



MINUTES OF THE PLANNING COMMITTEE MEETING OF KEMPSEY SHIRE COUNCIL

Tuesday 23rd December 2003 commencing at 9.04a.m.

PRESENT:

Councillors J A C Hayes, (Mayor and Chairman), J H Howell, R J Bowen, T Hunt and B R Sowter.

Acting General Manager, T I Hannam; Acting Director Environmental Services, R B Pitt; Pat Hanrahan and Donna Pearson.



APOLOGY:

2003. 105 RESOLVED: *Moved: Cl. Hunt*
Seconded: Cl. Sowter

That the apologies submitted by Councillors Joukhadar, Parkinson and Sproule for non-attendance at the meeting be accepted and leave of absence granted.



2003. 106 RESOLVED: *Moved: Cl. Hunt*
Seconded: Cl. Sowter

That Standing Orders be suspended to allow a sympathy motion following the death of Councillor Sproule's Father-in-law.

2003. 107 RESOLVED: *Moved: Cl. Hunt*
Seconded: Cl. Howell

That Council express its sympathy to Councillor Sproule and Mr Steve Sproule on the passing of Mr Sproule's father, Mr Morrie Sproule.



ASSESSMENT OF ITEMS LISTED IN CONFIDENTIAL BUSINESS PAPER

2003. 108 RESOLVED: *Moved: Cl. Howell*
Seconded: Cl. Sowter

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KEMPSEY SHIRE COUNCIL HELD ON TUESDAY 23RD DECEMBER 2003.*

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MAYOR

That the items listed as confidential be considered in the confidential section of the meeting.



LATE BUSINESS – Notice of Motion to set a date in early January for Council to meet and discuss its submission to the Local Government Amendment Bill.

2003. 109 RESOLVED: *Moved: Cl. Hunt*
Seconded: Cl. Howell

That a Motion on this matter be dealt with at this meeting as it is deemed by the Mayor to be a matter of great urgency.

2003. 110 RESOLVED: *Moved: Cl. Hunt*
Seconded: Cl. Howell

That the Mayor discuss with the General Manager, on his return from leave, the need to call a meeting to discuss Council's submission regarding the Local Government Amendment Bill.



MINUTES OF THE PLANNING COMMITTEE MEETING OF KEMPSEY SHIRE COUNCIL DATED 25TH NOVEMBER 2003

2003. 111 RESOLVED: *Moved: Cl. Howell*
Seconded: Cl. Hunt

That the Minutes of the Planning Meeting of Kempsey Shire Council dates 25th November 2003, be adopted subject to Minute Number 2003.P80 (DES 15 Proposed Directional Sign) being amended to read:-

That Council approve the erection of a directional sign attached to the Plummers Lane Road sign at the intersection of South West Rocks Road and Plummers Lane providing direction to the Rainbow Reach Oyster Barn.



PUBLIC FORUM

- 1 - Mr Kevin Schreiber from Schreiber Hamilton Architectural addressed Council regarding RM1 and DES5 12 Residential and Two Commercial Units South West Rocks File: T6-03-589



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MAYOR

CONSIDERATION OF LATE REPORTS

2003. 112

RESOLVED:

*Moved: Cl. Howell
Seconded: Cl. Hunt*

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



CONSIDERATION OF REPORTS RELATING TO PUBLIC FORUM – Reports NOM1 and DES5.

2003. 113

RESOLVED:

*Moved: Cl. Howell
Seconded: Cl. Sowter*

That RM1 and DES5 be dealt with in conjunction.

RM1	12 RESIDENTIAL AND TWO COMMERCIAL UNITS - SOUTH WEST ROCKS		
	FILE: T6-03-589	BWC	{Folio No. 267115}

23 December 2003

Notice is hereby given that we intend to move the following Rescission Motion at the Planning Meeting of Kempsey Shire Council on Tuesday 23rd December 2003.

2003. 114

RESOLVED:

*Moved: Cl. Howell
Seconded: Cl. Sowter*

That Council’s resolution Minute Number 2003.P90 of 25th November 2003 as follows be rescinded;

That the applicants be requested to submit amended plans addressing the issues of non-compliance within the body of the report and that the applicant be invited to submit a design more in keeping with a “seaside village” character as Council is concerned with the “box like” character of the plans submitted.

.....
Councillor J Howell

.....
Councillor N Joukhadar

.....
Councillor B Sowter

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MAYOR

In the event that the above rescission motion is successful it is proposed to move the following motion:

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Councilor J Bowell

DES5	12 RESIDENTIAL AND TWO COMMERCIAL UNITS - SOUTH WEST ROCKS	{Folio No. 267131}
	FILE: T6-03-589 AD	

This report is resubmitted and to be read in conjunction with the Rescission Motion in relation to the application.

Mr Kevin Schreiber, Architect has submitted a letter for Council's consideration in respect to the design of the building. The submission is at [\(Appendix J\)](#)

Mr Schreiber has also requested time in the public forum to address Council.

SUMMARY:

Reporting that Council has received an application for 12 residential and two commercial units in South West Rocks for which variations to DCP 22 - Local Housing Strategy and DCP 34 - South West Rocks Town Centre are required, and for which one (1) objection has been received.



Applicant: Schreiber Hamilton Architecture
Subject Land: Lot B DP 374092 Lot A DP 301224 and Lot B DP 301224
No 2-6 Landsborough Street, South West Rocks
Zone: 3(v) Business - Village
Proposal: 12 residential and two commercial units [\(Appendix K\)](#)

Heads of Consideration:

The proposal has been examined having regard for the Heads of Consideration identified under Section 79 C(1) of the Environmental Planning and Assessment Act with the following matters considered to be of particular relevance to the proposal.

The proposal is not contrary to any State Environmental Planning Policy (SEPP), North Coast Regional Environment Plan 1988 (NCREP 1988) or KLEP 1987, and is permissible with consent in the Zone.

SEPP 65 - Design Quality of Residential Flat Development

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The proposal is required to comply with the Design Quality Principles of SEPP 65 which have been addressed in Development Control Plan (DCP) 34 and Development Control Plan (DCP) 22.

DCP 34 - South West Rocks Town Centre

The proposal is required to comply with the following requirements of DCP 34 - Precinct 3.

Performance Criteria		Complies
1	"Seaside Village" character?	SEPP 65 - Yes
2	Reflection of existing setbacks?	Yes
3	Two storey height limit?	No
4	Landscaping?	Yes - to be conditioned
5	Shared access?	Yes
6	Consideration of allotments?	Yes - to be conditioned
7	DCP 22 application?	Yes
8	DCP 31 - Energy Smart Homes?	Yes

Planning Comment

The applicant has submitted that the variation to DCP 34 is justified by stating that:-

- Three storey buildings are permissible in the zone;
- The proposal is located within both 3(v) zone and the DCP 22 designated medium to high density area;
- The scale and height of the proposed building is similar to adjoining development;
- Three storey development (in urban design terms) is in context with surrounding development on the northern side of Landsborough Street.

It is agreed that the height and scale of the building is appropriate within the area, with the design of the proposal in accordance with the requirements of SEPP 65 - Design Quality of Residential Flat Development. The variation to the two storey height limit can be further supported on the basis the proposal is set back 6.1m from the property boundary where no setback is required thereby providing for landscaping works through to Councils road reserve.

