 3RD FEBRUARY 2009

2009. 113 RESOLVED: *Moved: Sproule*
Seconded: Walker

That the Minutes of the Ordinary Meeting of Kempsey Shire Council dated 3rd February 2009 be confirmed subject to the following

amendment:-

That in item GM9 Kempsey Showground, the division voting be amended to show Councillor Hayes did not vote as she had declared an interest and was absent for the voting and returned to the Chambers after this item was dealt with.

Councillor Gribbin recorded his vote against the foregoing Resolution.

At this stage Councillor Gribbin requested it be recorded in the minutes that he believed his Notion of Motion 1 – South West Rocks Surf Life Saving Club Inc., submitted to the meeting on 3rd February 2009 was moved and carried as printed in the agenda and not as recorded in the minutes.

MINUTES OF THE EXTRAORDINARY MEETING OF KEMPSEY SHIRE COUNCIL DATED 24TH AND 25TH FEBRUARY 2009

2009. 114 RESOLVED:

*Moved: Hayes
Seconded: Green*

That the Minutes of the Extraordinary Meeting of Kempsey Shire Council dated 24th and 25th February 2009 be confirmed.

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PUBLIC FORUM

- 1 - Mr Mark Byrnes addressed Council regarding item **DSDS9** Section 82A Application to Review Determination Telecommunications Tower, Turners Flat
- 2 - Ms Margaret James addressed Council regarding item **DSDS9** Section 82A Application to Review Determination Telecommunications Tower, Turners Flat
- 3 - Mr Kevin Hill addressed council regarding item **RM1** and **DSDS1** Proposed amendment No.55 to rezone land known as 'Saltwater' at South West Rocks.
- 4 - Mr Alex Soovorooft addressed Council regarding item **RM1** and **DSDS1** Proposed amendment No.55 to rezone land known as 'Saltwater' at South West Rocks.
- 5 - Ms Carolyn Ellis addressed Council regarding item **DSDS7** Proposed Subdivision of 2 Lots into 3
- 6 - Mr Paul Francis addressed Council regarding item **DSDS15** Application to Modify Development Consent.
- 7 - Mr Andrew Gray addressed Council regarding item **DSDS8** use of railway carriage as a workshop.

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CONSIDERATION OF REPORTS RELATING TO PUBLIC FORUM – Reports DSDS9, RM1, DSDS1, DSDS6, DSDS7, DSDS15 and DSDS8

2009. 115 RESOLVED:

*Moved: Hayes
Seconded: Green*

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

DSDS9	SECTION 82A APPLICATION TO REVIEW DETERMINATION TELECOMMUNICATIONS TOWER, TURNERS FLAT
FILE: T6-08-264	SDS {Folio No. 392788}

SUMMARY:

Reporting that Council has received a request for Review of Determination under Section 82A of the Environmental Planning and Assessment Act 1979, including a revised site plan indicating a change of position for a telecommunication tower and compound at Turners Flat

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:

- A. That Development Application No. T6-08-264 be approved subject to the conditions prescribed below:

PARAMETERS OF THIS CONSENT

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
Locality & Site Plan Job No. T237 S1 Sheets 2	3	MYD Consulting Engineering	21 st Jan 2009
Site Setout Plan Job No. T237 S2 Sheets 3	3	MYD Consulting Engineering	21 st Jan 2009
Site Elevation Job No. T237 S3 Sheets 4	2	MYD Consulting Engineering	21 st Jan 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. **Compliance with Building Code of Australia**
All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.

This condition does not apply:

- a. to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- b. to the erection of a temporary building.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS

3. This consent does not permit commencement of any works
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.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORKS COMMENCING

4. **Erosion & sediment control - special measures required**
Erosion and sedimentation controls are to be in place in accordance with the Development Control Plan (DCP) 36. Particular attention is to be given to the provision of the following sediment and erosion control measures:
 - a. Temporary driveway from the edge of road to the building site;
 - b. Temporary downpipes immediately that the roof has been erected; and
 - c. Silt fence or sediment barrier.

Additionally the enclosed sign, to promote the awareness of the importance of maintenance of sediment and erosion controls, is to be clearly displayed on the most prominent sediment fence or erosion control device for the duration of the project.

Note: Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.

5. **Toilet facilities**
Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

6. Site construction sign required

A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:

- a. showing the name, address and telephone number of the principal certifying authority for the work;
- b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c. stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

7. Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:

- Monday to Friday, from 7 a.m. to 6 p.m.
- Saturday, from 8 a.m. to 1 p.m.

No construction work is to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

8. Builders rubbish to be contained on site

All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

9. No filling around trees

No soil or fill material is to be placed within the drip-line 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.

10. Burning of felled trees prohibited

The burning of trees and associated vegetation felled during clearing operations is not permitted. Where possible, vegetation is to be mulched and reused on the site.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH AT ALL TIMES

11. Asset Protection Zone

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities.

- a) At the commencement of building works and in perpetuity the property around the building shall be managed as follows:
 - North, South, East and West for a distance of 20 metres as an asset protection zone, as outlined within Planning for Bush Fire Protection 2006 and the Service's document 'Standards for asset protection zones'.

12. Access

The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and other assisting fire fighting activities.

- a) Property access roads shall comply with section 4.1.3 (2) of Planning for Bush Fire Protection 2006.

13. Design and Construction

New construction is to comply with Appendix 3 – Site Bush Fire Attack Assessment of *Planning for Bush Fire Protection 2006*. In this regard the following design standards for construction are to be incorporated into the development:

- a) New construction shall comply with Australia Standard AS3959-1999 'Construction of buildings in bushfire-prone areas' Level 3;
- b) Roofing shall be gutterless or have leafless guttering and valleys to prevent the build up of flammable material. Any materials used shall have a Flammability Index no greater than 5;
- c) There is to be no exposed timber on the proposed building.

14. Demolition of tower upon decommissioning

At the completion of the life of the tower (decommissioning of the tower and associated infrastructure) the development will be dismantled or demolished and removed in full from the subject site.

B. That the objectors be advised on Council's decision.

2009. 116 RESOLVED:

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

That this matter be listed for a works inspection.

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										

**RM1 PROPOSED LOCAL ENVIRONMENTAL PLAN AMENDMENT NO 55 TO REZONE LAND KNOWN AS "SALTWATER" AT SOUTH WEST ROCKS
FILE: T5-55 SDS CLRS JCG EAC DFS {Folio No. 392770}**

MOVED:

*Moved: Cl. Gribbin
Seconded: Cl. Campbell*

That resolution number 2009.9 from the Ordinary Meeting held Tuesday 3rd February 2009, as printed below;

- "1. That Council adopt draft LEP Amendment No.55 (as amended in boldfaced italics) attached to this report, except for the area of land that is within 400 metres of the South West Rocks STP Boundary and to be known as the Deferred Area Pursuant to S.68(5) of the EP&A Act, and forward it to the Department of Planning for Gazettal.*
- 2. That the Department of Planning be advised that Council's endorsement of the draft LEP is contingent upon the requirement to prepare a DCP prior to any development consent being issued being retained in the approved LEP.*
- 3. That all persons directly affected by this amendment, agencies and submission makers be advised of Council's decision.*
- 4. That a further report be submitted to Council no later than the April 2009 Meeting."*

be rescinded.

The RESCISSION MOTION was PUT to the Meeting and was LOST.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

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

**DSDS1 PROPOSED LOCAL ENVIRONMENTAL PLAN AMENDMENT NO.55 TO REZONE LAND KNOWN AS "SALTWATER" AT SOUTH WEST ROCKS
FILE: T5-55 SDS {Folio No. 392775}**

SUMMARY:

Reporting that further information has been sought for Council's consideration of the "Saltwater" rezoning in respect to the proposed STP buffer

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2009. 117 RESOLVED:

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

- A. That Council adopt Draft LEP Amendment 55 except for the area of land that is shown on the attached Map as the "Deferred Area" pursuant to s68 of the EP&A Act, and forward it to the Department of Planning for Gazettal.
- B. That the Department of Planning be advised that Council's endorsement of the draft LEP is contingent upon the requirement to prepare a DCP prior to any development consent being issued being retained in the approved LEP.
- C. That all agencies and persons who made submissions be advised of Council's decision.

A Division resulted in the following votes.

F = Voted For
A = Voted Against

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

DSDS6	NSW STATE GOVERNMENT DRAFT SEA LEVEL RISE POLICY STATEMENT FILE: 1048 AJC {Folio No. 392784}
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SUMMARY:

Reporting that a draft policy relating to the impact of a predicted rise in sea levels on coastal development has been released by the NSW Government

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:

That Council make a submission in accordance with the matters raised in this report.

2009. 118 RESOLVED:

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

That the Director Sustainable Development Services Recommendation be adopted with the addition of;

- 2. That Marsdens Law Group be requested to have this item included in their annual seminar in 2009.

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										

This report has been referred for determination of a development application that was the subject of a Works Inspection on 6th March 2009.

