



## **MINUTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL**

Tuesday 11 August 2009 commencing at 9.00am

### **PRESENT:**

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

General Manager, D L Rawlings; Acting Director Shire Services, W C Butler; 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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### **WELCOME**

The Mayor welcomed students from Kempsey TAFE who attended for the first part of the meeting.

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### **OPENING PRAYER**

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

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### **APOLOGY:**

2009. 579

**RESOLVED:**

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

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

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### **DECLARATIONS OF INTEREST**

Councillor Campbell declared a significant non pecuniary interest in item DCCS1 Confidential for the reason that her husband is a board member of the organisation referred to in the report.

Councillor Walker declared a non pecuniary interest in item DSS19 for the reason that he owns land in Tozer Street.

Councillor Bowell declared a non pecuniary interest in item DSS11, item MM5 and item DCCS1 Confidential for the reasons he is a member of Kempsey Golf Club and he is a resident of South Kempsey.

#### CONSIDERATION OF CONFIDENTIAL REPORTS

2009. 580 RESOLVED: *Moved: Cl. Hayes*  
*Seconded: Cl. Saul*

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 14 JULY 2009

2009. 581 RESOLVED: *Moved: Cl. Green*  
*Seconded: Cl. Saul*

That the Minutes of the Ordinary Meeting of Kempsey Shire Council dated 14 July 2009 be confirmed.

#### MINUTES OF THE EXTRAORDINARY MEETING OF KEMPSEY SHIRE COUNCIL DATED 20 JULY 2009

2009. 582 RESOLVED: *Moved: Cl. Green*  
*Seconded: Cl. Sproule*

That the Minutes of the Extraordinary Meeting of Kempsey Shire Council dated 20 July 2009 be confirmed.

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#### PUBLIC FORUM

1. - Mr Colin McNeil addressed Council speaking in relation to Item MM17 Supplementary – Turners Flat Bridge.
2. - Mr Stan Keifer addressed Council speaking in relation to item DSS18 – Cardwell Street, Capital Works.

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#### CONSIDERATION OF LATE REPORTS

2009. 583 RESOLVED: *Moved: Cl. Hayes*

*Seconded: Cl. Walker*

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

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**CONSIDERATION OF REPORTS RELATING TO PUBLIC FORUM – Reports MM17 Supplementary and DSS18**

2009. 584 RESOLVED:

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

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

<b>MM17</b>	<b>TURNERS FLAT BRIDGE</b>
<b>SUPP</b>	<b>FILE: 375 CC:61, 1291 MAYOR (NRN) {Folio No. 405681}</b>

**SUMMARY:**

Reporting on concerns within the community in respect to the replacement of the bridge

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**Mayoral Recommendation:**

1. That the information be noted and the community kept informed on progress with the situation as it becomes available.
2. That the maintenance of the Willi Willi Road be at the discretion of the Director Shire Services.

2009. 585 RESOLVED:

*Moved: Cl. Bowell*

1. That on receipt of the engineer's assessment work on the design of Turners Flat Bridge be commenced immediately and on completion of the design urgent representations be made to the Minister for Roads.
2. That the information be noted and the community kept informed on progress with the situation as it becomes available.
3. That the maintenance of the Willi Willi Road be at the discretion of the Director Shire Services.

<b>DSS18</b>	<b>CARDWELL STREET – CAPITAL WORKS</b>
	<b>FILE:153 CC:R CARDWELL ST BJM CC:PJH {FolioNo405564}</b>

**SUMMARY:**

Reporting on the current situation in relation to the proposed capital Works at Cardwell Street.

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**Director Shire Services Recommendation:**

- 1 That a bin collection zone be established with all residents of Cardwell Street and connecting streets be required to deliver their bins to this collection zone to be emptied, with effect of the all waste collection services from 17 August 2009.
- 2 That Council conducts a Works Inspection commencing from the Council Administration building at 9:00am on 14 August 2009 to determine the works that are to proceed at Cardwell Street, South West Rocks.

**MOVED:**

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

1. That Council resume work on the extension of Cardwell Street to Young Street
2. That discussions be held with J R Richards in relation to an alternative route as outlined by Mr Keifer in the Public Forum of this meeting.
3. That the road be a single lane service road and be sign-posted accordingly.

**An AMENDMENT was MOVED:**

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

That Council conduct a Works Inspection commencing from the Council Administration building at 8:30am on 14 August 2009 to determine the works that are to proceed at Cardwell Street, South West Rocks.

2009. 586 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION.

**An AMENDMENT was MOVED:**

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

1. That Council resume work on the extension of Cardwell Street to Young Street.
2. That discussions be held with J R Richards in relation to an alternative route as outlined by Mr Keifer in the Public Forum of this meeting.
3. That the road be a single lane service road and be sign-posted accordingly.
4. That Council conduct a Works Inspection at Cardwell Street, South West Rocks

5. That the paragraph in the Director's report on top of page H42 be removed from the report.

2009. 587 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.

The Mayor noted that the foregoing resolution was passed UNANIMOUSLY.

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#### ADOPTION OF AGENDA ORDER OF BUSINESS

2009. 588 RESOLVED: *Moved: Cl. Green*  
*Seconded: Cl. Howell*

That the following items;

MM15, MM18 and DSS23  
NOM5 and DCCS8  
DSS5 and DSS22  
DSDS10 and DCCS9

be dealt with in conjunction and the remaining Agenda Order of Business be adopted.

#### MAYORAL REPORT

MM1	SURF LIFE SAVING – NEW SOUTH WALES
FILE: 380	MAYOR {Folio No. 405465}

#### SUMMARY:

Reporting that Council has been invited to become a Vice Patron of the Organisation

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2009. 589 RESOLVED: *Moved: Cl. Howell*

That Council accept the honor for the Mayor Kempsey Shire Council to become a Vice Patron of Surf Life Saving New South Wales for the 2009 / 2010 season.

MM2	KEMPSEY RED CROSS
FILE: 25	MAYOR {Folio No. 405467}

#### SUMMARY:

Reporting on attendance at the 2009 Annual Meeting of Kempsey Red Cross

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2009. 590 RESOLVED: *Moved: Cl. Howell*

**That the Kempsey Red Cross be congratulated on their continued service within the community.**

MM3	NSW RURAL FIRE SERVICE FILE: 25 MAYOR	{Folio No. 405468}
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**SUMMARY:**

Reporting on attendance at the National Medal and Long Service Award Ceremony held at the Kempsey Fire Control on Saturday 25 July 2009.

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2009. 591 RESOLVED: *Moved: Cl. Howell*

**That the recipients of the Awards be congratulated for their service to the community.**

MM4	FREDERICKTON NURSING HOME FILE: T6-06-313 MAYOR NRN	{Folio No. 405470}
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**SUMMARY:**

Reporting on attendance at the site to celebrate the commencement of building activities by the turning of the first sod of soil

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2009. 592 RESOLVED: *Moved: Cl. Howell*

**That the information be noted.**

MM5	DEVELOPMENT OF SOUTH KEMPSEY FILE: 283 CC: 265 & 18 MAYOR	{Folio No. 405472}
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**SUMMARY:**

Reporting on a proposal to seek funding from the Federal Government to engage a consultant to prepare a concept plan for the development of South Kempsey

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2009. 593 RESOLVED: *Moved: Cl. Howell*

**That Council make representations to the Federal Government to obtain funding to engage a Consultant to prepare a concept plan for the overall environmental, social and economic development within the South Kempsey area.**

**MM6**

**PLANNING LEGISLATION**

**FILE: 579**

**MAYOR (NRN)**

**{Folio No. 405475}**

**SUMMARY:**

Reporting on advice:

- a. From the Hon Kristina Keneally MP Minister for Planning, Minister for Redfern Waterloo, and
- b. Local Government Learning Solutions.

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**Mayoral Recommendation:**

**That Council appoint two Councillors to attend.**

**2009. 594 RESOLVED:**

*Moved: Cl. Howell*

**That Councillors Green and Saul attend the Councillor Professional Development Program "Planning Legislation Skills and Knowledge for Councillors" Workshop on Monday 21 September 2009**

**MM7**

**PORT MACQUARIE-HASTINGS COUNCIL**

**FILE: 264**

**MAYOR (NRN)**

**{Folio No. 405477}**

**SUMMARY:**

Reporting on a meeting with Administrator, Mr Garry Payne and General Manager, Mr Andrew Roach

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**2009. 595 RESOLVED:**

*Moved: Cl. Howell*

**That the information be noted.**

**MM8**

**STEP – FISH ON FRIDAY PROGRAM**

**FILE: 25**

**MAYOR (NRN)**

**{Folio No. 405479}**

**SUMMARY:**

Reporting on attendance together with Acting Director Corporate and Community Services, Mrs Oliver at a graduation luncheon on Thursday, 30 July 2009

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**2009. 596 RESOLVED:**

*Moved: Cl. Howell*

The information be noted.