DCP 22 - Local Housing Strategy

The proposal is required to comply with the following requirements of DCP 22.

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Standard	Required	Proposed	Complies Y/N
DENSITY	1560m ²	1670m ²	Yes
SETBACKS	Do not apply in 3 (v) Zone		Yes
CARPARKING* - resident - visitor	12 covered 4 visitor 8 commercial	12 covered 2 visitor 2 commercial, developer has indicated will pay contributions - 3 required.	Yes
Private open space	Sect 4.4 (d) DCP 22	All unit balconies >15m ² , >2m wide	Yes Yes
Landscaping	Sect 4.5 DCP 22	Plan submitted	Yes
Height	FSR 1.5:1	FSR complies (average height 8.71m)	Yes
Solar Access	Sect 4.7 DCP 22	Units 2 and 8 do not comply	No*
Privacy	Sect 4.8 DCP 22	Potential impacts upon adjoining lots from units 1, 3, 4, 5, 6, 7, 9, 10, 11 and 12	No*
Cut and fill	<1.5m	Marginal	Yes
Infrastructure	Sect 4.10 DCP 22	3 x E. T. credit, 9.29 x E.T. to be changed	Yes

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*** Planning Comment**

The applicant was required to justify variations to the following development standards assessed as being areas of concern or non-compliance with DCP 22:

- **Solar access** - An assessment of the proposal revealed both units 2 and 8 would not meet the requirements of Section 4.7 of DCP 22, however, the applicant has provided what is considered to be a suitable design solution in the form of a 'light well', as well as being designed to ensure 'excellent' cross - ventilation. Both units achieve a 5 star NatHERS energy rating. The applicant has also justified the variations by stating:-

"The accepted standard for solar access in NSW is stated in SEPP 65...(it) states that living rooms and private open spaces for at least 70 percent of apartments in a development should receive a minimum of three hours direct sunlight between 9am and 3pm in mid-winter. The development proposal, submitted for Council's consideration has exceeded this requirement by 13 percent."

- **Privacy** - Concern was raised regarding privacy impacts upon adjoining lots, with the applicant addressing the issues by stating the following:

" a) To No 20 Gregory Street to the West. The bedroom windows of Unit 1 and Unit 7 are set back 7m from the boundary. The two storey house to the west of the site is setback a further 11m from the boundary and the two storey bricks flats are set back approximately 3m from the boundary. This means that there is at least 10m of separation between the units and that there is a separation of 18m to the house.

It is important to note that these windows are in bedrooms and not living areas, hence the potential for overlooking from these rooms is minimised due to the fact that they have a reduced occupancy pattern.

Additionally, the areas in front of these windows are landscaped at ground level. The landscaping will grow to heights sufficient to offer an added degree of privacy. The trees and shrubs shown on the landscape plan will grow to mature heights of 8-15m. The tops of the windows in question are approximately 8.5m above ground level.

In light of this, we believe that only the window of Bed 2 in Unit 6 and Unit 12 could have potential privacy issues. To alleviate this privacy screens could be added to these two windows or alternatively the sill heights of these two windows could be raised to 1.5m above floor level."

Public Exhibition

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The proposal was advertised in accordance with Council Policy with one (1) objection having been received which may be summarised as follows:
[\(Appendix L\)](#)

Objection	Planning Comment
<p>1 The proposal lacks both on and off street carparking provided for both residential and commercial premises, with four on-street carparks included in the proposal which should not be.</p>	<p>1 An assessment of required carparking revealed the proposal:-</p> <ul style="list-style-type: none"> • Enjoys 2 carparking credits on the basis the 3 existing lots will be consolidated; • Requires 12 covered resident carparks (provided); • Requires 4 visitor carparks (2 designated, a further 3 shown as vacant on plans adjacent to units 7, 8 and 9 resident parking); • Requires 8 commercial carparks (2 provided plus 1 excess visitor); therefore:- <p>24 carparks required (total), 19 provided, 2 credits enjoyed, 3 cash contributions to be charged.</p> <p>Note: The parking shown on-street was not included in the carparking calculations and the applicant has indicated a willingness to overcome any parking shortfall by payment of carparking contributions. It is for these reasons that carparking provision is considered adequate for the proposal.</p>
<p>2 As the street is a direct route to Arakoon, increased volume of traffic and congestion will substantially increase the risk of traffic accidents.</p>	<p>2 The proposal is located within a designated medium to high density, commercially zoned area, and as such, is considered suitable to the amenity of the area, and will not substantially increase traffic generation on Landsborough Street, which is</p>

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considered a major arterial road.

Planning Comment

The proposal is considered suitable to the amenity of the area, and despite the variations to DCP 34 and DCP22, meets the overall objectives of both development control plans on a merit based approach. It is for these reasons and reasons outlined in the report that justification to DCP variations is considered adequate, and that approval is recommended.

2003. 115

RESOLVED:

*Moved: Cl. Howell
Seconded: Cl. Sowter*

- A. That approval be granted, subject to the following conditions:-**
- 1 The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.**
 - 2 This consent does not permit the use of either commercial premises.**
Separate consent is required whereby details of internal fit-outs are to be provided.
 - 3 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.**
 - 4 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.**
 - 5 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.**
 - 6 The units and commercial premises are not to be occupied until all conditions of Council's consent have been complied with to the satisfaction of Council and an Occupation Certificate has been obtained.**
 - 7 Provision of a security deposit to Council totalling \$4200 to cover any damage sustained to public property including footway and kerb and gutter or road pavement during construction and to ensure satisfactory completion of any works on public property required in connection with this approval. The deposit is to be lodged with**

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Council prior to the issuing of the required Construction Certificate and will be released upon submission of documentary evidence indicating that an Occupation Certificate has been issued.

8 Submission of an application(s) to Council pursuant to Section 68 of the Local Government Act 1993 for the following, prior to the issue of a Construction Certificate:-

- a Installing a temporary structure on land.**
- b Carrying out water supply work.**
- c Installing, altering, disconnecting or removing a meter connected to a service pipe.**
- d Carrying out sewerage work.**
- e Carrying out stormwater drainage work.**
- f Connecting a private drain or sewer with a public drain or sewer under the control of a Council or with a drain or sewer which connects with such a public drain or sewer.**
- g Disposing of waste into a sewer of the Council.**

9 Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6.

Details are to be submitted to Council prior to work commencing.

10 Before work commences, the Council must be informed in writing of the name and contractor licence number of the licensee who has been contracted to do or intends to do the work

11 All excavation and backfilling are to be executed safely and in accordance with appropriate professional standards, and are to be properly guarded and protected to prevent them from being dangerous to life or property.

12 If the excavation is to extend below the level of the base of the footings on an adjoining allotment, the person causing the excavation shall:

- (a) preserve and protect such building from damage;**
- and**

- (b) if necessary, underpin and support the building in an approved manner.

Seven (7) days notice is to be given to the owner of the adjoining allotment of the intention to excavate below the level of the base of the footings. (Reference: Clause 34, Local Government (Approvals) Regulation 1993).

- 13 Hoarding/fence is to be provided to the site in accordance with the assessment provided to Council.
- 14 Details of proposed hoarding to be submitted, in writing, prior to the commencement of building operations. A builder's toilet complying with Clause 78I of the Environmental Planning and Assessment Regulation, and connected directly to the sewer is required on site throughout the entire building operation.