SUMMARY:

Reporting that Council has received an application to subdivide 2 lots into 3 lots at Dulconghi Heights 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. 119 RESOLVED:

*Moved: Cl. Walker
Seconded: Cl. Snowsill*

A. That the 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 0433/06 S01 & 02	2	Robert Dennis Associates	23 rd Oct 2007
Hydrological Assessment Plan D01	1	Robert Dennis Associates	16 th Sept 2008

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 does not permit commencement of any works
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.

Required work	Specification of work
Driveways Rural – unsealed roads	All-weather driveways, in accordance with Council's rural driveway

Required work	Specification of work
	standards, from the edge of the road to 3 metres within the property boundary for each of the proposed new allotments.
<i>Driveway Internal – where 2wd access not available to building</i>	A three (3) metre wide all-weather driveway to the building site for proposed Lot(s) 1 & 2. The plans will include certification that the access construction will not have detrimental effects on the stormwater flow patterns or local flooding in the area.
Service Conduits	Service conduits to each of the proposed new allotments laid in strict accordance with the service authorities' requirements.
Culverts required across drainage channels or streams	Culvert to be designed to ensure that peak flow rates for the 1 in 20 year storm event are not affected. The applicant is to obtain any necessary approvals from the Department of Natural Resources and / or the Department of Primary Industries, Fisheries, and plans.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR SUBDIVISION WORKS

3. **Engineering Construction Plans**
Three (3) copies of engineering construction plans and specifications must accompany the construction certificate application. Such plans are to provide for the works in the following table in accordance with Council's current Design and Construction Manuals and Specifications.

4. **Erosion and Sedimentation Control Plan**
The plans and specifications to accompany the construction certificate application are to include a sediment and erosion control plan to indicate the measures to be employed to control erosion and loss of sediment from the site. The sediment and erosion control plan is to be designed in accordance with the requirements of the Landcom Blue Book, *Soils and Construction -Managing Urban Stormwater*.

The sediment and erosion control plan must be prepared by a suitably experienced person such as a person certified by:
 - The Institution of Engineers, Australia, for engineering and hydrology matters.
 - The International Erosion Control Association for soil conservation matters.
 - The Australian Society of Soil Science for collection or analysis of soil data.

The plan must incorporate (without being limited to) information on general site management, material handling practices, soil stabilisation, water control, sediment control, wind erosion

control and access measures.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO COMMENCEMENT OF SUBDIVISION WORKS

5. **Written Notification**
Written notification of intention to commence works must be forwarded to the Council seven (7) days prior to work commencing. Notification is to include contact details of the supervising engineer and site contractor.
6. **Public Liability Insurance**
The developer and / or contractor must produce evidence to the Principal Certifying Authority of public liability insurance cover for a minimum of \$10 million. Council is to be nominated as an interested party on the policy. The public liability insurance cover is to be maintained for the duration of the period of the works and during any maintenance period.
7. **Erosion & sediment measures in accordance with the approved Erosion and Sediment Control Plan**
Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.

Note: Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH DURING CONSTRUCTION OF SUBDIVISION WORKS

8. **Construction times**
Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on residential premises, can only occur:
 - a) Monday to Friday, 7 a.m. to 6 p.m.
 - b) Saturday, 8 a.m. to 1 p.m.
 - c) No construction work to take place on Sundays or Public Holidays.
9. **Construction noise**
Construction noise is to be limited as follows:
 - a) For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
 - b) For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).
10. **Construction vibration**
Construction vibration is to be limited in accordance with:
 - (a) The NSW Roads and Traffic Authority Environmental

- Noise and Management Manual;
- (b) EPA Environmental Noise Control Manual, Chapter 174, *Vibration in Buildings*; and
- (c) Australian Standard AS 2670, *Evaluation of Human Exposure to Whole Body Vibration, Part 2: Continuous and Shock-Induced Vibration in Buildings (1 to 80 Hz)*.

11. Fencing to protect trees

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

- a) with a minimum height of 1.2 metres,
- b) outside the drip line 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.

12. Care to be taken when placing services near trees

All care is to be taken to manually excavate around or under any lateral structural support roots of any tree so as to minimise root disturbance where services are to be laid within the drip-line of a tree.

13. No filling around trees

No soil or fill material is to be placed within the drip line 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 be finer than that being covered in situ, *e.g. clay must not be placed over loam soil*.

14. Inspection of Public Works

Development works on public property are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection. You must quote your construction certificate number and property description to book your inspection.

- a) prior to commencement of site clearing and installation of erosion control facilities;
- b) at completion of installation of erosion control measures
- c) prior to installing traffic management works
- d) at completion of installation of traffic management works
- e) at the commencement of earthworks;
- f) before commencement of any filling works;
- g) when the sub-grade is exposed and prior to placing of pavement materials;
- h) when trenches are open, stormwater / water / sewer pipes and conduits jointed and prior to backfilling;
- i) at the completion of each pavement (sub base / base) layer;

- j) before pouring of concrete for kerb and guttering;
- k) prior to the pouring of concrete for sewerage works;
- l) prior to the pouring of concrete or paved foot paving works;
- m) on completion of road gravelling or pavement;
- n) during construction of sewer infrastructure;
- o) during construction of water infrastructure;
- p) prior to sealing and laying of pavement surface course.

All works at each hold point are to be certified as compliant, in accordance with Council's current Design and Construction Manuals and Specifications, prior to proceeding to the next hold point. Council will undertake random audit of work sites to verify compliance of public works as required.

15. Responsibilities under the National Parks and Wildlife Act 1974

All earthmoving contractors and operators must be instructed that, in the event of any bone, or stone artefacts, or discrete distributions of shell, being unearthed during earthmoving, work must cease immediately in the affected area, and the Local Aboriginal Land Council and officers of the National Parks and Wildlife Service, informed of the discovery. Work must not recommence until the material has been inspected by those officials and permission has been given to proceed. Those failing to report a discovery and those responsible for the damage or destruction occasioned by unauthorised removal or alteration to a site or to archaeological material may be prosecuted under the National Parks and Wildlife Act 1974.

16. Maintenance of sediment and erosion control measures

Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

17. Public safety requirements

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. Council is not held responsible for any negligence caused by the undertaking of the works.

18. Council Specification

All works to be constructed to at least the minimum requirements of Council's Adopted Engineering Standard.

19. Approved Plans to remain on site

A copy of the approved Construction Certificate including plans, details and specifications must remain at the site at all times during the construction of the subdivision.

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

20. Plan of Subdivision

An application for a Subdivision Certificate must be made on the approved form. The Subdivision Certificate fees, in

accordance with Council's adopted schedule of fees and charges, must accompany such application. Seven (7) copies of the plan of subdivision are to be submitted with the application for a subdivision certificate. The location of all buildings and / or other permanent improvements including fences and internal access driveways / roads must be indicated on 1 of the copies.

21. Plan of Subdivision and Section 88B Instrument requirements

A Section 88B Instrument and 1 copy are to be submitted with the application for a subdivision certificate. The final plan of subdivision and accompanying Section 88B Instrument are to provide for the items listed in the following table:

Item for inclusion in Plan of Subdivision and / or Section 88B Instrument	Details of Item
Dwelling Envelope	Restrictions to limit the erection of dwellings to the nominated dwelling envelope.

22. Completion of All Works

All roads, drainage and civil works, required by this development consent and associated Construction Certificate, are to be completed. Works are to include restoration, replacement and / or reconstruction of any damage caused to surrounding public infrastructure, including damage to road pavements along any haulage routes used for the construction of the subdivision.

23. Electricity Supply Certificate

Written evidence from an electricity supply authority is to be submitted with the application for a subdivision certificate stating that satisfactory arrangements have been made for the provision of underground electricity supply throughout the subdivision.

24. Telephone Supply Certificate

Written evidence from Telstra is to be submitted with the application for a subdivision certificate stating that satisfactory arrangements have been made for the provision of underground telephone supply throughout the subdivision.

25. Contributions for Water and Sewer Services prior to this issue of a Subdivision Certificate.

Contributions set out in the following table are to be paid to Council prior to the issue of a Construction Certificate. Contributions are levied in accordance with Council's Kempsey Shire Council Macleay Water DSP for Water & DSP Sewage Services dated July 2006. The Plans may be viewed during office hours at Council's Offices.

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at

the time of payment. Payments will only be accepted by cash or bank cheque.

The Certificate of Compliance under Section 306 of the Water Management Act 2000, identifying payment of the contributions, is to be provided to the Principal Certifying Authority.

Public service	No. of Equivalent Tenements	Contribution Rate (Amount per ET)	Contribution Levied	Date until which Contribution rate is applicable
Water	1 ET	\$7,947	\$7,947	30 th June 2008 / 09
TOTAL			\$7,947	

26. Contribution to be paid towards provision or improvement of amenities or services prior to the issue of a Subdivision Certificate.