MM9	SHIRES ASSOCIATION OF NSW	{Folio No. 405481}
	FILE: 152 MAYOR	

**SUMMARY:**

Reporting that a questionnaire and explanatory memorandum have been distributed in reference to the question of one Association to represent Local Government in NSW

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**Mayoral Recommendation:**

**For determination of Council**

**COMMITTEE OF THE WHOLE**

2009. 597 **RESOLVED:** *Moved: Cl. Hayes  
Seconded: Cl. Sproule*

**That Council move into Committee of the Whole for discussions related to the questionnaire.**

2009. 598 **RESOLVED:** *Moved: Cl. Hayes  
Seconded: Cl. Sproule*

**That the Council Meeting be resumed.**

2009. 599 **RESOLVED:** *Moved: Cl. Green  
Seconded: Cl. Saul*

**That the questionnaire be completed and submitted with the following responses.**

**SHIRES ASSOCIATION OF NSW  
ONE ASSOCIATION – QUESTIONNAIRE**

1. Do you support the idea of having one association to represent Local Government in NSW?.....**YES**
2. If so, do you believe that this is best achieved by member councils disbanding the Shires Association and joining the Local Government Association under its present constitution and rules?.....**NO**
3. Alternatively, do you believe that one Association is best achieved by the creation of a completely new Association?.....**YES**
4. What are some of the things you would like to see in a new Association? In particular: NSW?
  - A. A Divisional Structure, at least for rural and regional NSW?.....**YES**
  - B. If the answer to A is Yes, should the representation for each

Division:

- i. be elected by members of that Division only?.....**YES**
- Or
- ii. be elected by all member councils in rural and regional NSW?
- or
- iii. be elected by all members of the Association, both metropolitan and country?

5. For the purposes of voting to elect office bearers, and for voting on motions at the annual conference of the Association, what voting entitlement should exist? In particular;

- iv. should each member council have one vote irrespective of its size?
- v. Alternatively, should a member council have a number of votes depending on –
  - its population?
  - Its geographical size?
  -

**Council response: That subject to there being one association question 5 be further considered.**

**At this stage, 9.58am Councillor Walker left the chambers.**

<b>MM10</b>	<b>BELLBROOK PUBLIC SCHOOL</b>
<b>FILE: LA8939</b>	<b>MAYOR (NRN) {Folio No. 405483}</b>

**SUMMARY:**

Reporting on advice concerning upgrade at the School.

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**2009. 600 RESOLVED:** *Moved: Cl. Howell*

**That the information be noted.**

<b>MM11</b>	<b>COUNCILLOR WEEKEND</b>
<b>FILE: 163</b>	<b>MAYOR (NRN) {Folio No. 405485}</b>

**SUMMARY:**

Reporting that a Councillor Weekend will be held on 14 - 15 August 2009

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**2009. 601 RESOLVED:** *Moved: Cl. Howell*

**That no action be taken.**

**At this stage, 10.00am Councillor Walker returned to the Chamber.**

**MM12**

**POLICE COMMAND**

**FILE: 579**

**MAYOR**

**{Folio No. 405486}**

**SUMMARY:**

Reporting on a change in the Command of the Mid North Coast area

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**2009. 602 RESOLVED:**

*Moved: Cl. Howell*

1. That Superintendent Paul Fehon and Detective Inspector Mick Heap be thanked for their co-operation and support to the Shire's community.
2. That Superintendent Peter Thurtell be invited to attend Council's meeting in September 2009.

**MM13**

**LOCAL GOVERNMENT ASSOCIATION ANNUAL CONFERENCE**

**FILE: 152**

**MAYOR (NRN)**

**{Folio No. 405487}**

**SUMMARY:**

Reporting that the LGA Annual Conference is scheduled from 24 - 28 October 2009

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**Mayoral Recommendation:**

**That one additional Councillor be nominated.**

**2009. 603 RESOLVED:**

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

**That the Mayor, Councillors Hayes and Sproule be Council's delegates to attend the Local Government Association Conference 24 - 28 October 2009.**

**MM14**

**NATIONAL SEA CHANGE TASKFORCE**

**FILE: 357**

**MAYOR (NRN)**

**{Folio No. 405490}**

**SUMMARY:**

Reporting on advice in respect to the 2010 Taskforce Conference

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**2009. 604 RESOLVED:**

*Moved: Cl. Howell*

**That the information be noted.**

The following items MM15, MM18 and DSS23 were dealt with in conjunction.

<b>MM15</b>	<b>MINISTER FOR ROADS</b>
	<b>FILE:118 COPY:R MACLEAY FRE &amp; 680 MAYOR (NRN)</b>
	<b>{Folio No. 405493}</b>

**SUMMARY:**

Reporting that Council at the July meeting resolved to defer two items, Macleay Street Frederickton and Kempsey Traffic Bridge, to allow further consideration of options

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2009. 605 **RESOLVED:** *Moved: Cl. Howell*

That a report be prepared outlining the future financial impact on Council in respect to the potential transfer of responsibility of the Pacific Highway between South Kempsey and Eungai Rail, the Kempsey traffic bridge and other bridges within the Highway reserve.

<b>MM18</b>	<b>PACIFIC HIGHWAY UPGRADE</b>
<b>SUPP</b>	<b>FILE: 118 MAYOR (NRN)</b>
	<b>{Folio No. 405682}</b>

**SUMMARY:**

Reporting on advice from the RTA concerning funding for the proposed upgrade

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**Mayoral Recommendation:**

That the information be noted.

2009. 606 **RESOLVED:** *Moved: Cl. Green*  
*Seconded: Cl. Campbell*

That Council seek further information regarding the Pacific Highway upgrade in relation to the final design so that assessment can be made regarding the effect of flooding on the Lower Macleay and Frederickton.

<b>DSS23</b>	<b>PACIFIC HIGHWAY WORKS PRIOR TO RECLASSIFICATION</b>
	<b>DUE TO HIGHWAY BYPASS</b>
	<b>FILE:118 CC: 680 &amp; R MACLEAY FRE BJM {Folio No405586}</b>

**SUMMARY:**

Reporting on the need to develop a comprehensive assessment of the works that need to be considered, with either works completed by the RTA and or

compensation provided to Council to undertake the required works, prior to any declassification of the Pacific Highway as a result of the construction of the highway bypass of Kempsey.

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2009. 607 RESOLVED:

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

That a comprehensive list of issues relating to the existing Pacific Highway from South Kempsey to Frederickton that will impact on Kempsey Shire after the handover of the road be developed to allow for the lobbying of the State Government for adequate works or compensation.

#### MAYORAL REPORT - SUPPLEMENTARY

MM16 SUPP	MAYORAL ACTIVITIES FILE: 380 CC: 276 MAYOR (NRN) {Folio No. 405680}
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#### SUMMARY:

Reporting that Council has resolved that a monthly report be reinstated on the Mayoral and other delegates' activities for information

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2009. 608 RESOLVED:

*Moved: Cl. Bowell*

That the current form of advice of Mayoral activities be continued.

MM17 SUPP	TURNERS FLAT BRIDGE FILE: 375 COPY:61, 1291 MAYOR (NRN) {Folio No. 405681}
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This report was dealt with earlier in the meeting just after PUBLIC FORUM.

MM18 SUPP	PACIFIC HIGHWAY UPGRADE FILE: 118 MAYOR (NRN) {Folio No. 405682}
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This report was dealt with earlier in the meeting just after MM15.

#### ITEMS TABLED FOR INFORMATION

The following items were tabled for information:-

1. - Floodplain Management Authorities – Minutes May 2009  
File: 284

2. - Current Sec 355 Committees Manual  
File: 433

**NOTICE OF MOTION**

<b>NOM1</b>	<b>ACKNOWLEDGEMENT OF THE TRADITIONAL ABORIGINAL LAND OWNERS FILE: 395 COPY: 310 DLR (NRN) {Folio No. 405500}</b>
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2009. 609 **RESOLVED:** *Moved: Cl. Green  
Seconded: Cl. Hayes*

1. That should the Kempsey Aboriginal Land Council agree, that the Council's Code of Meeting Practice be amended to include an acknowledgement of Country in the Code of Meeting Practice as part of the Order of Business prior to the existing part 5.5(a) following the opening prayer.
2. That the acknowledgement be in the following format: "Council acknowledges that this meeting is being held on the traditional lands of the Dughutti people."
3. That Council seek agreement from the local Aboriginal community on undertaking a smoking ceremony for the Council Chambers at the inaugural meeting of each new Council and that this agreement includes criteria for such smoking ceremony.

<b>NOM2</b>	<b>ALGA REPRESENTATIONS AT FEDERAL MEETING FILE: 198 DLR {Folio No. 405502}</b>
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1. That Council request that the ALGA review its policy of having a paid employee as their representative at all meetings with the Federal Government.
2. That Council further express its concern that this representation should be an elected representative of the ALGA.

The MOTION was WITHDRAWN at the request of Councillor Green

<b>NOM3</b>	<b>AUSTRALIAN EMISSIONS TRADING SCHEME FILE: 165 DLR {Folio No. 405504}</b>
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2009. 610 **RESOLVED:** *Moved: Cl. Green  
Seconded: Cl. Hayes*

That Council request the LGA Annual Conference to raise with the respective Federal and State Environment Ministers, the need to review the proposed Australian Emissions Trading Scheme as it applies to so called heavy polluters, ie coal and aluminium producers, with a view to reduce or remove discounted or "Free" Emissions Trading Vouchers.

<b>NOM4</b>	<b>SAFE ACCESS FOR METER READERS</b>	<b>{Folio No. 405505}</b>
	<b>FILE: 63 SDS (NRN)</b>	

2009. 611 RESOLVED:

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

1. That a report be provided to Council indicating options for introducing controls for new dwellings and fencing in urban areas to ensure safe access is provided for the purposes of reading electricity and water meters.
2. That the following motion be forwarded to the Local Government Association for inclusion in its agenda for its annual conference in October 2009:-

*"That the Local Government Association encourage its members to introduce requirements relating to new dwellings and fencing in urban areas to ensure safe access for meter readers."*

The following items NOM5 and DCCS8 were dealt with in conjunction.