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

- 15 Compliance with the Building Code of Australia.

All building work must be carried out in accordance with the requirements of the (BCA).

A construction certificate shall not be issued until the Principal Certifying Authority (PCA) is satisfied that the plans and specifications comply with the BCA.

- 16 If the soil conditions require it:-
 - (a) retaining walls or other approved methods of preventing movement of the soil must be provided; and
 - (b) adequate provision must be made for drainage.

- 17 The dwellings shall be constructed to include all of the energy efficiency requirements as specified by the assessment No 003/KEM/1027 dated 24th October 2003 provided with the application.
- 18 The hours of operation of construction activity are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
- 19 Building materials are not to be stored within the road reserve or any other public place.
- 20 Excavated material from the site is not to be placed within the road reserve or any other public place.

- 21 Vehicular access from the street to the property boundary is to be via a heavy duty layback and full width 150mm thick reinforced concrete paving. A detailed plan is to be submitted prior to the release of the Construction Certificate.
- 22 Any redundant footpath crossings or access culverts to be removed and reconstructed at the applicant's expense, and footway access restored to the satisfaction of Council, prior to occupation of the premises.
- 23 All internal parking areas, accessways, turning areas, driveways and ramps are to be constructed in accordance with Council's Parking Code and Engineering Guidelines for Subdivision and Development before occupation of the building or commencement of the proposed land use. All such areas to be concrete paved.
- 24 Provision of a physical barrier across the full road frontage of the property suitable to prevent vehicular access at locations other than the approved driveways prior to occupation of the premises. Details are to be provided with the plans for the Construction Certificate.
- 25 The plans prepared for the Construction Certificate are to provide for a concrete footpath across the full road frontage of the property in accordance with Council's Engineering Guidelines for Subdivision and Development - DCP 36. All works are to be carried out strictly in accordance with the plan.
- 26 Detailed engineering plans and supporting calculations for on site stormwater detention are to be submitted for approval prior to the release of the Construction Certificate and are to be prepared and certified by a qualified Civil Engineer. The design of the proposed system will limit post development flows to be less than or equal to pre development flows for all storm events up to and including the 1 in 100 year storm event in accordance with "Australian Rainfall and Runoff" and Councils Engineering Guidelines for Subdivision and Development DCP 36.
- 27 Prior to the issuing of an Occupation Certificate the following requirements are to be satisfied:-
 - a Work-as-executed details obtained by the person responsible for the design and supervision are to be submitted to verify the storage has been constructed in accordance with the design requirements, and that floor levels are above the

minimum required. Any significant variations must be supported by amended calculations.

- b Verification that an appropriate 88B restriction as to user has been placed on the title of the land describing the facility clearly and that it is not to be varied in any way without the consent of Council.
- 28 Stormwater from the development is to be connected to Councils stormwater drainage system in Landsborough Street located approximately 87 metres to the east. The Landsborough Street road reserve is to be 375mm.
 - 29 Detailed engineering plans for relocation of Councils sewer main clear of the proposed building are to be submitted for approval prior to the release of the Construction Certificate and are to be prepared and certified by a qualified Civil Engineer in accordance with Councils Engineering Guidelines for Subdivision and Development - DCP 36. Works-as-executed plans are to be submitted prior to the issuing of an Occupation Certificate.
 - 30 Lot 8 Section 7 DP 374092 and Lots A and B DP 301224 are to be consolidated into one lot prior to the issuing of an Occupation Certificate.
 - 31 Applicant is to submit with the final plan of subdivision copies of any instruments under Section 88B of the Conveyancing Act 1919 relevant to any restrictive covenants, assessments or rights of way created by or affected by this subdivision.
 - 32 Submission of an application for Subdivision Certificate pursuant to Section 4A of the Environmental Planning and Assessment Act 1979, which authorises the registration of the plan of subdivision.
 - 33 Submission of an application for a Certificate of Compliance pursuant to Section 305 of the Water Management Act 2000 and the lodgment of a Certificate of Compliance indicating that the requirements of Section 306 of the Water Management Act 2000 have been met, prior to release of the Construction Certificate.
 - 34 You are advised that a Certificate of Compliance pursuant to Division 5 of the Water Management Act 2000 will be issued by Council, subject to the following matters being complied with:-
 - a Payment of a contribution towards the augmentation of sewerage headworks at the rate of

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\$2964 per equivalent tenement, i.e \$2964 x 9.29 E.T = \$24,535. (Indexed 2003/2004)

b Payment of a contribution towards district water supply at the rate of \$1184 per equivalent tenement, i.e \$1184 x 9.29 E.T = \$10,999. (Indexed 2003/2004)

35 The applicant is to pay a contribution towards outdoor recreation for each additional dwelling unit after the first unit in accordance with Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Construction Certificate, at the rate prevailing at that time. The current rate is \$1842 per additional dwelling unit, i.e \$1842 x 9.29 E.T = \$16578. (Indexed 2003/2004)

A copy of Council's Section 94 Plan may be inspected at Council's offices, Corner Elbow and Tozer Streets, West Kempsey.

36 Submission of a detailed landscaping plan providing for the establishment of suitable species endemic to the area, including the number and species of plants to be planted and the means of establishing the landscaping beds prior to release of the Construction Certificate.

37 Soil Erosion control measures are to be implemented on the site. The control measures shall be in accordance with Council's Guidelines - Preparing an Erosion and Sediment Control Plan. The Control Plan is to be submitted and approved prior to release of the required Construction Certificate.

38 Payment of a cash contribution in lieu of the provision of on-site carparking in accordance with Council's Section 94 Plan for off-street carparking at the rate applicable at the time of payment (currently \$12541 per space), based on 3 parking spaces, prior to release of the Construction Certificate. The total cash contribution is for the sum of \$37,623 (indexed 2003/2004).

A copy of Council's Section 94 Plan may be inspected at Council's offices, Cnr Elbow and Tozer Streets, West Kempsey.

39 Privacy screens are to be constructed over the windows of bed 2, unit 6 and bed 2 unit 12. Details are to be provided prior to the release of the required Construction Certificate.

B. That the objector be notified.

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.....
Councillor J Bowell



ADOPTION OF AGENDA ORDER OF BUSINESS

2003. 116

RESOLVED:

*Moved: Cl. Bowell
Seconded: Cl. Hunt*

That the Agenda Order of Business be adopted.



NOTICE OF MOTION

NOM1	LAND RELEASE STRATEGY FOR RURAL RESIDENTIAL LAND
FILE: T4-41	BWC(NRN)
	{Folio No. 267109}

Notice is hereby given that I intend to move the following motion at the meeting at the Planning Committee meeting of Council scheduled for 23rd December 2003.

2003. 117

RESOLVED:

*Moved: Cl. Bowell
Seconded: Cl. Hunt*

That a Report be submitted to the Land Release Strategy Committee Meeting if possible by 10th March 2004 in respect to Council's Land Release Strategy for the availability of rural residential land in accordance with the previous resolution of the Land Release Strategy Task Force.

RESCISSION MOTION 1

RM1	12 RESIDENTIAL AND TWO COMMERCIAL UNITS - SOUTH WEST ROCKS
FILE: T6-03-589	BWC
	{Folio No. 267115}

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



DIRECTOR ENVIRONMENTAL SERVICES REPORT

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DES1

**PROPOSED TWO STOREY DWELLING - LOT 71
OCEAN STREET, SOUTH WEST ROCKS**

FILE: T6-03-775 JGR

{Folio No. 267119}

SUMMARY:

Reporting that Council has received an application to build a two storey brick veneer dwelling, which requires a variation to Council's DCP 22 Local Housing regarding building height.