The particulars of the contributions levied pursuant to Section 94 of the Act is 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
Outdoor Recreation	Outdoor recreation -2001	September 2000
Rural Roads	Rural Roads Developer	May 2000
Section 94 – Project Administration	Project Administration	10 th August 2007

The above plans may be viewed during office hours at the Council Customer First Centre located at 22 Tozer Street West Kempsey.

Contributions set out in the following Schedule are to be paid to Council prior to the issue of a Construction Certificate. 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.

Public amenity or service	Unit type	No. of Units	Contribution Rate (Amount per Unit)	Contribution Levied	Date until which Contribution rate is applicable
Outdoor Recreation	ET	1	\$449.00	\$449.00	30 th June 2008 / 09

Arterials Road	ET	1	\$1,074.00	\$1,074.00	30 th June 2008 / 09
Subtotal				\$1,523.00	
S94 Administration	6% of total Section 94 charge applicable			\$91.40	30 th June 2008 / 09
TOTAL				\$1,614.40	

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

27. **Integrated Rural Bushfire Service**
The development proposal is to comply with the subdivision layout identified on the drawing prepared by Robert Dennis and Associates Pty Ltd, project number 0433/06 dated 28/8/2007.
28. The plan of subdivision is to indicate that the boundaries traversing the SEPP14 wetland have been set by following the existing fence-lines.
29. The plans for the required construction certificate are to include detailed engineering plans for the required internal access road to the approved dwelling envelope to 2WD all weather standard. Such plans shall indicate that the road has been designed so as not to impede the flow of stormwater during a 1 in 20 year storm event in accordance with "Australian Rainfall and Runoff".

B. That the objectors be advised of Council's decision.

A Division on this decision resulted in the following votes.

F = Voted For

A = Voted Against

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

DSDS15	APPLICATION TO MODIFY DEVELOPMENT CONSENT
	FILE: T6-07-482 SDS {Folio No. 392798}

SUMMARY:

Reporting that Council has received an application to modify a condition of consent concerning the required floor level height for a dwelling which is contrary to Council's Flood Plain Management Strategy Policy

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2009. 120 RESOLVED:

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

That the application to modify Development Consent T6-07-482 condition 17 be refused for the following reasons:

- i) The modification is not in accordance with Council's Flood Risk Management Policy.
- ii) The modification is not in accordance with the conditions of approval.
- iii) Approval of the application would create an undesirable precedent for similar proposals within Kempsey Shire Council.

A Division resulted in the following votes.

F = Voted For
A = Voted Against

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

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PRESENTATION

At 10.28am The Mayor made a presentation to Ms Jacqueline Bradshaw ("Aunty Merle"), who is retiring from Dalaigur Preschool after 38 years of early childhood education.

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DSDS8	USE OF RAILWAY CARRIAGE AS A WORKSHOP
FILE: T6-08-370 SDS	{Folio No. 393173}

SUMMARY:

Reporting that Council has received an application to locate a railway carriage for use as a workshop for which objections have been received.

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2009. 121 RESOLVED:

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

A. That 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
T6/08/370/1	-		-

Plan No./ Supporting Document	Version	Prepared by	Dated
T6/08/370/2	-		
Proposed Workshop		DarkHeart Eco-Consultancy	28/01/09
Bushfire Protection Plan		Mjadwesch Environmental Service support	16/4/2007

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. **Compliance with Building Code of Australia**
All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.

This condition does not apply:

- a. to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
 - b. to the erection of a temporary building.
3. This consent does not permit commencement of any works
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. Separate application required for signs not approved by this consent
Separate development consent is required from Council prior to the erection of any advertisements or advertising structures other than the sign/s, approved in this consent.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS

5. **Engineer's details required**
Engineer's details for the footings are to be submitted to prior Council to the issue of a Construction Certificate. The engineer's details are to be prepared by an appropriately qualify and experience professional and comply with DCP 36- Engineering Standards.
6. **Landscaping plan required**

The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site. The landscaping plan must indicate:

- a) location of trees identified for removal in the development application plans,
- b) proposed location for planted shrubs and trees,
- c) botanical name of shrubs and trees to be planted, and
- d) mature height of trees to be planted.

Such plans and specifications must be approved as part of the Construction Certificate.

7. Roofwaters

Roofwaters are to be directed by means of sealed pipes to rubble drains 3 metres 600mm x 600mm, located not less than 3 metres from the building. Details are to be provided with the plans for the required Construction Certificate.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

8. Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:

- Monday to Friday, from 7 a.m. to 6 p.m.
- Saturday, from 8 a.m. to 1 p.m.

No construction work is to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

9. Limiting construction noise

Construction noise is to be limited as follows:

- a. For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b. For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

10. Construction dust suppression

All necessary works are to be undertaken to control dust pollution from the site.

These works must include, but are not limited to:

- a. restricting topsoil removal;
- b. regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);
- c. alter or cease construction work during periods of high wind;

11. **Builders rubbish to be contained on site**
All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.
12. **Care to be taken when placing services near trees**
Where services are to be laid within the drip-line of a tree all care is to be taken to manually excavate around or under any lateral structural support roots of any tree so as to minimise root disturbance.
13. **No filling around trees**
No soil or fill material is to be placed within the drip-line 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.
14. **Burning of felled trees prohibited**
The burning of trees and associated vegetation felled during clearing operations is not permitted. Where possible, vegetation is to be mulched and reused on the site.
15. **Tree and lib removal**
The applicant is not to remove any hollow and all tree felling and lib removal associated with the proposal is to be undertaken by an Arborist to ensure that no other tree is damaged. All limb lopping is to be in accordance with the AS 4373 – Pruning of Amenity Trees, and any other relevant Australian Standards.
16. **Maintenance of sediment and erosion control measures**
Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.
17. **Works to be completed**
All of the works shown on the plans and granted by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate.
18. **Building not to be used for residential occupation**
The building must not be used for any form of residential occupation.
19. **Premises not used for human habitation**
The premises must not be used for human habitation, commercial or industrial purposes.

B. That the objectors be advised on Council's decision.

A Division 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										

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MORNING TEA

At this stage 10.30 a.m. the Meeting adjourned for Morning Tea which was held in the Library in alignment with Seniors Week and upon resumption at 11.07 a.m. all present at the adjournment were in attendance.

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CONSIDERATION OF LATE REPORTS

2009. 122 RESOLVED:

Moved: Hayes
Seconded: Sproule

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

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ADOPTION OF AGENDA ORDER OF BUSINESS

2009. 123 RESOLVED:

Moved: Cl. Green
Seconded: Cl. Sproule

That the following items be dealt with in conjunction;

MM1 and GM6
MM8 and DCCS7
RM2 and DSDS17
DSDS13 and DSDS14
DCCS9 and DCCS11

and the remaining Agenda Order of Business be adopted.

MAYORAL REPORT

The following items MM1 and GM6 were dealt with in conjunction.

MM1	"A" DIVISION CONFERENCE	{ Folio No. 392749 }
	FILE: 165 MAYOR	

SUMMARY:

Reporting on the Annual Conference of "A" Division – Shires Association of NSW

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2009. 124 RESOLVED:

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

That the Shires Association of NSW be requested to organise the "A" Division Conference at a central location, say Grafton, and be limited to one day.

GM6	"A" DIVISION CONFERENCE		
	FILE: 165	AVB (NRN)	{Folio No. 392840}

SUMMARY:

To advise of the proceedings of the "A" Division Conference and Shires Association Conference Arrangements

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2009. 125 RESOLVED:

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

1. That the information be noted.
2. That Council's delegate at the Shires Conference be the Mayor and Councillor Hayes attend also as she is the "A" Division Representative on the Executive.
3. That Council nominate other Councillors to attend the Conference.

2009. 126 RESOLVED:

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

That Councillor Green also attend the A Division conference.

MM2	MAYORAL EXPENSES		
	FILE: 276	MAYOR (NRN)	{Folio No. 392750}

SUMMARY:

As reported earlier, on being elected Mayor on 30th September 2008, I elected NOT to:

- Require a Mayoral car.
- Have a Council mobile phone.
- Enjoy Membership of the Qantas Club.

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Mayoral Recommendation:

That the information be noted.

The foregoing report was WITHDRAWN at the request of Councillor Bowell.

SUMMARY:

Reporting that Section 332 Local Government Act 1993, provides for the determination of the structure which under Section 333 is required within twelve months of an ordinary election of the Council.

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Mayoral Recommendation:

That in the preparation of an Organisation Structure, required to be completed within twelve months of the 2008 Election, consideration be given to the following functions:

- . 4 Shore Tourist Parks
- . Saleyards
- . Airport
- . South West Rocks Reserve (Horseshoe Bay Caravan Park)
- . Small Business Management
- . Property Development

being transferred to the area of Economic Development.

2009. 127 RESOLVED:

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

That the Organisation Structure be referred to the August Council meeting.