<b>NOM5</b>	<b>COUNCILLORS ADDRESSING THE COUNCIL MEETING</b>	<b>{Folio No. 405507}</b>
	<b>FILE: 395 DLR (NRN)</b>	

That Councillors remain seated when addressing the Council or the Mayor and this be added to the Code of Meeting Practice.

2009. 612 RESOLVED:

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

That no action be taken and this matter be addressed in DCCS8.

<b>DCCS8</b>	<b>COUNCILLORS ADDRESSING AT COUNCIL MEETINGS</b>	<b>{Folio No. 405539}</b>
	<b>FILE: 395 PJH (NRN)</b>	

**SUMMARY:**

Reporting on the need for Council to determine whether Councillors will stand or remain seated when addressing at Council meetings

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2009. 613 RESOLVED:

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

That Councillors retain the option to stand or remain seated, but that Councillors only rise to speak after being acknowledged by the Chair.

**RESCISSION MOTION**

**MOVED:**

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

That resolution number 2009. 552 from the Ordinary Meeting held Tuesday 14 July 2009, as printed below:

- "1. That Council proceed with the sale of the three waste collection vehicles.
2. That a green waste service be provided to all rateable properties within the designated green waste collection zone and be so charged for this service in accordance with Council's fees and charges, with the exception of properties managed by a body corporate, with these properties receiving one bin unless additional bins are requested by the body corporate."

be rescinded.

The MOTION was PUT to the Meeting and was LOST on the Casting Vote of the Mayor.

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#### **PRESENTATION - MERIT AWARDS**

Merit Awards were presented by the Mayor to the following sports people from the Macleay Valley Baseball Association:-

- Claire O'Sullivan
- Jack Shaw
- Braden Farawell

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#### **MORNING TEA ADJOURNMENT**

At this stage 10.31am the Meeting adjourned for Morning Tea and upon resumption at 10.50am all present at the adjournment were in attendance.

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#### **DELEGATES REPORT**

**SUMMARY:**

Reporting on attendance at the Saleyard Operators Association (SOA) Annual Conference.

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**Delegate's Recommendation:**

1. That the information be noted.
2. That subject to the receipt of formal advice from the RTA Council in conjunction with Kempsey Stock and Land Pty Ltd undertake a risk assessment of driver fatigue in line with the heads of consideration when formulated by the SOA & LBCA.
3. That a report be submitted to Council in conjunction with the Draft 2010 / 2011 Budget in respect to the recommended upgrade of the Kempsey Regional Sale yards to address the issues of upgrading the facility to comply with the relevant standards.

2009. 614 RESOLVED:

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

1. That the information be noted.
2. That the General Manager review Council's responsibilities in relation to driver fatigue arising from council's saleyards operations.
3. Should any action be required that council work in partnership with Kempsey Stock and Land Pty Ltd to develop procedures and controls to address the risks.
4. That a report be submitted to Council in conjunction with the Draft 2010 / 2011 Budget in respect to the recommended upgrade of the Kempsey Regional Sale yards to address the issues of upgrading the facility to comply with the relevant standards.

DR2	FLOODPLAIN MANAGEMENT AUTHORITY QUARTERLY MEETING MAY 2009
FILE: 284	BJM {Folio No. 405512}

**SUMMARY:**

Report on attendance on Floodplain Management Authorities May 2009 Quarterly meeting

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**Delegate's Recommendation:**

1. That the information be noted
2. That council note the difficulties with, and reluctance, of Government departments in addressing issues of concern to all

councils regarding flooding issues.

3. That the matter of Flood Levees be reviewed when the levee survey is released.
4. That Council includes the Flood Risk Management Education Programme at UTS in its staff development programme for relevant staff.
5. That Council support required changes to the FMA constitution as requests for input are received.

2009. 615 RESOLVED:

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

1. That the information be noted
2. That council note the difficulties with, and reluctance, of Government departments in addressing issues of concern to all councils re flooding issues.
3. That the matter of Kempsey Shire Flood Levees be reviewed when the SES levee survey is released on the flood levees across the state.
4. That the Directors consider including the Flood Risk Management Education Programme at UTS in its staff development programme for relevant staff.
5. That Council support required changes to the FMA constitution as requests for input are received.

#### DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

<b>DSDS1</b>	<b>STRATEGIC PLANNING PROGRAM</b>	
	<b>FILE: 584 SDS</b>	<b>{ Folio No. 405473 }</b>

#### SUMMARY:

Reporting on proposed funding allocations for the 2009 / 10 Strategic Planning Program

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2009. 616 RESOLVED:

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

That Council note the report and endorse the recommended 2009 / 10 allocations for each project.

<b>DSDS2</b>	<b>KOROGORO CREEK ESTUARY MANAGEMENT STUDY AND PLAN</b>	
	<b>FILE: 530 SDS</b>	<b>{ Folio No. 405478 }</b>

**SUMMARY:**

Reporting that the Korogoro Creek Estuary Management Study and Plan (July 2009) has been prepared.

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**2009. 617 RESOLVED:**

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

1. That Council adopt the Korogoro Creek Estuary Management Study and Plan.
2. That Council seek external grant funding to assist in staging the implementation of the recommended strategies.

<b>DSDS3</b>	<b>ECONOMIC DEVELOPMENT MANAGER'S MONTHLY REPORT</b>
<b>FILE: 584 DBH</b>	<b>{Folio No. 405480}</b>

**SUMMARY:**

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

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This report is updated on a monthly basis to provide information on the progression of the Strategic Priorities and additional activities being undertaken by the Economic Development Unit.

**2009. 618 RESOLVED:**

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

**That the information be noted.**

<b>DSDS4</b>	<b>PROPOSED AMENDMENT TO KEMPSEY LOCAL ENVIRONMENTAL PLAN 1987 (LEP AMENDMENT NO. 111)</b>
<b>FILE: T5-111 SDS</b>	<b>{Folio No. 405484}</b>

**SUMMARY:**

Reporting that the public exhibition of LEP Amendment No. 111 to rezone land previously required to restrict access to a proposed tanker route at South West Rocks to 2(a) Residential "A" zone) has concluded with no submissions received.

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

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**2009. 619 RESOLVED:**

*Moved: Cl. Hayes*

*Seconded: Cl. Green*

That Council forward draft LEP Amendment No. 111 to the Department of Planning to make the plan.

A Division on this decision resulted in the following votes.

F = Voted For

A = Voted Against

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

<b>DSDS5</b>	<b>REQUEST FOR ASSISTANCE WITH LEGAL COSTS</b>
<b>FILE: 200 RBP</b>	<b>{Folio No. 405489}</b>

**SUMMARY:**

Reporting that Council has received a request to assist in funding legal costs incurred by Berrigan Shire Council

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2009. 620 **RESOLVED:** *Moved: Cl. Walker*  
*Seconded: Cl. Green*

That the request for assistance be declined.

<b>DSDS6</b>	<b>SHIRE WIDE FIRE SAFETY AUDIT</b>
<b>FILE: 459 KJW</b>	<b>{Folio No. 405495}</b>

**SUMMARY:**

Reporting on the progress of a Shire wide Fire Safety Audit

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2009. 621 **RESOLVED:** *Moved: Cl. Green*  
*Seconded: Cl. Sproule*

That the information be noted.

<b>DSDS7</b>	<b>PROPOSED ALTERATIONS AND ADDITIONS TO AN EXISTING TWO (2) STOREY DWELLING</b>
<b>FILE: T6-09-183 BTC</b>	<b>{Folio No. 405498}</b>

**SUMMARY:**

Reporting that Council has received a Development Application for alterations and additions to an existing two storey dwelling to include a third storey for which no objections have been received.

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

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2009. 622 RESOLVED:

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

That Development Application T6-09-183 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
Five Sheets	-	M V Carvill	-

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 ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS**

3. Structural Engineer's Certificate required – Existing Building  
Structural Engineer's certificate stating that the existing building is capable of carrying the additional live and dead loads is to be

submitted to the Principal Certifying Authority.

4. **Structural Engineer's Details required**  
Three (3) sets of structural engineering details, prepared and certified by a practicing structural engineer, of all reinforced concrete and structural members shall be submitted to the Principal Certifying Authority.

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

5. **Plumbing Standards and requirements**  
All Plumbing, Water Supply and Sewerage Works are to be installed and operated in accordance with the Local Government Act 1993, the NSW Code of Practice for Plumbing and Drainage and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications.
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) m<sup>2</sup>.

**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:
  - a. Monday to Friday, from 7 am to 6 pm.
  - b. Saturday, from 8 am to 1 pm.

No construction work is to take place on Sundays or 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. **Erosion & sediment control - special measures required**  
Erosion and sedimentation controls are to be in place in

accordance with the *DCP 36 – Engineering Guidelines for Subdivision and Development*. 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.

**10. Glazing requirements**

Glazing materials used in the building are to be selected in accordance with the provisions of Australian Standard AS 1288 *SAA Glass Installation Code* and must comply with the requirements of Australian Standard AS 2208 "Safety Glazing Materials for Use in Buildings (Human Impact Considerations)" as required by the Building Code of Australia.