Applicant: Mr A Frazer
Subject Land: Lot 71 DP 791311 No 87 Ocean Street, South West
Rocks
Zone: Residential 2(a)

Proposed Development

An application has been received by Council for the erection of a two storey brick veneer dwelling.

Siting

The allotment is situated on the western side of Ocean Street, and falls steeply from the road approximately 13 ° over the length of the allotment. There is a stormwater and sewer easement situated at the rear of the allotment.

Heads of Consideration:

The proposal has been examined having regard for the Heads of Consideration identified under Section 79 C(1) of the Environmental Planning and Assessment Act with the following matters considered to be of particular relevance to the proposal. The proposal may be defined as "dwelling house" and is permissible with consent in a 2(a) residential zone under Kempsey Local Environmental Plan 1987.

The proposal is not contrary to any State Environmental Planning or North Coast Environment Plan 1988.

DCP 22 - Local Housing Strategy

The location of the proposal is contained within a defined low density area for which single dwellings only are permitted.

An assessment of the proposal against the relevant requirements of DCP 22 results in the following:

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STANDARD	REQUIRED	PROPOSED	COMPLIES Y/N
DENSITY - low	5 bedroom - 600m ²	844	Yes
SETBACKS - side - North elevations - South elevations - front - rear	1.5m 1.5m 5m 1.5m	2.4m 1.5m 7.5m 17m	Yes Yes Yes Yes
CARPARKING	1 covered space	2 covered spaces	Yes
PRIVATE OPEN SPACE	25m ²	25m ²	Yes
LANDSCAPING	200m ²	572m ²	Yes
HEIGHT	6.2m	6.55m	No
SOLAR ACCESS	Adequate	Adequate	Yes
PRIVACY	Adequate	Adequate	Yes
CUT AND FILL	<1.5m	1.5m	Yes
LONG WALLS	20 m	<20 m	Yes
ACCESS	<25%	<25%	Yes

Comment

As indicated by the above table, the proposal complies with DCP 22 except in respect to the dwelling height.

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Building Height

Building heights in residential areas are governed by clauses 24 and 25 of the Kempsey Local Environmental Plan 1987. In respect to residential zones the building height is limited to 6.2 metres to ceiling level from natural ground level.

Council may grant a variation to this standard if the topography of the site is such that compliance would be difficult.

The rear open verandah exceeds Council's maximum height by 0.35 metres. [\(Appendix A\)](#)

The allotment is considered steep with a slope of 13 ° over the allotment, and there is 5 metres of fall over the proposed building footprint.

The applicants agent Hadlow Design Services have prepared a submission on behalf of the applicant, seeking a concession to the 6.2 metre height limitation. The submission is summarised, and the following points are considered relevant to enable Council to assess the proposal and to provide a concession to height limitation. A full copy of the submission forms part of this report. [\(Appendix B\)](#)

- 1 The garage floor level has been designed so that the driveway will comply with the Australian Standard for vehicle access. If the floor levels were lowered the access standard may not be able to be achieved.
- 2 The maximum excavation for the lower level floor is 1.46 metres. Any further reduction in floor level would exceed Council's maximum site cut of 1.5 metres.
- 3 The maximum height of the building at the ridge level is 7.5 metres which complies with Council's maximum allowable height of 7.9 metres. (**Note:** This height is utilised to determine heights where raked ceilings are used).
- 4 Because of the position of an access pathway to the north of the proposed building, any future dwelling on the adjoining allotment would be located at least 8 metres from the open deck which exceeds the required 6.2 metre height. The adjoining future dwelling would not have views or amenity compromised.
- 5 Council at October 2003 Council meeting approved a dwelling at No 17 Ocean Street which exceeded the 6.2 metre height requirement by a maximum 1.38 metre based upon excessive land slope.

The proposed open verandah will exceed Council's height requirement by 0.35 metres.

Section 79(1)(e) - Advertising

The proposal was advertised in accordance with Council's Notification Policy, no objections have been received.

Conclusion

Having considered all of the relevant matters under Section 79(c) of the Environmental Planning and Assessment Act, 1979 and DCP 22 performance objections and the applicants submission, it is recommended that given the site topography that Council approve the development which exceeds the height requirement by 0.35 metres at the open rear verandah.

2003. 118

RESOLVED:

*Moved: Cl. Howell
Seconded: Cl. Sowter*

That the Development Application T6-03-775 be approved subject to the following:

- 1 **The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.**
- 2 **Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.**
- 3 **The dwelling is not to be occupied prior to the issue of an Occupation/Interim Occupation Certificate by Council.**

An application for a certificate is enclosed. It is requested that it be completed and returned to Council prior to requesting an inspection. A minimum of 48 hours notice is necessary when requesting the inspection. Appointments will be made in accordance with the inspection program for that area.

- 4 **The following inspections are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.**

Inspections required:

- (a) **footings in position and prior to the pouring of concrete;**
- (b) **all steel reinforcement prior to the pouring of concrete;**

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- (c) completion of wall and timber framing with any veneer walls completed prior to wall sheeting being fixed;
- (d) wet area floor and wall surfacing prior to tiling;
- (e) driveway crossing prior to pouring concrete;

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

- 5 Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6.

Details are to be submitted to Council prior to work commencing.

- 6 All excavation and backfilling are to be executed safely and in accordance with appropriate professional standards, and are to be properly guarded and protected to prevent them from being dangerous to life or property.
- 7 A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours.
- 8 All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Your attention is drawn to the following requirements of the Building Code of Australia.

- a Protection is to be provided from subterranean termites. Council's Code of Practice outlines methods which may be used. Details of the proposed method or methods are to be submitted for approval prior to commencement of work and suitable certifications are to be submitted prior to the issue of an occupation certificate.
- b The windows and glass installations within the building shall comply with AS 1288, Part 3.6 BCA Housing Provisions and AS2047. The applicant shall furnish Council with a report from the supplier upon completion of

the window and glass installation indicating compliance with the requirements of AS1288 and AS2047.

- c Should the verandah, patio or landing exceed 1 metre in height above the ground then a suitable balustrade is to be provided to the verandah, patio or landing and steps for safety and convenience.

Such balustrade to conform with the requirements of the Building Code of Australia:-

- (1) D2.16
- (2) Part 3.9.1 and 3.9.2 of BCA Housing Provisions

Note: Spacing of rails not to exceed 125mm.

- d Riser and Going dimensions for stairs shall be in accordance with Clause D2.13 of the Building Code of Australia. In Class 1 and 10 buildings the following will apply:

Riser(R)		Going (G)		Quantity (2R + G)	
max	min	max	min	max	min
190	115	355	240	700	550

Note: Any openings between treads not to exceed 125mm.

- e Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.

- f Details of wall bracing to be carried out in accordance with Australian Standard 1684-1999 are to be submitted to Council prior to commencement of work.

- g Class 1(a) and 1(b) Buildings

An automatic fire detection and alarm system is to be installed in the building. Such system to conform with Specification E1.7 of the Building Code of Australia or be a smoke alarm system complying with AS 3786 or listed in the SSL Register of Accredited Products.