SUMMARY:

Reporting that the Australian Local Government Women's Association Conference will be held at Queanbeyan from 19th to 22nd March 2009

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Mayoral Recommendation:

That the information be noted.

2009. 128 RESOLVED:

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

That Councillor Sproule attend the Australian Local Government Women's Association Conference to be held at Queanbeyan.

SUMMARY:

Reporting that an initial meeting was held with Mr Mark Anderson, Local Government Employment Solutions

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2009. 129 RESOLVED:

Moved: Cl. Howell
Seconded: Cl. Walker

That Council nominate three Councillors, in addition to the Mayor, to review the applications with Local Government Employment Solutions.

NOMINATIONS

The following nominations were received being; Councillors Green, Sproule, Campbell, Gribbin, Saul and Snowsill.

Council proceeded to elect three Councillors with the make-up being one male and two female Councillors.

Open voting resulted in the following votes;

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

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

The Mayor declared that the elected three (3) Councillors would be Councillors Gribbin, Campbell and Sproule.

MM6

**VICTORIAN BUSHFIRES
FILE: 579 MAYOR CC:APC**

{Folio No. 392755}

SUMMARY:

Reporting that Coffs Harbour City Council has commenced an appeal for the construction of a Community Centre in one of the many communities in Victoria

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Mayoral Recommendation:

That Council donates \$5,000 to either the Coffs Harbour proposal or the Municipal Association of Victoria.

2009. 130 RESOLVED:

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

That Council donates \$5,000 to the Coffs Harbour appeal for the construction of a Community Centre in one of the many communities in Victoria.

Councillor Saul recorded his vote against the foregoing Resolution.

MM7

**PATIENT SURVEY KEMPSEY DISTRICT HOSPITAL
FILE: 265 MAYOR (NRN)**

{Folio No. 392756}

SUMMARY:

The 2008 Survey disclosed some interesting statistics

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Mayoral Recommendation:

That a letter of congratulations be forwarded to the Executive Officer of Kempsey District Hospital on the outcome of the patient survey.

2009. 131 RESOLVED:

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

That a letter of congratulations be forwarded to the Executive Officer of Kempsey District Hospital on the outcome of the patient survey that reflected the service provided by the staff.

The following items MM8 and DCCS7 were dealt with in conjunction.

MM8

**COMMITTEE STRUCTURE
FILE: 584 MAYOR (NRN)**

{Folio No. 392758}

SUMMARY:

Reporting that Council has resolved to review each committee and delegate representation on an annual basis.

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2009. 132 RESOLVED:

Moved: Cl. Howell
Seconded: Cl. Gribbin

That in September 2009 consideration be given to the re-introduction of the following committees:

- Caravan Parks
- Saleyards
- Fleet Management

DCCS7	KEMPSEY REGIONAL SALEYARDS FOCUS GROUP
FILE: 1260	SJR (NRN) {Folio No. 392817}

SUMMARY:

Reporting on the finalisation of the Focus Group process for the Kempsey Regional Saleyards

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Director Corporate & Community Services Recommendation:

1. That Council call for Expressions of Interest for agents to operate from the Kempsey Regional Saleyards. Expressions of Interest to include the term of the contract, the financial offer to Council and proposed sale day schedules.
2. That a Saleyards Reference Group be selected from skills based applicants.
3. That a Business Plan for the Saleyards be developed.
4. That the other recommendations from the Saleyards Focus Group be considered within the Business Plan.

2009. 133 RESOLVED:

Moved: Cl. Hayes
Seconded: Cl. Green

That this item be deferred until after the meeting with the Saleyards Focus Group.

MM9	GLOBAL FINANCIAL CRISIS
FILE: 275 MAYOR (NRN)	{Folio No. 392759}

SUMMARY:

Inquiry into the impact of the global financial crisis on regional Australia

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Mayoral recommendation:

That the information be noted.

2009. 134 RESOLVED:

Moved: Cl. Howell

That the information be noted and a submission be prepared and forwarded from Council in relation to the inquiry.

Councillor Green declared an interest in the following item for the reason that she is Chairperson of the Community Health Forum and retired from the Chamber.

MM10	COMMUNITY MENTAL HEALTH FORUM	
	FILE: 419 MAYOR	{Folio No. 392762}

SUMMARY:

Reporting that a steering committee has been established to hold a forum under the auspices of the Rotary Clubs of Australia

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2009. 135 RESOLVED:

Moved: Cl. Howell
Seconded: Cl. Sproule

1. That Council resolve to offer support to the Community Mental Health Forum to address the Mental Health issues specifically within Kempsey Shire.
2. That the North Coast Area Health Service be invited to advise the activities and outcomes of the various programs as listed in the letter of 24th February that are to promote the mental health of children within Kempsey Shire.
3. That the Federal and State Government attention be drawn to the outcome of the Beyond Blue Mental Health Incentives Program in which school students identified mental health as one issue which they feel is inadequately addressed with the school education system in their experience.

Councillor Green returned to the Chamber.

MM11	LOCAL GOVERNMENT ASSOCIATION ANNUAL CONFERENCE	
	FILE: 165 MAYOR (NRN)	{Folio No. 392764}

SUMMARY:

Reporting that the Local Government Association annual conference is scheduled for the end of October 2009 and is to be held in Tamworth

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2009. 136 RESOLVED:

Moved: Cl. Howell
Seconded: Cl. Green

That attendance at the 2009 Local Government Association Annual Conference to be held in Tamworth is limited to two delegates.

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ITEMS TABLED FOR INFORMATION

The following items were table for information:-

File: 284

Joint 49th Annual Floodplain Management Authorities (NSW) and 6th Biennial Victorian Flood Conference

- 2009 speakers papers (DVD)
- Program and Abstract Booklet
- Pre Conference Workshop Floodplain Management Across Australia

NOTICE OF MOTION

NOM1	GRAZING LEASES FILE: 1177 MAYOR (NRN)	{Folio No. 392769}
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2009. 137 RESOLVED:

Moved: Cl. Hayes
Seconded: Cl. Green

That a report be submitted to Council on the conditions covering Kempsey Shire Council's grazing leases. Such a report to include the suitability of the land in question for sale to adjoining owners, the dates of expiry for such leases and the annual fee attached to each lease.

RESCISSION MOTION

RM1	PROPOSED LOCAL ENVIRONMENTAL PLAN AMENDMENT NO 55 TO REZONE LAND KNOWN AS "SALTWATER" AT SOUTH WEST ROCKS FILE: T5-55 SDS CLRS JCG EAC DFS	{Folio No. 392770}
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This report was dealt with earlier in the meeting just after PUBLIC FORUM.

RM2 SUPP	VISITOR INFORMATION CENTRE FILE: 447 CC:132 MAYOR	{Folio No. 392980}
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2009. 138 RESOLVED:

Moved: Cl. Bowell
Seconded: Cl. Campbell

That resolution number 2009.108 from the Extraordinary Meeting held 24th February 2009, as printed below;

"That Visitor Information Centre office be closed and Tourism Promotion be transferred to the Economic Development Office."

be rescinded.

Councillors Green, Saul and Walker recorded their votes against the foregoing Resolution.

2009. 139 RESOLVED:

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

1. That the provision of funding for Tourist Information Services be included in the 2009 / 10 budget and that steps be taken to have the membership based tourism structure strengthened to represent the interests of the entire Shire's tourism industry to drive the Macleay Valley Coast marketing and product development including information services.
2. That Council investigates the introduction of a tourism levy.

Councillor Walker recorded his vote against the foregoing Resolution.

DELEGATE'S REPORT

DR1	REPORT ON ATTENDANCE AT FLOODPLAIN MANAGEMENT AUTHORITY CONFERENCE, AGM AND QUARTERLY MEETING
FILE: 165 MAYOR (NRN)	{Folio No. 392773}

SUMMARY:

Delegate's report on FMA Annual Conference February 2009

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2009. 140 RESOLVED:

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

1. That the information be noted.
2. That Council continue to lobby for additional grant funding to continue its flood mapping programme.
3. That our current programme of upgrading our flood drainage systems be continued as resources become available.
4. That Council continue actively developing Land Use Planning as a floodplain management tool.
5. That Council's departments of Sustainable Development and Shire Services continue to work in close collaboration on Floodplain Management issues including DA approvals in Flood Risk areas.

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

DSDS1	PROPOSED LOCAL ENVIRONMENTAL PLAN AMENDMENT NO.55 TO REZONE LAND KNOWN AS "SALTWATER" AT SOUTH WEST ROCKS
FILE: T5-55 SDS	{Folio No. 392775}

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

DSDS2 PROPOSED AMENDMENT TO KEMPSEY LOCAL ENVIRONMENTAL PLAN 1987 (AMENDMENT NO. 94) TO REZONE THE FORMER SHELL SITE, PHILLIP DRIVE, SOUTH WEST ROCKS
FILE: T5-94 KJA {Folio No. 392777}

SUMMARY:

Reporting that submissions have been received in response to the public exhibition of amendment No. 94 to the Kempsey Local Environmental Plan 1987 to rezone land at Lot 1 Philip Drive, South West Rocks from 5 (a) (Special Uses 'A' Zone) to 2(a) (Residential "A" Zone).