Windows must be constructed to comply with Australian Standard AS 1288 or Australian Standard AS 2047. Written certification must be submitted to Council prior to occupation inspection to confirm that glazing selection, manufacture and installation has been completed in accordance with the relevant Australian Standards for the job specific project.

**11. Stormwater details required**

The application for a Construction Certificate is to include plans and specification for the construction of stormwater disposal from the site in accordance with the plans approved by this consent. The drainage system is to be designed for 1 in 20 year storm event and must discharge to the kerb and gutter via manufactured kerb adaptor. The stormwater system must be designed to comply with the requirements of AS/NZS 3500.3:2003 - *Plumbing and drainage, Part 3: Stormwater drainage*.

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

Engineering plans and specifications must include details in accordance with Appendix C of AS/NZS 3500.3:2003 - *Plumbing and drainage, Part 3: Stormwater drainage*.

The plans must be in compliance with Council's Adopted Engineering Standard.

Note: The applicant is required to treat storm water on site to an acceptable level to minimise impacts on coastal water bodies.

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

12. **Fire detection and alarm system required**  
A fire detection and alarm system must be installed and maintained within the building. Such system must comply with the Building Code of Australia (BCA) Part 3.7 requirements for a Class 1a building.
13. **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.

A Division on this decision resulted in the following votes.

F = Voted For  
A = Voted Against

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

<b>DSDS8</b>	<b>PROPOSED ALTERATIONS AND ADDITIONS TO AN EXISTING SINGLE (1) STOREY DWELLING FILE: T6-09-123 SDS {Folio No. 405503}</b>
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**SUMMARY:**

Reporting that Council has received a Development Application for alterations and additions to an existing single storey dwelling resulting in a three storey dwelling which requires a variation to DCP Crescent Head and to Kempsey Local Environmental Plan (KLEP) 1987

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

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2009. 623 **RESOLVED:**

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

**A That Development Application T6-09-123 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 denoted project no. 1249/09 S01	-	Robert Dennis and Associates	-
One sheet denoted project no. 1249/09	2	Robert Dennis and Associates	-

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. The plans submitted for the required Construction Certificate are not to include benches and plumbing fixtures on Level 2 on the approved development plans other than the proposed bathroom and toilet.
3. 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.
4. This consent does not permit commencement of any works.
  5. The building or portion of the building is not to be used or adapted as a residential flat building.

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

6. Long Service Levy to be paid  
A Long Service Levy must be paid to the Long Service Payments Corporation prior to the issue of a Construction Certificate. This amount payable is currently based on 0.35% of the cost of the work. This is a State Government Levy and is subject to change.

These payments may be made at Council's Administration Office.

Cheques are to be made payable Council.

7. **Compliance with BASIX Certificate.**  
The Principal Certifying Authority (PCA) is to ensure that the proposed development is constructed in accordance with the requirements of BASIX Certificate No. A56795, dated 22 April 2009. The Plans submitted for approval with the Construction Certificate must include all of the BASIX Certificate commitments indicated in this certificate.

Where changes to the development are proposed that may affect the water, thermal comfort or energy commitments, a new BASIX Certificate may be required.

8. **Retaining Walls**  
Provide to the Principal Certifying Authority a geotechnical report certifying that the foundation material of the site is capable of maintaining stability of the existing dwelling and dwelling additions and alterations.
9. **Provide to the Principal Certifying Authority a Structural Engineer's Certificate** stating that the retaining walls to Level 1 and Level 2 are capable of carrying the live and dead loads of the existing dwelling and dwelling additions and alterations.
10. **Plumbing Standards and requirements**  
All Plumbing, Water Supply and Sewerage Works are to be installed and operated in accordance with the Local Government Act 1993, the NSW Code of Practice for Plumbing and Drainage and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications.

The plumber must obtain a Plumbing Permit at least two (2) working days prior to commencing work in accordance with the Local Government Act and the NSW Code of Practice for Plumbing and Drainage. The proponent must ensure the plumber has obtained a Plumbing Permit prior to commencing work on the site.

11. **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:
- showing the name, address and telephone number of the principal certifying authority for the work;
  - 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
  - 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) m<sup>2</sup>.

12. **Structural Engineer's Details required**

Structural engineering details, prepared and certified by a practicing structural engineer, of all reinforced concrete and structural members shall be submitted to the Principal Certifying Authority for approval.

**THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION**

13. **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 am to 6 pm.
  - b. Saturday, from 8 am to 1 pm.

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

14. **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.

15. **Maintenance of sediment and erosion control measures**  
Erosion and sedimentation controls are to be in place in accordance with the DCP 36 – Engineering Guidelines for Subdivision and Development. 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.

16. **Stormwater details required**  
The application for a Construction Certificate is to include plans and specification for the construction of stormwater disposal from the site in accordance with the plans approved by this consent. The drainage system is to be designed for 1 in 20 year storm event and must discharge to the kerb and gutter via a manufactured kerb adaptor. The stormwater system must be designed to comply with the requirements of AS/NZS 3500.3:2003 - *Plumbing and drainage, Part 3: Stormwater drainage.*

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

Engineering plans and specifications must include details in accordance with Appendix C of AS/NZS 3500.3:2003 - *Plumbing and drainage*, Part 3: Stormwater drainage.

The plans must be in compliance with Council's Adopted Engineering Standard.

Note: The applicant is required to treat storm water on site to an acceptable level to minimise impacts on coastal water bodies.

**17. Glazing requirements**

Glazing materials used in the building are to be selected in accordance with the provisions of Australian Standard AS 1288 *SAA Glass Installation Code* and must comply with the requirements of Australian Standard AS 2208 "Safety Glazing Materials for Use in Buildings (Human Impact Considerations)" as required by the Building Code of Australia.

Windows must be constructed to comply with Australian Standard AS 1288 or Australian Standard AS 2047. Written certification must be submitted to Council prior to occupation inspection to confirm that glazing selection, manufacture and installation has been completed in accordance with the relevant Australian Standards for the job specific project.

- 18. The proposed dwelling alterations and additions are to have a finished floor level at Level 1 of 43.34 metres AHD. Provide the Principal Certifying Authority with a Survey Certificate prepared by a registered surveyor upon completion of the floor slab formwork prior to concrete being poured showing compliance with the required floor height.**

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

**19. 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.

**20. Fire detection and alarm system required**

A fire detection and alarm system must be installed and maintained within the building. Such system must comply with the Building Code of Australia (BCA) Part 3.7 requirements for a Class 1a building.

A Division on this decision resulted in the following votes.

F = Voted For

A = Voted Against

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

**DSDS9 ECONOMIC STIMULUS PLAN**  
**FILE: 1259 COPY: 556 RBP CC: CLH {Folio No. 405506}**

**SUMMARY:**

Reporting on the implications of recent NSW Government policy decisions in respect to the NSW Nation Building and Jobs Plan

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**Director Sustainable Development Services Recommendation:**

- A. That Council request the NSW Nation Building and Jobs Plan Taskforce to direct Housing NSW to pay contributions authorised by Development Servicing Plans under the Water Management Act 2000 in accordance with any requests from councils following consultation required under the Infrastructure SEPP and Nation Building and Jobs Plan Act.
- B. That the matter be raised as a motion to the upcoming Local Government Association Conference.

2009. 624 **RESOLVED:**

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

- A. That Council request the NSW Nation Building and Jobs Plan Taskforce to direct Housing NSW to pay contributions authorised by Development Servicing Plans under the Water Management Act 2000 in accordance with any requests from councils following consultation required under the Infrastructure SEPP and Nation Building and Jobs Plan Act.
- B. That the matter be raised as a motion to the upcoming Local Government Association Conference in the terms of the resolution of the Local Government and Shires Associations Natural and Built Environment sub-committee.
- C. That Council make representations to the Premier, Nathan Rees MP, Federal Minister for Infrastructure, Transport, Regional Development and Local Government, Anthony Albanese, Parliamentary Secretary for Early Childhood Education and Child Care; Maxine McKew, Federal Minister for Housing, Tanya Plibersek, State Minister for Housing, David Borger, in relation to the matter in point B.
- D. That Council make representations to MIDGOC and that Council seek support from the local Members of Parliament.

**DSDS10 BUILDING AND DEVELOPMENT**  
**FILE: 329 RBP**

**SUMMARY:**

Reporting that the following applications have been approved:

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2009. 625 RESOLVED:

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

That the information be noted.

**DIRECTOR SHIRE SERVICES REPORT**

<b>DSS1</b>	<b>COMMERCIAL WASTE SERVICE TRACKING</b>
	<b>FILE: T2008-001 OGM (NRN) {Folio No. 405513}</b>

**SUMMARY:**

Reporting on the need to implement a system to effectively identify and track commercial waste services to ensure that the frequency of service is consistent with the actual charge being recovered by Council in accordance with the rates information recorded by Council.

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2009. 626 RESOLVED:

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

That the Waste Coordinator proceed with the implementation of the bin sticker identification system for all Commercial Services as a matter of priority.

<b>DSS2</b>	<b>DRAFT CUSTOMER SERVICE AGREEMENT AND DRAFT RECYCLED WATER POLICY</b>
	<b>FILE: 1286 GTS (NRN) {Folio No. 405515}</b>

**SUMMARY:**

Reporting on the outcomes of the public exhibition period and the proposed adoption of the Customer Service Agreement and the Recycled Water Policy

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2009. 627 RESOLVED:

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

That Council adopt the Customer Service Agreement and the Recycled Water Policy as placed on public exhibition.