The system is to be provided with mains electrical power, have a stand by power supply and installed in each storey to comply with Clause E1.7 (N.S.W. Variation). Details of location of the units are to be provided for approval prior to installation.

- h Any sarking used in the roof of the dwelling must have a flammability index not more than 5.

- i The sub floor ventilation must comply with Part 3.4.1.2 a) b) c) d) e) f) and g) of the Building Code of Australia (Housing Provisions).
 - j Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
 - k Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
- 9 A Survey Certificate is to be submitted upon completion of the roof framing to ensure that the top plate is at or below 6.55 metres A.H.D for the northwest external wall of the verandah.
- 10 The dwelling shall be constructed to include all of the energy efficiency requirements contained within the single residence scorecard provided.
- | | |
|----------|--------------------------------|
| Walls | Light Colour |
| Roof | Medium Colour |
| Wall | Brick Veneer and R1 Insulation |
| Roof | Tile with Sarking |
| Ceiling | R2.5 throughout |
| Hotwater | 3.5 Star Compliance |
- 11 The hours of operation of the activity are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
- 12 Building materials are not to be stored within the road reserve or any other public place.
- 13 Excavated material from the site is not to be placed within the road reserve or any other public place.
- 14 Construction of a vehicular access from the road formation to the property boundary in accordance with Council's Standard for Access to Urban Properties. Applicant is to consult Mr Tony Castle of Council's Environmental Services Department for requirements before commencing construction.
- 15 Roofwaters are to be directed by means of sealed pipes to the drainage easement. Details are to be provided with the plans for the required Construction Certificate.
- 16 Runoff and soil erosion controls shall be installed in accordance with the approved Erosion Control prior to work commencing on the site. The controls shall incorporate:-

and Assessment Act with the following matters considered to be of particular relevance to the proposal.

The proposal is not contrary to any State Environmental Planning Policy (SEPP), North Coast Regional Environmental Plan 1988 (NCREP 1988), or Kempsey Local Environmental Plan 1987 (KLEP 1987), and is permissible in the zone with development consent.

Development Control Plan No 22 - Local Housing Strategy

Being in a designated “low density” area, the proposal is required to comply with all of the following development standards outlined in DCP 22.

STANDARD	REQUIRED	PROPOSED	COMPLIES Y/N
DENSITY - low	2 x 2 bedroom: 600m ²	739.5m ²	Yes
SETBACKS - side - front - rear	Section 4.2 DCP 22: 2 storey building	2 nd storey area: min 1.5 w/adequate compensation 1 st storey area:0.9 min w/adequate compensation	Yes
ACCESS	6 metre driveway width	14.5 metres width	No*
CARPARKING	2 covered space + 1 Visitor	2 covered 2 visitor	Yes
PRIVATE OPEN SPACE	25m ² per dwelling with 4 x 4m ²	P.Y.1:Area OK, 1 in 8 P.Y.2:Area OK, 4 x 4 OK, 1 in 8 direct access from living areas	Yes
LANDSCAPING	260m ² with landscaping plan	300m ² area Landscaping plan to be conditioned	Yes
HEIGHT	<6.2 m	6.00 m	Yes
SOLAR ACCESS	< than 2 hours overshadowing of private open space	Adequate	Yes

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PRIVACY	Section 4.8 DCP 22	Concern	No*
CUT AND FILL	<1.5m	1.5 m	Yes
EROSION/ SEDIMENT CONTROL	Section 4.10 DCP 22	To be conditioned - Lot slopes from south to north by approximately 6.5 metres	Yes
INFRASTRUCTURE	Section 4.11 DCP 22	To be conditioned	Yes

The development is located within a designated low density area with DCP 22 stipulating that development shall be restricted to single dwellings per existing allotment only, unless it can be demonstrated that all of the relevant development standards specified within the DCP (Section 4) will be met. The following items of concern or non-compliance have been raised.

*** Privacy**

The applicant was requested to submit amended plans addressing potential privacy impacts the proposal is anticipated to have on adjoining lots. No amended plans were received, with the applicant stating that:

“In view of the slope away from the site into all three adjoining lots, any development proposal will overlook these lots and the neighbours, prior to purchasing their land, would have been aware of this eventuality. There are expansive views from all the immediate lots but in a more horizontal plan. The application as prepared takes advantage of the views, light and ventilation on offer. Our clients are prepared to discuss with Council any suggestions however their instructions are not to compromise the design on an issue that relies on individual perception”.

Planning Comment

Whilst it is agreed that the geography of the site may create issues regarding privacy, no attempt has been made to incorporate the use of suitable screening devices, landscaping or otherwise to prevent privacy impacts, especially upon the existing dwelling on Lot 32 to the east. No dwelling exists upon Lot 34 to the west, but it is considered that suitable measures to prevent impacts upon any future development should be employed in order to achieve the objections outlined in Section 3 of DCP 22. The fact that two dwellings are proposed also increases potential impact relative to a single dwelling. Copy of site plan and elevations are attached. [\(Appendix C\)](#)

*** Driveways and Parking**

Section 4.3 of DCP 22 requires that ‘minimum’ driveway widths are to comply with Council’s Carparking Code, with the code stipulating driveway width for dual occupancies as being 3.0 to 6.0 metres with the proposed driveway

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being 14.5 metres wide. Concern is raised regarding the width of the crossing and its impact upon the availability of on-street carparking. Section 4.3.4(f) of DCP 22 states:

“Except on corner allotments and other lots with more than one street frontage, access shall be restricted to a single driveway crossing so as to maximise the availability of on-street parking”.

Public Exhibition

The proposal was advertised in accordance with Council’s Policy with no objections having been received.

Planning Comment

Council has consistently applied the provisions of DCP 22 in respect to low density areas and has only approved multiple dwellings where all standards have been met. Any variations allowed are likely to erode the effectiveness of DCP in low density areas.

2003. 119

RESOLVED:

*Moved: Cl. Howell
Seconded: Cl. Bowen*

- A** That the applicant be invited to submit amended plans addressing privacy issues and providing for a smaller driveway crossing, whilst complying with all development standards outlined in DCP 22 within twenty eight (28) days of notice being given.

- B** That unless the amended plans or the applicants written intention to comply are received within twenty eight (28) days, that the application be refused for the following reasons:
 - 1** The current proposal may be detrimental to the amenity of the residential area due to potential privacy impacts upon neighbouring lots; and
 - 2** The current proposal does not comply with DCP 22.
 - 3** The proposal is likely to create an undesirable precedent for development within designated low density areas, thereby eroding the effectiveness of DCP 22.

The following item DES3 was withdrawn at the request of the Director Environmental Services.

DES3	DUAL OCCUPANCY + SUBDIVISION / BOUNDARY ADJUSTMENT - 4 TRIAL STREET, SOUTH WEST ROCKS
FILE: T6-03-549 AD	{Folio No. 267127}

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SUMMARY:

Reporting Council has received an application for a dual occupancy, subdivision and boundary adjustment requiring variation to Development Control Plan No 22 (DCP 22) - Local Housing Strategy. [\(Appendix D\)](#)



DES4	PROPOSED TWO STOREY DWELLING ADDITION LOT1 DP570181 NO 15 DULCONGHI STREET, CRESCENT HEAD FILE: T6-02-318 SAR	{Folio No. 267129}
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SUMMARY:

Reporting that a Development Application has been received for proposed additions to a two-storey dwelling at the above-mentioned address.