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

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2009. 141 RESOLVED:

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

- A. That Council forward Kempsey Local Environmental Plan 1987 (Amendment No.94) to the Department of Planning to make the plan.
- B. That people who made a submission be advised of Council decision.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

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

DSDS3 EXHIBITION OF LOCAL ENVIRONMENTAL STUDY (LES), DRAFT LOCAL ENVIRONMENTAL PLAN (LEP) FOR SLIM DUSTY FOUNDATION
FILE: T5-109 SDS {Folio No. 392779}

SUMMARY:

Reporting that a Rezoning Justification Report has been prepared to support the rezoning of land for the purpose of the Slim Dusty Centre, South Kempsey for which Council's endorsement is sought for the purposes of public exhibition.

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

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2009. 142 RESOLVED:

Moved: Cl. Green
Seconded: Cl. Campbell

- A. That Council exercise the Delegation granted by the Department of Planning and resolve to issue a section 65 Certificate to exhibit the draft LEP.
- B. That the Department of Planning be notified of Council's resolution.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

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

DSDS4	PROPOSED LEP AMENDMENT FOR MISTY MOUNTAIN	
	File: T5-110 SDS	{ Folio No. 392781 }

SUMMARY:

Reporting that Council has received an application and rezoning justification report to amend Kempsey Local Environmental Plan 1987 to permit formalisation of an existing health retreat

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

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2009. 143 RESOLVED:

Moved: Cl. Hayes
Seconded: Cl. Green

- A. That in accordance with Section 54 of the Environmental Planning and Assessment Act 1979, Council prepare a draft Local Environmental Plan to permit a tourist facility on rural Lot 19 DP 753436 Diamond Flat Trail, Comara via an enabling clause in the Kempsey LEP 1987.
- B. That the Department of Planning and the Local Environmental Plan Review Panel be notified of Council's decision.

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	PROPOSED AMENDMENT TO KEMPSEY LOCAL ENVIRONMENTAL PLAN - REZONING OF LAND AT WEST STREET SOUTH KEMPSEY
FILE: T5-112 CC:LA3769 SDS	{Folio No. 392783}

SUMMARY:

Reporting that Council has received an application to rezone land from Residential 2(a) to Industrial Light 4 (b)

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

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2009. 144 RESOLVED:

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

- A. That in accordance with Section 54 of the Environmental Planning and Assessment Act 1979, Council prepare a draft Local Environmental Plan to rezone Lot126 DP752417, West Street, South Kempsey, from Residential 2(a) to Industrial Light 4(b)**
- B. That the Department of Planning and the Local Environmental Plan Review Panel be notified of Council's decision.**
- C. That the Department of Planning be requested to waive the requirement for a Local Environmental Study.**

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	NSW STATE GOVERNMENT DRAFT SEA LEVEL RISE POLICY STATEMENT
FILE: 1048 AJC	{Folio No. 392784}

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

DSDS7	PROPOSED SUBDIVISION OF 2 LOTS INTO 3
FILE: T6-07-358 SDS	{Folio No. 392786}

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

DSDS8	USE OF RAILWAY CARRIAGE AS A WORKSHOP
FILE: T6-08-370 SDS	{Folio No. 393173}

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

DSDS9	SECTION 82A APPLICATION TO REVIEW DETERMINATION TELECOMMUNICATIONS TOWER, TURNERS FLAT FILE: T6-08-264	SDS	{Folio No. 392788}
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This report was dealt with earlier in the meeting just after PUBLIC FORUM.

At this stage 12.14pm Councillor Walker left the Chambers.

DSDS10	ECONOMIC DEVELOPMENT REPORT FILE: 584	DBH	{Folio No. 392789}
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SUMMARY:

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

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2009. 145 RESOLVED:

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

That the information be noted.

Councillor Walker returned to the Chambers.

DSDS11	NSW FOOD AUTHORITY – REPORTING INFORMATION FILE: 128	SDS	{Folio No. 392790}
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SUMMARY:

Reporting to Council an update on the food inspection report for 1st July 2008 to 31st December 2008 that is provided to the NSW Food Authority on a six (6) monthly basis

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2009. 146 RESOLVED:

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

That the information be noted.

SUMMARY:

Reporting that Council has received an application to erect a telecommunications tower and equipment shed.

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:

- A. That development application T6-08-464 be approved subject to the conditions prescribed below:

PARAMETERS OF THE CONSENT

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
Statement of Environmental Effects	-	Connell Wagner P/L	19.12.08
Site Elevation Plan	-	Connell Wagner P/L	19.12.08
Site Layout Plan	-	Connell Wagner P/L	19.12.08
Site Location Plan	-	Connell Wagner P/L	-

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. **Compliance with Building Code of Australia**
All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.

This condition does not apply:

- a. to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition

- or requirement referred to in clause 187 (6) or 188 (4),
or
b. to the erection of a temporary building.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS

3. This consent does not permit commencement of any works
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. **Engineer's details**
Structural Engineer's Details for the lattice tower, all antennas, the maintenance shed, and the reinforced concrete slab are to be submitted to Council prior to the issue of a Construction Certificate.
5. **Section 88B Instrument requirements**
A Section 88B Instrument and 1 copy are to be submitted to Council prior to the issue of Construction Certificate. The Section 88B Instrument is to be provided for the item listed in the following table:

Item for inclusion in Section 88B Instrument	Details of Item
Rights of Carriageway	The creation of suitable rights of carriageway over the access to proposed Lot 22.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORKS COMMENCING

6. **Erosion & sediment control - special measures required**
Erosion and sedimentation controls are to be in place in accordance with the Development Control Plan (DCP) 36 prior to the commencement of any works.

Erosion and sediment controls are to be maintained at all times to the satisfaction of Council until the site has been stabilised by hard surface or permanent vegetation.

Note: Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.
7. **Toilet facilities**
Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.
8. **Site construction sign required**
A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:

- a. showing the name, address and telephone number of the principal certifying authority for the work;
- b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c. stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

9. **Construction times**
Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:
 - Monday to Friday, from 7 a.m. to 6 p.m.
 - Saturday, from 8 a.m. to 1 p.m.

No construction work is to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

10. **Builders rubbish to be contained on site**
All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.
11. **No filling around trees**
No soil or fill material is to be placed within the drip-line 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.
12. **Demolition of tower upon decommissioning**
At the completion of the life of the tower (decommissioning of the tower and associated infrastructure) the development will be dismantled or demolished and removed in full from the subject site.

2009. 147 RESOLVED:

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

That this matter be listed for a Works inspection.

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										

**DSDS13 CONTINUED USE OF EXISTING DECK
FILE: T6-08-447 SDS {Folio No. 392794}**

SUMMARY:

Reporting that Council has received an application for continued use of an existing deck for which an objection has been received.

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

◆◆◆◆◆

Director Sustainable Services Department Recommendation:

- A. That consent be granted subject to the following conditions:**
 - 1. The existing timber screen fixed to the colour bond fence is to be removed.**
 - 2. A 1.8m high privacy screen measured from the top of the deck and fixed to the deck floor frame for the full length of the deck, staircase and one colour bond panel past the staircase is to be erected.**
 - 3. A Building Certificate with recent survey by registered surveyor showing buildings and the timber deck relative to the boundaries to allow formalisation of the unlawfully erected deck is to be obtained.**
 - 4. Submission of an engineer's certificate certifying the timber deck and screen as constructed are suitable for the intended purposes having regards to expected loadings.**
- B. That the applicant be advised that all conditions are to be complied with within 30 days of the date of consent.**

2009. 148 RESOLVED:

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

That this matter be listed for a Works inspection.

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										

SUMMARY:

Reporting that Council has received an application to increase the height of a previously approved timber privacy screen and inclusion of a timber deck around an above ground pool for which objections have been received.

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

◆◆◆◆◆

Director Sustainable Services Department Recommendation:

- A. That the application to modify Development Consent T6-08-397 be approved subject to the following conditions.**

PARAMETERS OF THIS CONSENT

- 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
One Sheet	-	Submitted by H P Morgan	-

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. Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989**
 - a) All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.
 - b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under

- clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- b) to the erection of a temporary building.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORKS COMMENCING

- 3. **Site construction sign required**
A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:
 - a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

- 4. **Construction times**
Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:
 - a) Monday to Friday, from 7 a.m. to 6 p.m.
 - b) Saturday, from 8 a.m. to 1 p.m.

No construction work is to take place on Sundays or Public Holidays.