<b>DSS3</b>	<b>VANDALISM – LOWER BELGRAVE STREET</b>
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**SUMMARY:**

Reporting on an act of vandalism within Lower Belgrave Street that is suspected as having occurred at approximately 10:06pm on Saturday 4 July 2009

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**Director Shire Services Recommendation:**

That Council consider a budgetary allocation for the replacement of the trees and installation of tree guards in future Management Plans.

2009. 628 **RESOLVED:**

*Moved: Cl. Green*

*Seconded: Cl. Saul*

That the Director Shire Services recommendation be adopted with the addition of;

2. That in relation to the report it be noted that further information has been received from the Police advising that while CCTV footage had been obtained it had been unable to determine sufficient evidence from it for a prosecution.

**DSS4**

**DUNGAY CREEK ROAD, WITTITRIN**

**FILE: R DUNGAY CK IJR**

**{Folio No. 405518}**

**SUMMARY:**

A report to consider the acquisition of land at Wittitrin to rectify an anomaly between Dungay Creek Road as constructed and in use, and Dungay Creek Road as originally dedicated.

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2009. 629 **RESOLVED:**

*Moved: Cl. Saul*

*Seconded: Cl. Sproule*

- 1 That application be made to the Governor for the compulsory acquisition of Lots 1 to 7 (inclusive) Deposited Plan 1094950 for public road purposes.
- 2 That all mines and minerals be excluded from the compulsory acquisition.
- 3 That on acquisition Council advertise the draft resolution "It is intended to classify Lots 4 to 7 Deposited Plan 1094950 (Dungay Creek Road, Wittitrin) as operational land."
- 4 That on acquisition, Lots 1 - 3 Deposited Plan 1094950 be dedicated as public road.
- 5 That the Common Seal of Council be affixed to the Land and

**Property Information Transfer Forms.**

6. That the General Manager be delegated authority to apply for Certificates of Title for Lots 4 – 7 Deposited Plan 1094950.

The following items DSS5 and DSS22 were dealt with in conjunction.

<b>DSS5</b>	<b>LAND ACQUISITION– PERRETS BRIDGE, JERSEYVILLE</b>
	<b>FILE: LA4590, CC: 680 IJR {Folio No. 405518}</b>

**SUMMARY:**

A report to consider the payment of compensation for the acquisition of land at Jerseyville required for the replacement of Perrets Bridge under the Timber Bridge Replacement Program.

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2009. 630 **RESOLVED:** *Moved: Cl. Walker  
Seconded: Cl. Green*

1 That compensation totalling \$56,900 (GST exclusive) be paid to the owner of Lot 100 Deposited Plan 546618 for the acquisition of that part of Lot 100 Deposited Plan 546618 more particularly described as Lot 1 Deposited Plan 1139867.

2 That on acquisition, Lot 1 Deposited Plan 1139867 be dedicated as public road.

3 That the Common Seal of Council be affixed to:

**Contract for the Sale of Land / Deed of Acquisition;  
Land and Property Information Transfer Form**

<b>DSS22</b>	<b>PUBLIC MEETING– PERRETS BRIDGE, JERSEYVILLE</b>
	<b>FILE: 680 CC:61, LA4590 MJT (NRN) {Folio No. 405583}</b>

**SUMMARY:**

A report on the outcomes of the public meeting held on 24 July, 2009 with the residents of Jerseyville regarding the replacement of the current timber bridge structure with a new two lane concrete structure on a new alignment.

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2009. 631 **RESOLVED:** *Moved: Cl. Green  
Seconded: Cl. Saul*

That the replacement of Perrets Creek Bridge at Jerseyville proceeds under the current terms of the construction contract and funding agreement with the RTA under the Regional Roads Timber Bridge Replacement Program.

**DSS6 PLUMMERS LANE AT RAINBOW REACH**  
**FILE: LA14864, LA6628, R PLUMMERS IJR{Folio No. 405519}**

**SUMMARY:**

A report to consider the payment of compensation for the acquisition of land for road widening purposes on Plummers Lane at Rainbow Reach

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2009. 632 **RESOLVED:**

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

- 1 That compensation in the amount of \$10,000 (GST Exclusive) be paid to the owner of Lot 14 and Lot 145 Deposited Plan 752409 for the acquisition of those parts of Lot 134 and Lot 145 Deposited Plan 752409 more particularly described as Lots 2 and 3 Deposited Plan 1141321.
- 2 That compensation in the amount of \$3,000 (GST exclusive) be paid to the owner of Lot 84 Deposited Plan 716573 for the acquisition of that part of Lot 84 Deposited Plan 716573 more particularly described as Lot 1 Deposited Plan 1141321.
- 3 That on acquisition, Lots 1 – 3 Deposited Plan 1141321 be dedicated as public road.
- 4 That the Common Seal of Council be affixed to:
  - a. Contracts for the Sale of Land / Deeds of Acquisition;
  - b. Land and Property Information Transfer Forms.

**DSS7 POINT PLOMER ROAD – MAINTENANCE AND CAPITAL EXPENDITURE**  
**FILE: R POINT PLOME MJT {Folio No. 405525}**

**SUMMARY:**

Reporting on the financial implications for Council for the maintenance of Point Plomer Road, Crescent Head

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**Acting Director Shire Services recommendation:**

- 1 That Council reduce the level of maintenance for Point Plomer Road to a standard consistent with all other rural roads within Kempsey Shire Council, being one maintenance grade per annum, with this maintenance grade undertaken as soon as possible after the recommencement of the school year in late January.
- 2 That Council advises the Department of Lands of Councils decision to reduce the level of service for the maintenance of Point Plomer

Road.

MOVED:

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

That the Acting Director Shire Services recommendation be adopted.

An AMENDMENT was MOVED:

*Moved: Cl. Bowell  
Seconded: Cl. Hayes*

That this matter be deferred pending further information from the Acting Director Shire Services.

2009. 633 RESOLVED:

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

That the MOTION be PUT.

2009. 634 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.

DSS8	HAT HEAD SEWERAGE SCHEME – PROGRESS REPORT FILE: 217 PGA RB	{Folio No. 405528}
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**SUMMARY:**

Reporting on the progress to address the capacity issues identified in Council's February 2009 report (DSS10) and April 2009 progress report (DSS2 2009.247) for the Hat Head Sewerage Scheme.

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**Director Shire Services Recommendation:**

- 1 That Council note the results of the 6-cycle sewage process trials during the Easter holiday peak period and the limitations evident during this trial.
- 2 That Council proceed to investigate and scope the work required to implement option 4. In the event that these investigations reveal that option 4 is not viable that option 5 be implemented.
- 3 That a detailed estimate for the conduct of the required work be developed for consideration by Council of a budgetary allocation to permit the implementation of the works commencing early in the next financial year.
- 4 That Council continue to limit development within Hat Head until the SBR duplication works have been successfully commissioned.

2009. 635 RESOLVED:

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

That the Director Shire Services recommendation be adopted subject to

recommendation 2 being amended to the following;

2. That Council proceed to investigate and scope the work required to implement option 5.

<b>DSS9</b>	<b>KEMPSEY WATER SUPPLY SCHEME - PROTECTION OF SHERWOOD BOREFIELD – PROGRESS REPORT</b> <b>FILE: 1155 PGA (NRN) {Folio No. 405532}</b>
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**SUMMARY:**

Reporting on the water quality security for the Sherwood borefields

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2009. 636 **RESOLVED:** *Moved: Cl. Sproule*  
*Seconded: Cl. Green*

That the progress of work to date be noted.

<b>DSS10</b>	<b>RESIDENTS MEETING – ROAD CONDITION - BACK CREEK ROAD, KINCHELA</b> <b>FILE: R BACK CK RD, COPY:61 MJT {Folio No. 405535}</b>
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**SUMMARY:**

A report on the outcomes of the meeting held on 8 May 2009 with the residents of Back Creek Road at Kinchela regarding the condition of the gravel road and bridge structure.

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**Director Shire Services Recommendation:**

That Council delay making a decision on this matter pending the review of the classification of Councils Road network and the long term sustainability of the gravel road network.

**MOVED:** *Moved: Cl. Saul*  
*Seconded: Cl. \**

That Back Creek Road Kinchela be sealed.

The MOTION LAPSED for want of a SECONDER.

2009. 637 **RESOLVED:** *Moved: Cl. Green*  
*Seconded: Cl. Walker*

That the Director Shire Services recommendation be adopted with the addition of;

2. That the Weight of Loads Group be requested to investigate the trucks using Back Creek Road Kinchela.

Councillor Bowell declared a non pecuniary interest in the following item for the reason that he is a member of the Kempsey Golf Club and remained in the Chamber.

DSS11	<b>PUBLIC EXHIBITION OF DRAFT SUPPLY OF RECLAIMED WATER POLICY</b> FILE: 694 CS COPY: GTS {Folio No. 405538}
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**SUMMARY:**

Reporting on the public exhibition of the Draft Supply and Use of Reclaimed Water Agreement and Policy

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2009. 638 **RESOLVED:** *Moved: Cl. Sproule  
Seconded: Cl. Green*

1. That the amended Supply and Use of Reclaimed Water Agreement and Policy be adopted
2. That a report on Policy implementation in respect of existing reclaimed water customers be provided to Council

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

DSS12	<b>FILING OF PLANS FOR REGISTRATION BY LAND AND PROPERTY INFORMATION</b> FILE: 584 COPY: 264 MJT {Folio No. 405542}
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**SUMMARY:**

A report informing Council of cost and time-savings available by altering the current process of filing plans for registration by Land and Property Information.