Applicant: Geoffrey Kennett
Owner: G E and R L Kennett
Subject land: Lot 1 DP570181, 15 Dulconghi Street, Crescent Head

Proposal:

A Development Application was submitted for proposed additions to a two-storey dwelling at 15 Dulconghi Street, Crescent Head.

Advertising:

The Development Application was advertised in accordance with Council's notification and advertising policy to 7 adjoining owners, with one submission received from Mr. Jim Newton of 13 Dulconghi Street, Crescent Head.

The following concerns where raised by Mr. Newton:

- Overlooking of the front deck, living area and main bedroom of 13 Dulconghi Street.
- The height of the addition in relation to the adjoining property at 13 Dulconghi Street.

In response to the submission received from Mr. Newton, an amended plan and statement was submitted to Council in order to alleviate the concerns of the adjoining owner. A copy of the statement is appended to this report.

[\(Appendix G\)](#)

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Further clarification of the amended plans was requested by Council, and a second statement was submitted. A copy of the statement is appended to this report. [\(Appendix H\)](#)

The amended plans were re-advertised in accordance with Council's notification and advertising policy, with no submissions received.

An assessment of the amended proposal against the relevant standards of Development Control Plan No 22 has resulted in the following:

DCP No 22- Local Housing Strategy

STANDARD	REQUIRED	PROPOSED	COMPLIES YES/NO
- Side - East elevation - Front - Rear	1.5m 5.0m 1.5m	1.7m 6.6m 5.0m	Yes Yes Yes
	1 covered	1 covered	Yes
Private open space	25m ²	>25m ²	Yes
Height	6.2m	7.19m	No
Solar access	15 points	N/A	N/A
Privacy	Adequate	Adequate	Yes
Cut and fill	<1.5m	<1.5m	Yes
Long walls	<20m	<20m	Yes

A copy of the eastern elevation indicating the height variation is appended to this report. [\(Appendix I\)](#)

As indicated in the above table, the proposal complies with DCP 22 except in regard to the following:

Height:

In regard to the building height, a variation in the building control can be justified in that the existing dwelling is situated on a relatively steeply sloping block with only a small portion of the addition exceeding the designated height control.

The variation in building height can be further justified in that the roofline of the proposed addition will not exceed the height of the existing dwelling and the overall design of the dwelling will remain complimentary to that which is already exists. By allowing the variation in building height, the additions will be maintained at the same level as the principle living areas of the existing dwelling.

The addition will not be seen to detract from the existing streetscape nor will it cast shadows on adjoining properties or impede the views enjoyed from adjoining dwellings. Further, the addition cannot be regarded as excessive either in terms of scale nor building height in relation to adjoining properties and the overall scale of buildings that currently exist along Dulconghi Street.

A justification for this non-compliance has been submitted to Council by Ron Smith Planning Services and is appended to this report. [\(Appendix G and H\)](#)

Conclusion:

It is considered reasonable for Council to allow a variation in height, taking into account the steepness of the site, as the additions will not exceed the roofline of the existing dwelling and therefore will not adversely affect the access to sunlight or existing views from the adjoining properties. It is further considered that the overall proposal will be in keeping with the architectural style of the existing approved dwelling.

Having considered all the relevant matters under Section 79(c) of the Environmental Planning and Assessment Act, 1979 and the relevant standards of Development Control Plan 22, it is recommended that the Section 96 modification of development consent be approved.

2003. 120

RESOLVED:

*Moved: Cl. Powell
Seconded: Cl. Sowter*

That the Development Application T6-02-318 be approved subject to the following conditions:

- 1 The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.**
- 2 This consent has been issued on the basis that Council has been appointed as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.**
- 3 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.**

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- 4 The additions is not to be occupied prior to the issue of an Occupation/Interim Occupation Certificate by Council.

An application for a certificate is enclosed. It is requested that it be completed and returned to Council prior to requesting an inspection. A minimum of 48 hours notice is necessary when requesting the inspection. Appointments will be made in accordance with the inspection program for that area.

- 5 The following inspections are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area. Where inspections are carried out by an accredited certifier other than Council, compliance certificates will be required following each inspection and forwarded immediately to The Principal Certifier.

Inspections required:

- (a) footings in position and prior to the pouring of concrete;
- (b) all steel reinforcement prior to the pouring of concrete;
- (c) completion of wall and roof framing prior to wall sheeting being fixed;

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

- 6 Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6.

Details are to be submitted to Council prior to work commencing.

- 7 Before work commences, the Council must be informed in writing of the name and contractor licence number of the licensee who has been contracted to do or intends to do the work
- 8 A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours

- 9 All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Your attention is drawn to the following requirements of the Building Code of Australia.

- a Protection is to be provided from subterranean termites. Council's Code of Practice outlines methods which may be used. Details of the proposed method or methods are to be submitted for approval prior to commencement of work and suitable certifications are to be submitted prior to the issue of an occupation certificate.
- b That the floor surface of the wet areas are properly graded and drained and the junctions of the floor with the walls are treated to prevent the penetration of moisture into the walls. An inspection of the treated area is to be arranged with Council or suitable certification is to be submitted prior to the issue of an occupation certificate.
- c The windows and glass installations within the building shall comply with AS 1288, Part 3.6 BCA Housing Provisions and AS2047. The applicant shall furnish Council with a report from the supplier upon completion of the window and glass installation indicating compliance with the requirements of AS1288 and AS2047.
- d Riser and Going dimensions for stairs shall be in accordance with Clause D2.13 of the Building Code of Australia. In Class 1 and 10 buildings the following will apply:

Riser(R)		Going (G)		Quantity (2R + G)	
max	min	max	min	max	min
190	115	355	240	700	550

Note: Any openings between treads not to exceed 125mm.

- e Class 1(a) and 1(b) Buildings

An automatic fire detection and alarm system is to be installed in the building. Such system to conform with Specification E1.7 of the Building Code of Australia or be a smoke alarm system complying with AS 3786 or listed in the SSL Register of Accredited Products.

The system is to be provided with mains electrical power, have a stand by power supply and installed in each storey to comply with Clause E1.7 (N.S.W. Variation). Details of location of the units are to be provided for approval prior to installation.

- f The walls immediately adjacent or behind a bath, basin, sink or trough, shall be finished to a height of not less than 300mm above the fixture or in the case of a shower, to a height of 1.8 metres above the floor with cement render ceramic tiles or other approved finish impervious to water.
- 10 Building materials are not to be stored within the road reserve or any other public place.
- 11 Runoff and soil erosion controls shall be installed in accordance with the approved Erosion Control prior to work commencing on the site. The controls shall incorporate:-
 - a diversion of uncontaminated upsite runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed.
 - b sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent unwanted sediment and other debris escaping from the land.
 - c maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.

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

Note:

- i Any roof drainage system is to be connected to the required discharged point at the building frame inspection stage.
- ii Any material spilled or deposited on the road reserve or in the gutter is to be removed immediately.
- 12 Roofwaters are to be connected to the existing stormwater disposal system.
- 13 No trees to be lopped or removed except in accordance with Council's Policy on Tree Preservation, and with the written consent of Council.

Councillor Hunt recorded his vote against the foregoing Resolution.