- 5. **Builders rubbish to be contained on site**
All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH AT ALL TIMES

- 6. **Maintenance of sediment and erosion control measures**
Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO OCCUPATION OF THE BUILDING

7. Works to be completed
All of the works shown on the plans and granted by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate.
8. Screen is to be provided on the eastern side
Screen is to be provided on the eastern side of the swimming pool deck. Details to be submitted to Council for approval prior to the issue of the construction certificate.

B. That the objectors be advised of Council's decision.

2009. 149 RESOLVED:

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

That this matter be listed for a Works inspection.

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										

**DSDS15 APPLICATION TO MODIFY DEVELOPMENT CONSENT
FILE: T6-07-482 SDS {Folio No. 392798}**

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

**DSDS16 BUILDING AND DEVELOPMENT
FILE: 329 RBP**

SUMMARY:

Reporting that the following applications have been approved:

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2009. 150 RESOLVED:

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

That the information be noted.

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES SUPPLEMENTARY REPORT

**DSDS17 MID NORTH COAST REGIONAL TOURISM
SUPP ORGANISATION'S BOARD STRUCTURE
FILE: 132 DBH (NRN) {Folio No. 392932}**

SUMMARY:

Report on the Mid-North Coast Regional Tourism Organisation's (RTO) Board meeting in Port Macquarie on the 25th of February 2009.

This report will outline the proposed changes to the Mid-North Coast Regional Tourism Board structure as outlined in the Memorandum of Understanding signed between the State Government and the Mid-North Coast RTO.

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Director Sustainable Services Department Recommendation:

That the information be noted.

2009. 151 RESOLVED:

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

1. That Council write to the Mid-North Coast Regional Tourism Board expressing concern about the reduction of local government representation on the board.
2. That member councils on MIDGOC be advised of Council's concern and seek their support on this matter.

DIRECTOR SHIRE SERVICES REPORT

DSS1	MANDATORY CONNECTION TO RECYCLED WATER SYSTEMS AND USE OF RECYCLED WATER FILE: 365 CC:126 GTS (NRN) {Folio No. 392799}
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SUMMARY:

Reporting that a draft Council policy has been prepared as one of three mechanisms to ensure mandatory connection to recycled water systems and use of recycled water.

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2009. 152 RESOLVED:

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

That Council endorse the draft Recycled Water Connections and Use Policy set out in the report for the purposes of public exhibition.

DSS2	MARIA RIVER ROAD, CRESCENT HEAD FILE: 197 CC:R.MARIA RIVER WCB (NRN) {Folio No 392801}
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SUMMARY:

Reporting on the progress of the reconstruction of Maria River Road

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2009. 153 RESOLVED:

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

That the information be noted.

**DSS3 MR198 SOUTH WEST ROCKS ROAD - CHANGE TO PROPOSED WORK
FILE: R.SWR RD CC:697 WCB CC:APC (NRN){Folio No.392802}**

SUMMARY:

This report seeks approval to change the proposed work on MR198, South West Rocks Road, from shoulder widening to rehabilitation in one section of the road within the existing budget allocation.

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2009. 154 RESOLVED:

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

That the proposed shoulder widening for Ch18.29 to Ch19.09 be changed to rehabilitation, projected shoulder widening works be deleted from 2008 / 2009 works program and budget be adjusted accordingly during 3rd quarterly budget review.

**DSS4 AMENITIES CLEANING RE CIVIC MAINTENANCE TEAMS
FILE: 584 WCB (NRN) {Folio No. 392803}**

SUMMARY:

Review and information of amenities cleaning operations by the Civic Maintenance teams across the Kempsey Shire sites numbering 32 including sporting fields and reserves.

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2009. 155 RESOLVED:

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

That Council test the market by going to tender on an A and B option document.

Councillor Saul recorded his vote against the foregoing Resolution.

**DSS5 IMPLICATIONS OF THE WATER INDUSTRY COMPETITION ACT (WICA) FOR INFRASTRUCTURE PROVISION
FILE: 645 GTS (NRN) {Folio No. 392804}**

SUMMARY:

Reporting on implications of the Water Industry Competition Act (WICA) for water and sewerage infrastructure provision and particularly for the West Kempsey Sewage Treatment Works project

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2009. 156 RESOLVED:

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

That Council continue to support the concept of privately funded, sustainable solutions to the sewerage management and associated infrastructure for West Kempsey.

DSS6	BELLBROOK WATER TREATMENT PLANT
FILE: 1143 AMB	{Folio No. 392805}

SUMMARY:

Reporting on the status of the grant funding for Bellbrook Water Treatment Plant

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2009. 157 RESOLVED:

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

1. That Council delegate the signing of the Deed of Agreement for the Bellbrook Water Treatment Plant to the General Manager.
2. That Council approve the affixing of Council's Common Seal on the Deed of Agreement for the Bellbrook Water Treatment Plant.

DSS7	THUNGUTTI COMMUNITY WATER SUPPLY AND SEWERAGE SYSTEM
FILE: 377 AMB (NRN)	{Folio No. 392806}

SUMMARY:

This report provides an update on progress made on the Thunghutti Community Water Supply and Sewerage System project.

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2009. 158 RESOLVED:

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

That the information be noted

DSS8	WASTE MANAGEMENT REVIEW - BELLBROOK
FILE: 491 CC:584 CC:1008 OGM (NRN)	{Folio No. 392807}

SUMMARY:

Reporting on changes of operational hours and management at Bellbrook Transfer Station

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2009. 159 RESOLVED:

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

That Council call for Expressions of Interest (EOI) to operate the Bellbrook transfer station on Sundays between 10a.m. and 5p.m. under a contract management agreement for a period of 2 years with an option for another 2 years.

DSS9	JERSEYVILLE SEWERAGE SCHEME	
	FILE: 148 SLM	{Folio No. 392808}

SUMMARY:

Reporting on the construction of Stage 2 of the Jerseyville sewerage system

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2009. 160 RESOLVED:

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

That construction of Stage 2 be abandoned and the unconnected sewerage rates paid by the five (5) properties be refunded back to January 2007.

DSS10	FLUORIDATION – SOUTH WEST ROCKS	
	FILE: 240 AMB	{Folio No. 392809}

SUMMARY:

Reporting on the progress of South West Rocks fluoridation system

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Director Shire Services recommendation:

That Council accept NSW Health's offer of \$16,735.80 to fund the current works identified to progress the South West Rocks fluoridation system.

2009. 161 RESOLVED:

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

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

2. That Council write to Mr Irving and thank him for the work he has done in this matter.

DSS11	GRANT FUNDING FOR PUBLIC WHARF AT MATTYS FLAT	
	FILE: 1267 BJM	{Folio No. 392810}

SUMMARY:

Reporting on Council's success in being offered a grant by NSW Maritime to construct a public wharf at Mattys Flat

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2009. 162 RESOLVED:

Moved: Cl. Gribbin

Seconded: Cl. Green

1. That Council accept the grant as offered and proceed with the proposed works.
2. That Council considers the allocation of additional funds for the ongoing maintenance and operation of this facility in future budgets.

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At this stage 12.46 p.m. the Meeting adjourned for Luncheon and upon resumption at 1.45 p.m. all present at the adjournment were in attendance.

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DSS12	SECOND BRIDGE CROSSING INVESTIGATIONS
FILE: 452	BJM CC:APC (NRN) {Folio No. 392811}

SUMMARY:

Reporting on funding opportunities for the upgrade of the Cardno MBK report for a second bridge crossing of the Macleay River in the Kempsey urban area

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2009. 163 RESOLVED:

Moved: Cl. Campbell

Seconded: Cl. Gribbin

That Council fund the review of the Cardno MBK report titled "Report – Second Bridge Crossing Kempsey" at an indicative cost of \$2,500 from the current Salaries and On Costs budgetary allocation for Engineering Strategy.

DSS13	STRATEGIC PLANNING OPEN SPACE AND RECREATION FACILITIES
FILE: 527	MJT (NRN) CC:APC {Folio No. 392812}

SUMMARY:

Reporting that Council has previously identified the need to develop strategic and asset management plans for all open space and recreation facilities under Council' care and control. The development of these plans need to be given priority to ensure Council can effectively manage and resource existing and future facilities.

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2009. 164 RESOLVED:

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

That Council allocates savings within the existing salary budgetary allocations within the Engineering Strategy Unit to proceed with the development of Plans of Management for the open space and recreational facilities under Council's care and control.

DIRECTOR CORPORATE AND COMMUNITY SERVICES REPORT

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

SUMMARY:

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

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2009. 165 RESOLVED:

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

That the information be noted.

**DCCS2 STATEMENT OF INVESTMENTS AS AT 28th FEBRUARY 2009
FILE: 303 APC (NRN)**

SUMMARY:

Reporting on the Statement of Investments as at 28th February 2009

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2009. 166 RESOLVED:

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

That the information be noted.

**DCCS3 FLEET MANAGEMENT
FILE: 151 CAD (NRN) {Folio No. 392813}**

SUMMARY:

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

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2009. 167 RESOLVED:

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

That the information be noted.