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2009. 639 **RESOLVED:** *Moved: Cl. Sproule  
Seconded: Cl. Green*

- 1 That Council endorse the actions to engage the services of a Sydney based plan lodgement specialist for the lodgement of plans with the Offices of Land and Property Information.
- 2 That Council continues to employ a part time Property Officer to resolve the outstanding property matters and to attend to on-going property matters as they arise.
- 3 That Council write to Port Macquarie–Hastings Council and acknowledge and express its appreciation of the effectiveness of the resource sharing arrangements with the part time

secondment of their Property Officer, Mr Ian Russell.

**DSS13**

**NATIONAL TIMBER COUNCILS TASKFORCE**

**FILE: 101 BJM COPY:DPW**

**{ Folio No. 405545 }**

**SUMMARY:**

Reporting on investigations in relation to becoming a member of the Timber Towns Network as resolved by Council at its Ordinary Meeting of 14 July 2009.

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**Director Shire Services Recommendation:**

- 1 That Council considers whether to proceed with membership of the National Timber Councils Taskforce.**
- 2 That in the event that Council determines to proceed with membership that a budgetary provision be made for membership and attendance at the meetings of the National Timber Councils Taskforce.**

**MOVED:**

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

- 1 That Council proceeds with Associate membership of the National Timber Councils Taskforce.**
- 2 That in the event that Council determines to proceed with membership that a budgetary provision be made for membership and attendance at the meetings of the National Timber Councils Taskforce.**

**The MOTION was WITHDRAWN at the request of Councillors Green and Hayes.**

**2009. 640 RESOLVED:**

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

**That Council investigate the cost benefit of membership of the National Timber Councils Taskforce and a report be brought back to the September Council meeting.**

**DSS14**

**NSW ROAD CLASSIFICATION REVIEW**

**FILE: 41 BJM (NRN) COPY:DPW { Folio No. 405550 }**

**SUMMARY:**

Reporting on the net cost to the community of the transfer of roads to Council under the NSW Roads Classification Review

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**Director Shire Services Recommendation:**

That Council note the net cost to Council of the road reclassifications announced as a part of the NSW Road Classification Review is in the order of \$256,450, which represents 2.5% of rate income.

2009. 641 RESOLVED:

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

That the Director Shire Services recommendation be adopted with the addition of;

2. That this matter be referred to the Local Government and Shires Association for inclusion on the agenda for the Local Government Association Conference in October 2009.

DSS15	REVISED SES FUNDING MODEL	{Folio No. 405555}
	FILE: 101 BJM (NRN)	

This item was deferred and dealt with later in the meeting.

DSS16	FLOOD DEBRIEF – MAY FLOOD EVENT	{Folio No. 405558}
	FILE: 1291 BJM	

This item was deferred and dealt with later in the meeting.

DSS17	KEMPSEY FLOOD STUDY	{Folio No. 405562}
	FILE: FM515 BJM	

**SUMMARY:**

Reporting on the proposal to adopt the Kempsey Flood Study and to proceed to engage a consultant to investigate the management measures to be considered by Council to best manage the flood impacts within the Kempsey CBD

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2009. 642 RESOLVED:

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

- 1 That Council formally adopts the Kempsey Flood Study as amended.
- 2 That Council proceed to engage a consultant, in conjunction with the Department of Environment and Climate Change, to investigate and develop management measures to complement the Kempsey Flood Study.



**DSS21**

**KUNDABUNG EXTENDED WASTE AREA**

**FILE:T2008-01 CC:491 OGM CC:WMS{Folio No.405578}**

**SUMMARY:**

Kempsey Shire Council has received many requests for the provision of kerbside waste collection in the Kundabung area which is not currently included in the Waste Collection area serviced by Kempsey Shire Council. This area has increasing issues in waste and recycling and contamination problems at the recycle drop off site.

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2009. 645

**RESOLVED:**

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

- 1 That Kempsey Shire Council implements the extension of mixed solid waste and recycling collection service to the Kundabung area with a commencement date no later than 1 October 2009.
- 2 That the residents of Kundabung who receive a mixed solid waste recycling collection service are charged for this service in accordance with Council's Fees and Charges from 1 October 2009.
- 3 That Council removes the recycling drop off station in the Kundabung area within a month of the implementation of the mixed solid waste and recycling collection service.

**DSS22**

**PUBLIC MEETING– PERRETS BRIDGE, JERSEYVILLE**

**FILE: 680 CC:61, LA4590 MJT (NRN) {Folio No. 405583}**

This report was dealt with earlier in the meeting just after DSS5.

**DSS23**

**PACIFIC HIGHWAY WORKS PRIOR TO RECLASSIFICATION  
DUE TO HIGHWAY BYPASS**

**FILE:118 CC: 680 & R MACLEAY FRE BJM {Folio No405586}**

This report was dealt with earlier in the meeting just after MM18.

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**PRESENTATION**

At 12.30pm Mr Peter Floyd, Regional Controller SES conducted a presentation on the revised funding model for the SES.

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This item was deferred from earlier in the meeting.

**SUMMARY:**

Reporting on the revised SES funding model

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2009. 646 **RESOLVED:**

*Moved: Cl. Green*

*Seconded: Cl. Saul*

That Council receive and note the details of this report and the presentation by the SES Regional Controller.

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At this stage 12.35pm the Meeting adjourned for Luncheon and upon resumption at 1.20pm all present at the adjournment were in attendance.

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This item was deferred from earlier in the meeting.

**SUMMARY:**

Reporting on the outcome of the Flood Debrief meetings for the May flood event that were held on the 9 July 2009.

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2009. 647 **RESOLVED:**

*Moved: Cl. Saul*

*Seconded: Cl. Green*

- 1 That the draft minutes of the series of Flood Debriefs for the May flood event held on 9 July 2009 be received and noted.
- 2 That the final minutes and action plan developed from the series of Flood Debriefs for the May flood event held on 9 July 2009 be presented to Council at a future meeting.
- 3 That the final minutes and action plan developed as a result of the series of Flood Debriefs for the May flood event held on 9 July 2009 be forwarded to the SES for consideration in the review of the Flood Plan.
- 4 That a six-monthly report be provided to Council on the progress achieved in relation to the action plan developed as a result of the Flood Debriefs.



**SUMMARY:**

Reporting on the need to authorise the affixing of Council's seal to the Lease of the Economic Development Office

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2009. 651 RESOLVED: *Moved: Cl. Campbell  
Seconded: Cl. Sproule*

That Council authorise the affixing of its seal to the lease document for the Economic Development office 33 - 37 Forth Street, Kempsey.

DCCS5	EASEMENT TO COUNTRY ENERGY, ELBOW STREET, WEST KEMPSEY – AFFIXING COUNCIL'S SEAL FILE: LA13187 PJH {Folio No. 405534}
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**SUMMARY:**

Reporting on the need to authorise the affixing of Council's seal to the easement to Country Energy in Elbow Street

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2009. 652 RESOLVED: *Moved: Cl. Green  
Seconded: Cl. Campbell*

That Council authorise the affixing of its seal to the transfer granting easement to Country Energy at the corner of Elbow Street and Harold Walker Avenue, West Kempsey.

DCCS6	POLICY ON PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO THE MAYOR AND COUNCILLORS FILE: 276 PJH COPY:MRB (NRN) {Folio No. 405536}
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**SUMMARY:**

Reporting on the review of Council's Policy on the payment of expenses and provision of facilities to the Mayor and Councillors

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**Director Corporate & Community Services Recommendation:**

That Council's policy on the Payment of Expenses and Provision of Facilities to the Mayor and Councillors be placed on public exhibition for 28 days, without amendment.

2009. 653 RESOLVED: *Moved: Cl. Hayes  
Seconded: Cl. Green*

The Council's Policy on the Payment of Expenses and Provision of Facilities to the Mayor and Councillors be amended at clause 2.13 (4) to



2009. 656 RESOLVED:

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

That the information be noted and that Boral be congratulated on supporting the program.

**DCCS11 OFFICIAL OPENING OF BARRUNBATAYI BURIAL  
GROUND AT EAST KEMPSEY CEMETERY  
FILE: LA19102 CC: 310 JMC (NRN) {Folio No. 405543}**

**SUMMARY:**

Reporting on the official opening of the Barrunbatayi (Dreamtime) section at East Kempsey cemetery

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2009. 657 RESOLVED:

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

That the information be noted and congratulations be forwarded to all those involved.

**DCCS12 YOUTH ACCESS CENTRE OPENING  
FILE: LA2767 CC: 343 JLM (NRN) {Folio No. 405544}**

**SUMMARY:**

Reporting on the official opening of the Youth Access Centre on the 15 July

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2009. 658 RESOLVED:

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

That the information be noted and the Minister be thanked and congratulations be forwarded to all involved.

**DCCS13 GRANTS  
FILE: 101 KEO (NRN) {Folio No. 405546}**

**SUMMARY:**

Reporting on current grant funding opportunities and Council projects identified.