DES5	12 RESIDENTIAL AND TWO COMMERCIAL UNITS - SOUTH WEST ROCKS	FILE: T6-03-589 AD	{Folio No. 267131}
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This report was dealt with earlier in the meeting just after Public Forum.

DES6	DUAL OCCUPANCY - 10 WILLIAM STREET, EAST KEMPSEY	FILE: T6-03-724 AD	{Folio No. 267133}
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SUMMARY:

Reporting that Council has received an application for a dual occupancy and strata subdivision in East Kempsey requiring variation to Development Control Plan No 22 - Local Housing Strategy, and for which four (4) objections have been received.



Applicant: Dutton Engineering Excellence
Subject Land: Lot 5 DP 822681 No 10 William Street, East Kempsey
Zone: 2(a) Residential
Proposal: Dual occupancy and Strata Subdivision

Heads of Consideration:

The proposal has been examined having regard for the Heads of Consideration identified under Section 79 C(1) of the Environmental Planning and Assessment Act with the following matters considered to be of particular relevance to the proposal.

Development Control Plan No 22 - Local Housing Strategy

STANDARD	REQUIRED	PROPOSED	COMPLIES Y/N
DENSITY - Medium	2 x 3 bedroom: 660m ²	1049m ²	Yes
SETBACKS - side - front - rear	0.9m (w compensatory) 5.00m 0.9m (w compensatory)	2.706m } Adequate >50m } Compensation 1.460m }	Yes
CARPARKING	2 covered	2 covered	No

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	1 visitor AS 2890.1	2 visitor Turning OK, NOT to reverse down 50 m of driveway.	Can be rectified by application of conditions
PRIVATE OPEN SPACE	>25m ² per dwelling with 4 x 4m ²	U1:>25m ² } w 4x4 U2:>25m ² }	Yes
LANDSCAPING - area - plan	U1:115m ² w 4.x4m ² To be conditioned	U1:134m ² U2:260m ² To be conditioned	Yes
HEIGHT	<6.2 m	U1:3.25m U2:3.00m	Yes
SOLAR ACCESS - sunlight - energy smart	> 2 hours on living areas between 9am - 3pm - 22 June 3.5 stars +	U1:may overshadow sections of 5 th adjoining neighbours lot Both dwellings 3.5 stars +	No
PRIVACY	Section 4.8 DCP 22	Adequate	Yes
CUT AND FILL	<1.5m	1.1m	Yes
EROSION/ SEDIMENT CONTROL	To be conditioned	To be conditioned	Yes
INFRASTRUCTURE	Section 4.11 DCP 22	1 ET credit + 1 ET to be charged	Yes

Carparking

An assessment of the proposal by Council officers reveals that the current proposal does not provide an adequate turning area for vehicles to exit the site, and as such would be forced to reverse along approximately 50 metres of driveway onto William Street, creating potential for traffic and safety conflicts. Normally traffic volumes on William Street would allow for vehicles to reverse, however, 50 metres is considered excessive.

However, the plans submitted allow for two visitor carparks, which is in excess of the DCP requirements. In this regard, a condition of consent should be applied requiring the provision of a suitable turning area in the location of the current carpark for dwelling 2, allowing for vehicles to exit the site in a forward motion.

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Solar Access/Overshadowing

Concern has been raised that overshadowing of the main/primary private open space (ie. rear yard) of the southern lot would result from the proposed location of dwelling 1 on the site. The applicant was requested to submit shadow angle diagrams displaying shadows cast at 9am, 11am, 1pm and 3pm on the 22nd of June [\(Appendix M\)](#). An assessment of the projected overshadowing from Council officers in comparison with the projected overshadowing from a standard 1.8 metre high fence at the same time reveals that:

- Marginal non compliance occurs: ie. an area less than 0.5 metres squared is overshadowed for more than two hours on the 22nd of June when the shadows of a standard 1.8 metre high fence are overlaid with the anticipated shadows from the proposal. [\(Appendix M\)](#)
- Approximately 120m² of the yard would be overshadowed by a 1.8 metre fence on the 22nd June in excess of 2 hours.
- Greater than 190 metres squared of the primary private open space remains in direct sunlight between 9am and 3pm on the 22nd of June, when DCP 22 requirements normally stipulate primary open space areas to be 25 metres squared or greater.

Planning Comment

Due to the marginal area of non-compliance with the requirements of DCP 22, and the excess of primary private open space which will be in direct sunlight between 9am and 3pm (greater than 90 metres squared) on the southern adjoining lot the variation can be considered reasonable in this instance.

Views

Concern has been expressed by objectors that view loss will occur. Whilst Council has no policy relating to views, it is agreed that some loss of view of the reserve to the north will occur. It must be noted that the subject land is zoned residential, and is entitled to have application made for multiple residences in accordance with the applicable regulations, plans and policies.

Public Exhibition

The proposal was advertised in accordance with Council policy with four (4) objections having been received which may be summarised as follows: [\(Appendix N\)](#)

1 The light and noise this development will cause will destroy privacy.	1 Any increase in light and noise generated is anticipated to be in keeping with the residential amenity of the area.
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2	Two dwellings jammed on this area of land set amongst quality homes will affect the character and amenity of the area.	2	The proposal is well in excess of the DCP land area requirements for two 3 bedroom dwellings. An area of 660m ² is the minimum area required for medium designated areas within the subject land being approximately 1094m ² .
3	The adjoining reserve is used extensively for recreation by the public - the traffic created by this development will totally destroy the peace and serenity of the reserve.	3	Traffic generated by the proposal relative to existing and anticipated future traffic is not likely to be detrimental to the amenity of the area.
4	One dwelling on the land would reduce outlook and view, 2 would totally eliminate it, further devaluing surrounding land.	4	The impact the proposal will have on land values in the area is speculative. Refer Heads of Consideration - Views.
5	The cut and fill proposed for dwelling 1 will result in the diversion of runoff water onto adjacent properties.	5	The cut and fill proposed does not exceed the maximum requirement outlined in DCP 22 (1.5 metres). Stormwater runoff will be required to be controlled in accordance with the standard conditions of consent.
6	There is a huge pine tree stump on the land which has been identified as being the source of termite infestation. It will need to be removed, the land filled, and any fence and properly that is damaged to be restarted.	6	A condition will be applied requiring the removal of the stump, with any damage to neighbouring property to be suitably restored to Council's satisfaction.
7	What is going to happen to the runoff from the hard surfaces of two additional houses.	7	Refer Planning Comment No 5.
8	Existing drains within the park are insufficient to handle surface runoff in its current form.	8	Refer Planning Comment No 5
9	There is a brick retaining wall which has a gap of only 62cm from wall to driveway. Should	9	All services are indicated on the plans as being provided on the northern side of the lot,

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this area be used to provide services, the wall may collapse, with the onus and cost of repairing upon the applicants.

opposite the existing wall approximately four metres distant, and as such are not anticipated to affect the wall.

Bushfire

At the time of writing the requirements of the Rural Fire Service had not been received. A Bushfire Safety Authority is required and any conditions imposed by the Rural Fire Service must be included in any consent.