DCCS4	FLEET MANAGEMENT HALF YEARLY REVIEW
FILE: 468	CAD (NRN) {Folio No. 392814}

SUMMARY:

Reporting on the 6 monthly review of the Kempsey Fleet Management Business Plan, year ending 31st December 2008

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2009. 168 RESOLVED:

*Moved: Cl. Saul
Seconded: Cl. Campbell*

That the information be noted.

DCCS5	KEMPSEY AIRPORT SIX MONTHLY REPORT
FILE: 183	SJR (NRN) {Folio No. 392815}

SUMMARY:

Reporting on airport activities over the preceding six months to December 2008

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Director Corporate & Community Services recommendation:

That the information be noted.

2009. 169 RESOLVED:

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

1. That the information be noted.
2. That Council notes the estimated cost of the taxi way needs to be further investigated and reported back to Council.

DCCS6	SALEYARD SIX MONTHLY REPORT
FILE: 255	SJR (NRN) {Folio No. 392816}

SUMMARY:

Reporting on Saleyard operations over the six months to December 2008

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2009. 170 RESOLVED:

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

That the information be noted.

DCCS7	KEMPSEY REGIONAL SALEYARDS FOCUS GROUP
FILE: 1260	SJR (NRN) {Folio No. 392817}

This report was dealt with earlier in the meeting just after MM8.

DCCS8	KEMPSEY AIRPORT DEVELOPMENT
FILE: 183	SJR (NRN) {Folio No. 392818}

SUMMARY:

Updating Council on development of the Kempsey Airport

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2009. 171 RESOLVED:

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

That the information be noted and it be noted the costs for the taxi way are being further investigated.

The following items DCCS9 and DCCS11 were dealt with in conjunction.

DCCS9	REPORTING ON THE MACLEAY VALLEY COMMUNITY GALLERY AT GLADSTONE
FILE: 30	GB (NRN) {Folio No. 392819}

SUMMARY:

Reporting that the Macleay Valley Community Gallery at Gladstone has been going from strength to strength, in the number of exhibitions, visitors and artists' works sold

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Director Corporate and Community Services recommendation:

That the information be noted.

2009. 172 RESOLVED:

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

1. That the information be noted.
2. That the volunteers and staff be thanked for their efforts and a media release be issued accordingly.

DCCS11	CULTURAL PLAN 2002 - 2007 UPDATE
FILE: 625	KEO (NRN) {Folio No. 392821}

SUMMARY:

Reporting on the progress of the implementation of the Kempsey Shire Cultural Plan 2002 - 2007

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2009. 173 RESOLVED:

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

That the progress report be noted.

DCCS10	COMMUNITY SAFETY AND CRIME PREVENTION PLAN 2005 - 2008 UPDATE
FILE: 560	MLB {Folio No. 392820}

SUMMARY:

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

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Director Corporate and Community Services recommendation:

That the progress be noted.

2009. 174 RESOLVED:

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

That the progress report be noted and the staff be commended for their efforts.

DCCS11	CULTURAL PLAN 2002 - 2007 UPDATE
FILE: 625	KEO (NRN) {Folio No. 392821}

This report was dealt with earlier in the meeting just after DCCS9.

DCCS12	KEMPSEY SHIRE 2004 - 2009 SOCIAL PLAN PROGRESS UPDATE
FILE: 70	MLB (NRN) {Folio No. 392822}

SUMMARY:

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

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2009. 175 RESOLVED:

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

That the progress report be noted.

DCCS13 SOUTH KEMPSEY PARK, LACHLAN STREET – SAFETY CONCERNS
FILE: 69 CC: LA18897 LY {Folio No. 392823}

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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2009. 176 RESOLVED:

Moved: Cl. Hayes
Seconded: Cl. Green

1. That the Crime Prevention Officer co-ordinate the investigation of an appropriate barrier at the entrance into the South Kempsey Park, Lachlan Street to prevent car entry from dusk to dawn to deter further violent offences occurring.
2. That Council liaise with the Roads and Traffic Authority to install the appropriate signage in relation to the park closures.

DCCS14 REPLACEMENT OF AMENITIES BLOCK AT STUARTS POINT HOLIDAY PARK
FILE: 314 CC:120 SJR CC:APC (NRN) {Folio No. 392824}

SUMMARY:

Reporting on the proposed replacement of client / public amenities blocks within Stuarts Point Holiday Park

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2009. 177 RESOLVED:

Moved: Cl. Hayes
Seconded: Cl. Green

That an application for loans of \$300,000 be submitted to the Caravan Parks Levy Committee to enable the replacement of the amenities blocks at Stuarts Point Holiday Park.

DCCS15 LOCATION OF REPLACEMENT CABINS AT STUARTS POINT HOLIDAY PARK
FILE: 120 SJR (NRN) {Folio No. 392825}

SUMMARY:

Reporting on the proposed installation of two new cabins in the Stuarts Point Holiday Park

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Director Corporate & Community Services Recommendation:

That the information be noted.

2009. 178 RESOLVED:

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

That the information be received and that it be noted it is not in accordance with previous resolutions of Council and a further report be provided on a proposal in accordance with Council's previous resolution.

DCCS16	COMMUNITY HALLS		
	FILE: 1074	PJH	{Folio No. 392828}

SUMMARY:

Reporting on the condition and liability issues relating to five (5) community halls that Council has been requested to take over ownership or trusteeship

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Director Corporate & Community Services Recommendation:

1. That Council endorses Option 3 and takes over as trustee of these public facilities.
2. That a meeting is arranged with the Department of Lands to expedite the transfer of Bellbrook, Smithtown and South West Rocks halls.
3. That Council initiate the transfer of ownership from the trustees of Willawarrin and Frederickton Halls and affixes the Council seal to the necessary documents.
4. That on acquisition the land parcels for Willawarrin and Frederickton be classified as community land.

2009. 179 RESOLVED:

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

That the Minister for Lands be invited to come to Kempsey to discuss the future of the community halls and other relevant matters.

DCCS17	HOLIDAY PARKS SIX MONTH REPORT		
	FILE: 120	SJR (NRN)	{Folio No. 392833}

SUMMARY:

Reporting on 4 Shore Holiday Parks operations over the past six months to December 2008

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2009. 180 RESOLVED:

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

That the information be noted.

GENERAL MANAGER'S REPORT

GM1	OUTSTANDING REPORTS / RESOLUTIONS
FILE: 149	AVB (NRN) {Folio No. 392834}

SUMMARY:

Council's report on outstanding reports and resolutions

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2009. 181 RESOLVED:

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

That the information be noted.

GM2	WORKS PROGRAM
FILE: 153	AVB (NRN) {Folio No. 392835}

SUMMARY:

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

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2009. 182 RESOLVED:

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

That the information be noted.

GM3	COUNCILLOR WEEKEND
FILE: 163	AVB (NRN) {Folio No. 392836}

SUMMARY:

To determine whether Councillors wish to attend a weekend training course

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General Managers recommendation:

That Councillor Campbell attend the Councillor weekend at Coffs Harbour 27th to 28th March 2009.

2009. 183 RESOLVED:

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

- 1. That Councillors Campbell and Saul attend the Councillor Weekend at Coffs Harbour 27th to 28th March 2009.**
- 2. That Nambucca Council be advised that Kempsey Council has an interest in some Councillors attending their in house Councillor training courses.**

GM4

CITTASLOW

FILE: 357

AVB (NRN)

{Folio No. 392837}

SUMMARY:

To determine whether Council wishes to approach its communities to become a Cittaslow

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General Managers recommendation:

That Council approach the Chambers of Commerce within the Shire to ascertain whether there is any interest in forming a working party to investigate the feasibility of establishing a Cittaslow town.

2009. 184 RESOLVED:

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

That Council approach the Chambers of Commerce within the Shire and all groups originally invited to the Cittaslow presentation to ascertain whether there is any interest in forming a working party to investigate the feasibility of establishing a Cittaslow town.

GM5

CODE OF CONDUCT

FILE: 367

AVB (NRN)

{Folio No. 392838}

This report was deferred from the Ordinary Meeting 3rd February 2009; Minute number 2009. 85

SUMMARY:

To recommend additional provisions to be included in the Code of Conduct

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2009. 185 RESOLVED:

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

- 1. That the Draft Code of Conduct be adopted as the Kempsey Shire Code of Conduct.**
- 2. That the Code of Meeting Practice be amended to incorporate procedures for significant non pecuniary interests.**
- 3. That Council nominate representatives to be included on a Regional Panel for selection on a Conduct Review Committee.**

2009. 186 RESOLVED:

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

That Council nominate Allan Burgess (after retirement from Council) and the following persons be approached to accept nomination to the Conduct Review Committee Regional Panel:-

Mr Richard O'Leary, Mr Peter Milner, Mr Claude Yarnold, Ms Judith Evill and Ms Gwen Norris.