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2009. 659 RESOLVED:

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

That the information be noted.

**DCCS14**

**355 COMMITTEES**

**FILE: 433**

**KEO CC: MRB**

**{Folio No. 405549}**

**SUMMARY:**

Reporting on the newly developed Section 355 Committee Guidelines

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2009. 660

**RESOLVED:**

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

1. That the Section 355 Guide and Section 355 Guide – Appendices is placed on public exhibition for 28 days.
2. That a copy of the Guide and Appendices are sent to each Section 355 Committee for review.
3. That Council Policy C24.12 Committees Under Section 377 of the Local Government Act be withdrawn.

**GENERAL MANAGER'S REPORT**

**GM1**

**OUTSTANDING REPORTS / RESOLUTIONS**

**FILE: 149**

**DLR (NRN)**

**{Folio No. 405552}**

**SUMMARY:**

Council's report on outstanding reports and resolutions

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**General Manager's Recommendation:**

**That the information be noted.**

2009. 661

**RESOLVED:**

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

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

2. That the General Manager investigate the length of time it is taking to complete some of these outstanding reports and resolutions including NOM2 12.5.09, NOM5 9.9.08, DSS4 10.3.09, DSS8 10.3.09, DSS1 Conf 10.3.09, DCCS19 3.2.09, DCCS11 7.4.09, DCCS10 12.5.09 and GM4 7.4.09.

**GM2**

**WORKS PROGRAM**

**FILE: 153**

**DLR (NRN)**

**{Folio No. 405553}**

**SUMMARY:**

To outline progress of the capital works program for the 2009 / 10 year

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2009. 662 **RESOLVED:**

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

**That the information be noted.**

<b>GM3</b>	<b>DELEGATIONS TO GENERAL MANAGER</b>
<b>FILE: 83</b>	<b>DLR (NRN) {Folio No. 405556}</b>

**SUMMARY:**

To update the delegations to the new General Manager

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2009. 663 **RESOLVED:**

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

**That policy 1.1 be changed to the following:**

	<b>DELEGATION OF AUTHORITY GENERAL MANAGER</b>	<b>Policy No</b>	1:1
		Issue date	<b>29.11.1994</b>
		Revision date	<b>11.8.2009</b>

**OBJECTIVE**

To facilitate the effective and efficient operation of the Council by providing the General Manager with sufficient power and authority to generally manage, control and administer the affairs of the Council on a day-to-day basis.

**POLICY STATEMENT**

*In order to provide for the expedient exercise and performance of its powers and duties and the efficient management of its business and responsibilities, Council hereby delegates under Section 377 of the Local Government Act, 1993, to the position of General Manager and to the person holding the aforementioned position in an acting capacity, the exercise of Council's powers, functions, duties and authorities contained in legislation and matters specified in Schedule 1 subject to the limitations specified in Schedule 2. This delegation shall commence on 12 August 2009 and remain in force until specifically altered or revoked in writing.*

**SCHEDULE 1**

The functions of the Council as specified in:

- a the Local Government Act, 1993, and related Acts; and
- b other Acts under which Council has powers, authorities, duties and functions.

## **SCHEDULE 2**

- i** Subject to the provisions of the Local Government Act, 1993 and any other legislation relevant to the delegations.
- ii** **Council** may by resolution direct the **General Manager** in the exercise of any function herein delegated.
- iii** **The General Manager** shall exercise the functions herein delegated in accordance with and subject to:
  - a the provisions of the Local Government Act, 1993 as amended;
  - b the Manual of Procedures adopted by resolution of the Council;
  - c all and every policy of the Council adopted by Resolution and current at the time of the exercise of the functions herein delegated.
- iv** the functions which are required by or under the Local Government Act 1993 or by or under any other Act or instrument to be performed by resolution of the Council;
- v** functions delegated to the Mayor;
- vi** power to make or amend Council policy;
- vii** the setting and variation of priorities for Council's programs, including priorities relating to the Capital Works program, studies, policy development programs and other initiatives specified by Council;
- viii** the approval of the organisation structure down to and including manager level;
- ix** entering into any enterprise agreement or altering personnel policies that would have significant ongoing implications for Council in terms of cost or service delivery.
- x** carrying out new or non-core services not already being undertaken at the date of this resolution of Council;
- xi** significant variation of any existing Council service that would have ongoing implications for Council in terms of cost or service delivery;
- xii** release for public exhibition and comment of any plan or policy which is required by legislation to be exhibited;
- xiii** adoption of a plan of management for community land;
- xiv** the approval of civic and ceremonial events;

- xv** the granting of civic honours;
- xvi** determination of applications for development consent under the Environmental Planning and Assessment Act or for approval under the Local Government Act, where objections have been lodged and where the application does not comply with relevant plans and policies.
- xvii** determination of applications for development consent or approval which involve a variation under SEPP 1 or s83 of the Local Government Act of a prescribed standard or a Council policy, except where the Director General of Department Planning has either granted concurrence, or advised Council that concurrence may be assumed, or except as otherwise may be provided for in the relevant Council Policy.
- xviii** approval to write off debts, including rates and charges, owing to Council over \$500.

**Date Policy Adopted** 29.11.1994  
**Minute No** 1.21115  
**Authority** Sec. 377  
**Date Policy Amended** 15.12.98  
**Minute No** 98.886  
**Date Policy Amended** 1.1999  
**Minute No** 99.34  
**Date Policy Amended** 12.1.99  
**Minute No** 99.34  
**Date Policy Amended** 10.8.99  
**Minute No** 99.550  
**Date Policy Amended** 21.3.2000  
**Minute No** 2000.235  
**Date Policy Amended** 21.11.2000  
**Minute No** 2000.933  
**Date Policy Amended** 13.4.2004  
**Minute No** 2004.264  
**Date Policy Amended** 13.12.2005  
**Minute No** 2005.857  
**Date Policy Amended** 11.08.2009  
**Minute No**

<b>GM4</b>	<b>ADVANTAGE OF UTILISING A SINGLE IMAGE FILE: 129 CC: 670 DLR (NRN) {Folio No. 405561}</b>
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**SUMMARY:**

Utilising a single image is seen as helping unify the Council and assist in defining its identity.

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**General Manager's Recommendation:**

- 1. That Council seek information from the Governor as to what she would require to proclaim a change of name from Kempsey Shire Council to Macleay Valley Coast Council and proceed to seek the name change.**

2. That all of Council's operations operate under the name of Kempsey Shire Council for consistency until such time as the name of the Council may be changed.
3. That Council utilise the Macleay Valley Coast logo as its corporate logo and phase out the Kempsey Shire Council and Macleay Water logos.
4. That costs of the change of name and logo be minimised by the gradual changeover to the new name and logo.

MOVED:

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

That the General Manager's recommendation be adopted.

An AMENDMENT was MOVED:

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

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

5. That the community be invited to comment on their preference of the "Macleay Valley Coast Council" or "Macleay Valley Council".

2009. 664 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.

GM5	REVIEW OF ORGANISATION STRUCTURE
FILE: 924	DLR (NRN) {Folio No. 405568}

**SUMMARY:**

A review of the organisational structure to comply with the requirements of the Local Government Act and to provide direction to staff for continuing the process of restructuring the operations of the Council

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**General Manager's Recommendation:**

That Council adopt an Organisational Structure (as shown in Figure 2) based on four directorates linked to the community strategic goals of:

1. To facilitate ecological and economic sustainable development in the shire.
2. To foster and enhance effective social, cultural and community relations, building respect and civic pride.
3. To plan and fund the Shire's infrastructure and service needs.
4. To ensure leadership and effective accountable management.

2009. 665 RESOLVED:

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

That the General Manager's recommendation be adopted subject to the following;

5. That the following amendments to the Organisation Structure Chart, be included.
  - a) That the Directors positions be removed so that it is clearer that the structure shows the functions of the Council.
  - b) Add Country Mayors as one of the groups that Council works with to develop beneficial relationships.
  - c) Add that provision of beach assess should be in a way that is sensitive to the environment.
  - d) For pedestrian paths and cycle ways add that the purpose is recreation as well as transport.
  - e) With the water supply include that a reliable service should be offered.
  - f) With the saleyard operations, change the notation to show that it is for the benefit of the broader regional and not just farmers.
  - g) With heritage, place the retention of heritage as the first item of consideration.
  - h) Include art galleries as an activity of the Council.
  - i) Include comment that the development of strategic plans is undertaken in collaboration with the community.
  - j) Note that community safety is a matter that Council undertakes jointly with other groups and levels of government and is not the sole responsibility of local government.
  - k) Change the heading of Environmental Management to Natural Environment, to better align with the descriptions used at the Local Government and Shires Association.
  
6. That the General Manager be congratulated on the presentation of the report.

GM6	QUARTERLY REPORT	{Folio No. 405571}
	FILE: 339 MRB (NRN)	

**SUMMARY:**

Reporting on the implementation of Council's 2008 / 2009 Management Plan

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2009. 666 RESOLVED:

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

That the achievement of performance targets set by the 2008 / 2009 Management Plan for the period to the end of the June 2009 quarter be noted.

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2009. 667 **RESOLVED:**

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

**That the minutes of the Local Traffic Committee meeting held 28 January 2009 be adopted.**

**QUESTIONS WITHOUT NOTICE**

**COUNCILLOR E R WALKER**

Q1 FILE: \*

**At Services Club Park there is barricade tape around a large tree. This is not going to be removed, is it?**

Responsible Officer WCB

The Acting Director Shire Services advised that the tree is not being removed and the future health of the tree will be monitored.