GM6	"A" DIVISION CONFERENCE		
	FILE: 165	AVB (NRN)	{Folio No. 392840}

This report was dealt with earlier in the meeting just after MM1.

GM7	MIDGOC		
	FILE: 131	AVB (NRN)	{Folio No. 392841}

SUMMARY:

To report to council on the proceedings of the MIDGOC meeting held on 27th February 2009.

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2009. 187 RESOLVED:

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

That the information be noted.

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2009. 188 RESOLVED:

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

That the responses to Councillors questions without notice from the Ordinary meeting 3rd February 2009 be noted.

QUESTIONS WITHOUT NOTICE

COUNCILLOR E A CAMPBELL

Q1 FILE: *

Where in the works schedule is the repair to the pavement in Elbow Street (post office side) scheduled?

Responsible Officer BJM

The Director Shire Services advised that Council is to conduct public consultation with business owners before proceeding

Q2 FILE: *

What responses have been received regarding our proposals for the \$595,000 infrastructure funding?

Responsible Officer BJM

The Director Shire Services advised that at this stage there has been acknowledgement of receipt but no advice of the approval for the projects.

COUNCILLOR J C GRIBBIN

Q1 FILE: *

Councillor Gribbin expressed thanks to Council's parking inspector for action taken on the trailer parked at South West Rocks in response to a previous question without notice.

Responsible Officer

RBP

The Director Sustainable Development Services will pass this on.

Q2

FILE: *

Mr and Mrs Glanvale who live on the corner of Cardwell and Wilson Street Arakoon have a large hole in the footpath in front of their home that is approx. 10 ft diameter x 3 ft deep – what is Council doing about it?

Responsible Officer

BJM

The Director Shires Services will investigate

Q3

FILE: *

Mr and Mrs Glanvale who live on the corner of Cardwell and Wilson Street Arakoon have a tree on Council property leaning over their house, they have had the tree inspected and sent the report to Council on inspection by a Council employee they were told not to worry if the tree falls on the house they are insured. What is council doing about it?

Responsible Officer

BJM

The Director Shires Services will investigate.

COUNCILLOR J A C HAYES

Q1

FILE: *

When will rubbish that was collected on Clean Up Australia Day be removed from outside dwellings on the Armidale Road?

Responsible Officer

BJM

The Director Shire Services advised that possibly the location was not registered. He will investigate.

Q2

FILE: *

Given that two major leaks have been identified in the Council chambers in the last 24 hours, what steps have been taken to repair / replace building?

Responsible Officer

KEO

The Manager Administration advised the leaks are being investigated and relate to the roof condition. Will be further investigated and reported to Council.

Q3

FILE: *

Has anything been done regarding fencing Stuarts Point quarry?

Responsible Officer

BJM

The Director Shire Services advised that fencing could be erected but a budget would need to be provided for such work.

COUNCILLOR D F SAUL

Q1

FILE: *

Has a DA been lodged for an Onsite Caretakers Caravan is located at the Mulvey's Transport Company's shed at Lindsay Noonan Drive in the Industrial Estate South West Rocks?

Responsible Officer

RBP

The Director Sustainable Development Services will investigate.

Q2

FILE: *

Can Council patch the potholes in front of 4 River Street, West Kempsey?

Responsible Officer

BJM

The Director Shire Services advised that the repairs to potholes following the rains will be carried out in order of importance and being River Street these should be done shortly.

Q3

FILE: *

Councillor Saul expressed his thanks for staff at saleyards over the recent flood who assisted farmers with keeping stock their.

Responsible Officer

KEO

The Director Corporate and Community Services will pass this on.

COUNCILLOR J A SPROULE

Q1

FILE: *

Has Council submitted an EOI for the \$52m Local Infrastructure Support Funding – Building the Country Package?

Responsible Officer

BJM

The Director Shire Services has approached Manager Macleay Water regarding a possible application for infrastructure to service the South Kempsey industrial area.

Q2

FILE: *

With Clean Up Australia on 1st March 2009 what advertising did Council do to promote the registered Clean Up Australia sites to encourage volunteers to participate – providing the website is clearly inadequate and some rubbish has not be removed from some registered sites such as Kalateenee Park Reserve on Pipers Creek Road.

Responsible Officer

BJM

The Director Shire Services advised there was a meeting with the Chamber of Commerce and 32 letters were written to various organisations and media releases issued.

COUNCILLOR E R WALKER

Q1

FILE: *

Could council check on the gravel stock pile at the Elbow street site?

Responsible Officer

RBP

The Director Sustainable Development Services will investigate.

Q2

FILE: *

Could Council check on the removal of crushed gravel from Bakers Quarry?

Responsible Officer

RBP

The Director Sustainable Development Services advised he will provide further information in the confidential section of the meeting.

COUNCILLOR J H BOWELL

Q1

FILE: *

Can Council check on the erosion on the property of Mr Ken Salmond at Sherwood Road ?

Responsible Officer

BJM

The Director Shire Services will investigate.

Q2

FILE: *

Have the DA matters referred to by Mr Peter Hadlow been investigated?

Responsible Officer

RBP

The Director Sustainable Development Services will investigate.

At this stage, 3.30 p.m., Councillor Campbell retired from the Chamber and apologised for non-attendance at the remainder of the Meeting.

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EXTRAORDINARY COUNCIL MEETING – 16TH MARCH 2009

The Mayor advised that an extraordinary meeting will be held on Monday 16th March 2009 to further consider the Draft 2009 - 2010 Budget, commencing at 9.00 a.m.

WORKS COMMITTEE INSPECTION – 23RD MARCH 2009

The Mayor advised that the next Works Committee Inspection will be held Monday 23rd March 2009 commencing at 8.30 a.m.

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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. 189 RESOLVED:

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

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 APPLICATION TO MODIFY DEVELOPMENT CONSENT
CONF FILE: T6-07-482 SDS {Folio No. 392842}**

Local Government Act 1993, Section 10A(2) (g)

This report is submitted on a confidential basis as it involves advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

SUMMARY:

Reporting that Council has received an application to modify a development application to erect a dwelling which is contrary to Council's Flood Risk Management Policy

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

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2009. 190 RECOMMENDED:

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

- A. That the information be noted.
- B. That Council proceed to issue orders requiring the floor level of the dwelling to be raised.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

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

DIRECTOR SHIRE SERVICES CONFIDENTIAL REPORT

At this stage 3.47 p.m. Councillor Sproule left the Chambers

**DSS1 CLAIM FOR COMPENSATION
CONF FILE: LA12157 BJM CC:APC {Folio No. 392843}**

Section 10A(2)(a) – Personnel Matters

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

SUMMARY:

Reporting on a claim for compensation relating to a property at Aldavilla concerning a stormwater easement

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2009. 191 RECOMMENDED:

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

1. That Council delegate authority to the General Manager to negotiate settlement of the claim for compensation as outlined in this report.
2. That any costs associated with the finalisation of the matter be funded by the budgetary allocation for rural residential subdivision within the stormwater functional area.
3. That Council not include an ongoing annual budgetary allocation beyond the 2009 / 2010 budget for the conduct of stormwater works within rural residential subdivisions.

Councillor Sproule returned to the Chambers.

DIRECTOR CORPORATE & COMMUNITY SERVICES CONFIDENTIAL REPORT

DCCS1	TENDER PRIME MOVER		
CONF	FILE: T2008-010	CAD	{Folio No. 392845}

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 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. 192 RECOMMENDED:

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

1. That Council invites a fresh tender for the purchase of a prime mover.
2. That Council invites a fresh tender for the trade of the Mack prime mover (V1740).
3. That tenderers be advised of Councils decision to invite fresh tenders.

DCCS2 CONF	LICENCE OF PART OF RUDDER PARK, EAST KEMPSEY, FOR TELECOMMUNICATIONS FACILITIES FILE:LA1957 PJH	{Folio No. 392846}
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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 a request to alter the conditions of the Licence extension for use part of Rudder Park, East Kempsey for telecommunications facilities

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2009. 193 RECOMMENDED:

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

That Council advise Crown Castle that the lease will be reviewed in 2014 and thank them for their interest.

GENERAL MANAGER'S CONFIDENTIAL REPORT

GM1 CONF	VARIOUS LEGAL MATTERS - CURRENT POSITION FILE: 155 AVB (NRN)	{Folio No. 392847}
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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. 194 RECOMMENDED:

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

That the information be noted.

GENERAL MANAGER'S CONFIDENTIAL SUPPLEMENTARY REPORT

GM2	WORKPLACE ISSUES
CONF SUPP	FILE: 644 AVB (NRN) {Folio No. 392936}

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 provide Council with the outcomes of the Industrial Relations Hearing held 6 February 2009.

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2009. 195 RECOMMENDED:

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

That the information be noted.

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OPEN COUNCIL

2009. 196 RESOLVED:

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

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. 197 RESOLVED:

*Moved: Cl. Green
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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CONCLUSION:

There being no further business, the Meeting terminated at 4.10 p.m.

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