**COUNCILLOR J A SPROULE**

Q1 FILE: \*

**Could the septic run off from the neighbours property be investigated on the property at the corner of Quarry and Seashore Roads Collombatti?**

Responsible Officer RBP

The Director Sustainable Development Services will investigate.

Q2 FILE: \*

**Have Mike Dutton's (DEX Consulting) questions been responded to regarding outstanding planning matters?**

Responsible Officer DLR

The General Manager is preparing a response.

Q3 FILE: \*

**Is Kempsey Shire Council being represented at the Crescent Head P & C Art Exhibition on 21 August 2009?**

Responsible Officer KEO

The Acting Director Corporate and Community Services advised that at this stage Council will not be represented but if they had been invited Council would respond.

**COUNCILLOR A D SNOWSILL**

Q1 FILE: \*

**There is no recycling collection at the 4 Shore Caravan Parks. If not, why not?**

Responsible Officer KEO

The Acting Director Corporate and Community Services advised that the caravan parks are under trial at the moment for recycling however there are concerns with contamination of the bins. The logistics of the implementation are being worked through. The matter of recycling at Horseshoe Bay Caravan Park is that it has been implemented by the caravan park contractor themselves and is under review.

**COUNCILLOR D F SAUL**

Q1 FILE: \*

**How can Council assist the residents of Barbers Lane Yarrahapinni to reduce the speed limit back to 50kph?**

Responsible Officer WCB

The Acting Director Shire Services advised that this matter needs to be raised with the Local Traffic Committee and the residents would need to submit their request with valid reasons for the change in writing to Council.

**COUNCILLOR J A C HAYES**

Q1 FILE: \*

**Is it possible to monitor car parking outside the new police station building in Elbow Street as it is difficult to find parking in West Kempsey?**

Responsible Officer RBP

The Director Sustainable Development Services that parking has been monitored and persons from the construction company have been warned about parking vehicles on the street.

Q2 FILE: \*

**Can the parking in disabled spaces in Woolworths be policed?**

Responsible Officer RBP

The Director Sustainable Development Services advised that this is being monitored and Council's officer has issued numerous infringements and will provide Councillors with statistics on this.

Q3 FILE: \*

**When did the SWR master plan committee last meet? When will it next meet and what is left in the budget?**

Responsible Officer WCB

The Director Sustainable Development Services advised that the MasterPlan was prepared in 2005 / 2006. Advice will be given on when the last subsequent meetings were held regarding the implementation.

**COUNCILLOR E A GREEN**

Q1 FILE: \*

**At the Horseshoe Bay Caravan Park, the current fence along the road is not high enough and the whole caravan park needs to be fully enclosed by 1.8m "decent looking" fence. Can Council consider this?**

Responsible Officer KEO

The Acting Director Corporate and Community Services advised that the Community Safety Committee have discussed this matter and a report will be coming back to Council.

Q2 FILE: \*

**With the waste collection at the top end of Tozer street the contractors are not emptying bins properly leaving some rubbish on the road. Can this be investigated?**

Responsible Officer WCB

The Acting Director Shire Services will investigate.

Q3 FILE: \*

**Is the new building next to Whitbreads Garage, Elbow Street in compliance with density requirements for size of block?**

Responsible Officer RBP

The Director Sustainable Development Services advised that the building does comply.

Q4

FILE: \*

**With regard to Willawarrin potable water supply it has been reported as very muddy. Why is this?**

Responsible Officer

WCB

The Acting Director Shire Services will investigate.

**COUNCILLOR E A CAMPBELL**

Q1

FILE: \*

**Can Council investigate benefits and appropriate areas for metered parking?**

Responsible Officer

JHB

The Mayor advised that this will require a Notice of Motion.

**COUNCILLOR J H BOWELL**

Q1

FILE: \*

**The Mayor advised Council that Horseshoe Bay Caravan Park is under review by the Grafton Office of Department of Lands before approval on loans can be given.**

Responsible Officer

DLR

The General Manager is to make enquiries regarding the current position and will be in contact with the relevant officer at Grafton.

**QUESTIONS WITHOUT NOTICE – Responses from 14 July 2009 meeting**

**2009. 668 RESOLVED:**

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

**That the responses to questions without notice from 14 July 2009 meeting as printed in the agenda be noted.**

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**MOTION FOR CONFIDENTIAL SESSION**

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.

**Councillors are reminded of their statutory obligations in relation to the non-disclosure to any outside person of matters included in this section.**

**2009. 669 RESOLVED:**

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

**That Council form itself into the Confidential Session, 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**

<b>DSDS1</b>	<b>SOUTH WEST ROCKS NURSING HOME</b>
<b>CONF</b>	<b>FILE: T6-07-318 DJW {Folio No. 405576}</b>

**Section 10A(2)(g) – Legal Proceedings**

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

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

**SUMMARY:**

Reporting on the status of compliance of the South West Rocks Nursing Home

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**2009. 670 RESOLVED:**

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

That the information be noted.

## DIRECTOR SHIRE SERVICES CONFIDENTIAL REPORT

DSS1	RECYCLE STEEL COLLECTION CONTRACT
CONF	FILE: 1013 OGM COPY: APC {Folio No. 405580}

### 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:**

Kempsey Shire Council, a member of the MidWaste group of councils, prepared tenders, based on the quantities of common metals recovered in 2007/2008 with the schedule of rates as tendered applied, and this provided a simple method of comparing the prices being offered by the tenderers.

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2009. 671 **RESOLVED:**

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

**That Council accepts the tender for the recovery and disposal of scrap metal from Council's waste facilities as submitted by OneSteel Recycling for a one year period from 1<sup>st</sup> July 2009 to 30<sup>th</sup> June 2010.**

DSS2	ALIGNMENT OF FIVE DAY CREEK ROAD
CONF	FILE: R FIVE DAY CK CC: LA17086 MJT {Folio No. 405581}

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

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

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

#### **SUMMARY:**

A report to consider a request for the realignment of part of Five Day Creek Road and a report detailing the wider implications of road realignment and

access requests in general throughout the Shire.

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2009. 672 RESOLVED:

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

- 1 That the request by the owner of Lot13 DP752427 1552 Five Day Creek Road to realign Five Day Creek Road where it passes through his property be noted by Council.
- 2 That Council brief Mr Andrew Stoner MP, Member for Oxley, to determine if Mr Stoner could be of assistance to broker a solution with all residents of Five Day Creek Road regarding the alignment of the constructed road.
- 3 That Council cease to maintain the sections of Five Day Creek Road that are known not to be within the dedicated road reserve until the current disputes between the landholders are resolved.

**DIRECTOR CORPORATE & COMMUNITY SERVICES CONFIDENTIAL REPORT**

Councillor Campbell declared a significant non pecuniary interest in the following item for the reason that her husband is a board member of the organisation referred to in the report and retired from the Chamber.

Councillor Bowell declared a non pecuniary interest in the following item for the reason that he is a member of the Kempsey Golf Club and remained in the Chamber.

DCCS1	AGREEMENT TO SETTLE OUTSTANDING RATES AND CHARGES	FILE: LA2523	APC	{Folio No. 405587}
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**Section 10A(2)(b) – Hardship of Resident or Ratepayer**

This report is submitted on a confidential basis as it involves the personal hardship of a resident or ratepayers. (Local Government Act 1993, section 10A(2)(b).

**SUMMARY:**

Reporting on a request by the Kempsey Golf Club to settle outstanding rates and charges over a fifteen year interest free term

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**MOVED:**

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

1. That Council enter into a Deed of Agreement for the settlement of the arrears over ten (10) years including the current rate of interest.

2. That the Kempsey Golf Club acknowledge Council's right to commence legal action should the Club not adhere to the payment schedule.
3. That the Kempsey Golf Club undertake that all rates levied after 1 July 2009 be paid by monthly direct debit whilst water and sewer usage charges be paid as they fall due.
4. That in the event the Kempsey Golf Club be declared insolvent that Council's outstanding charges be secured through assets sale if required.

An AMENDMENT was MOVED:

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

1. That Council enter into a Deed of Agreement for the settlement of the arrears over fifteen (15) years including the current rate of interest.
2. That the Kempsey Golf Club acknowledge Council's right to commence legal action should the Club not adhere to the payment schedule.
3. That the Kempsey Golf Club undertake that all rates levied after 1 July 2009 be paid by monthly direct debit whilst water and sewer usage charges be paid as they fall due.
4. That in the event the Kempsey Golf Club be declared insolvent that Council's outstanding charges be secured through assets sale if required.

The AMENDMENT was PUT to the Meeting and was LOST.

2009. 673 The MOTION was PUT to the MEETING and was CARRIED.

Councillor Campbell returned to the Chamber.

#### GENERAL MANAGER'S CONFIDENTIAL REPORT

GM1	VARIOUS LEGAL MATTERS - CURRENT POSITION
CONF	FILE: 155 DLR (NRN) {Folio No. 405588}

#### 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. 674 RESOLVED:**

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

**That the information be noted.**

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**OPEN COUNCIL**

**2009. 675 RESOLVED:**

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

**That the Open Council Meeting be resumed.**

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**CONCLUSION:**

There being no further business, the Meeting terminated at 3.24pm.

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