2003. 121

RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Howell*

- A That subject to concurrence being received from the Rural Fire Service consent be granted, subject to the following conditions:**
- 1 The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.**
 - 2 This consent has been issued on the basis that Council has been appointed as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.**
 - 3 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.**
 - 4 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.**
 - 5 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.**
 - 6 The dwellings are not to be occupied until all conditions of Council's consent have been complied with to the satisfaction of Council and an Occupation Certificate has been obtained.**
 - 7 Before the commencement of site works, demolition or building, the following activities must be completed:**
 - a Installation of soil erosion and sedimentation control devices.**

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- b Installation of safety fencing/hoardings between the property and the street
 - c Protection barriers for existing trees
 - d Installation of builder's toilets
 - e Installation of signage in prominent, visible position including -
 - "Unauthorised site entry is prohibited"
 - Name and phone number of builder or other responsible person for contact outside working hours.
- 8 Provision of a security deposit to Council totalling \$600 to cover any damage sustained to public property including footway and kerb and gutter or road pavement during construction and to ensure satisfactory completion of any works on public property required in connection with this approval. The deposit is to be lodged with Council prior to the issuing of the required Construction Certificate and will be released upon submission of documentary evidence indicating that an Occupation Certificate has been issued.
- 9 Submission of an application(s) to Council pursuant to Section 68 of the Local Government Act 1993 for the following, prior to the issue of a Construction Certificate:-
- a Installing a temporary structure on land.
 - b Carrying out water supply work.
 - c Installing, altering, disconnecting or removing a meter connected to a service pipe.
 - d Carrying out sewerage work.
 - e Carrying out stormwater drainage work.
 - f Connecting a private drain or sewer with a public drain or sewer under the control of a Council or with a drain or sewer which connects with such a public drain or sewer.
 - g Disposing of waste into a sewer of the Council.
- 10 Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder

or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6.

Details are to be submitted to Council prior to work commencing.

- 11 Before work commences, the Council must be informed in writing of the name and contractor licence number of the licensee who has been contracted to do or intends to do the work.
- 12 All excavation and backfilling are to be executed safely and in accordance with appropriate professional standards, and are to be properly guarded and protected to prevent them from being dangerous to life or property.
- 13 If the excavation is to extend below the level of the base of the footings on an adjoining allotment, the person causing the excavation shall:
 - (a) preserve and protect such building from damage; and
 - (b) if necessary, underpin and support the building in an approved manner.

Seven (7) days notice is to be given to the owner of the adjoining allotment of the intention to excavate below the level of the base of the footings. (Reference: Clause 34, Local Government (Approvals) Regulation 1993).

- 14 Hoarding/fence is to be provided to the site in accordance with the assessment provided to Council. Details of proposed hoarding to be submitted, in writing, prior to the commencement of building operations.
- 15 A builder's toilet complying with Clause 78I of the Environmental Planning and Assessment Regulation, and connected directly to the sewer is required on site throughout the entire building operation.

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

- 16 All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Compliance with the Building Code of Australia.

All building work must be carried out in accordance with the requirements of the (BCA). A construction certificate

shall not be issued until the Principal Certifying Authority (PCA) is satisfied that the plans and specifications comply with the BCA.

- 17 If the soil conditions require it:-
- (a) retaining walls or other approved methods of preventing movement of the soil must be provided; and
 - (b) adequate provision must be made for drainage.
- 18 The dwelling shall be constructed to include all of the energy efficiency requirements contained within the single residence scorecard provided.
- | | | |
|----------|---|-------------------------|
| Walls | } | |
| Roof | } | AS SPECIFIED BY NATHERS |
| Wall | } | ASSESSMENT NO 103 DATED |
| Roof | } | 30 SEPTEMBER 2003 |
| PROVIDED | | |
| Ceiling | } | WITH THE APPLICATION |
| Hotwater | } | |
- 19 Access from the street to the property boundary to be via a standard layback and full width concrete paving. Paving to be 125mm thick unreinforced with construction joints to suit service trenches. Applicant is to consult Council's Environmental Services Department for details prior to commencing work on site.
- 20 Any redundant footpath crossings or access culverts to be removed and reconstructed at the applicant's expense, and footway access restored to the satisfaction of Council, prior to occupation of the premises.
- 21 All internal accessways and parking spaces have been designed and constructed in accordance with Council's Engineering Guidelines for Subdivision and Development to at least concrete paved standard.
- 22 All stormwater drainage from this site is to be collected and piped and directed for disposal to the existing piped interallotment stormwater drainage into William Street. Detailed engineering plans are to be submitted for approval prior to issuing a Construction Certificate.
- 23 Creation of a private easement 1.5 metres wide to drain stormwater from adjoining No 5 Ronald Robinson Place through proposed Lot 51 along the eastern boundary to the existing surface inlet pit located on the existing interallotment drainage line. Details are to be provided

prior to the release of the required Construction Certificate.

24 Creation of a 1.5 metre wide private easement within proposed Lots 51 and 52 over the existing interallotment drainage line allowing existing allotment 4 DP 822681 No 5 Ronald Robinson Place and the proposed lots within this development to access and maintain the drainage line at any time. Details are to be provided prior to the release of the required Construction Certificate.

25 All internal parking areas, accessways, turning areas, driveways and ramps are to be constructed in accordance with Council's Parking Code and Engineering Guidelines for Subdivision and Development before occupation of the building or commencement of the proposed land use. All such areas to be concrete paved and/or bitumen sealed.

All new access-way pavement areas located in the vicinity of the existing interallotment drainage pipe is to be constructed using a paving system that allows ready access to the drainage pipe for maintenance. Details are to be submitted to Council for approval prior to the issue of the Construction Certificate.

26 The proposed visitor carpark adjacent to dwelling 2 is to be suitably marked "keep clear" and identified as turning areas, to ensure vehicles exit from the development in a forward motion. Details are to be provided prior to the release of the Construction Certificate.

27 A 1.8 metre fence constructed of suitable materials is to be provided along the southern boundary between Lot 5 DP 822681, Lot 6 DP 258641 and Lot 7 DP 258641. Details are to be provided prior to the release of the Construction Certificate.

28 The existing posts on the property boundary and Council's William Street road reserve are to be removed.

29 The pine tree stump adjacent to the intersection of the boundaries of Lots 5 DP 822681, Lot 6 DP 258641 is to be removed and filled. The applicant is to restore any damage to neighbouring property to Council's satisfaction should this occur.

30 Submission of an application for a Certificate of Compliance pursuant to Section 305 of the Water Management Act 2000 and the lodgement of a Certificate of Compliance indicating that the requirements of Section 306 of the Water Management Act 2000 have been met, prior to release of the Construction Certificate.

31 You are advised that a Certificate of Compliance pursuant to Division 5 of the Water Management Act 2000 will be issued by Council, subject to the following matters being complied with:-

a Payment of a contribution towards district water supply at the rate of \$1,184 per equivalent tenement, i.e \$1,184 x 1 E.T = \$1,184. (Indexed 2003/2004)

32 Provision of separate internal sewer pipes to connect separately to the existing sewer junction.

33 The applicant is to pay a contribution towards the Outdoor Recreation for each additional dwelling unit after the first unit in accordance with Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Construction Certificate, at the rate prevailing at that time. The current rate is \$380 per additional dwelling unit, i.e \$380 x 1 E.T = \$380. (Indexed 2003/2004)

A copy of Council's Section 94 Plan may be inspected at Council's offices, Corner Elbow and Tozer Streets, West Kempsey.

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

Councillor Hunt recorded his vote against the foregoing Resolution.

DES7	DUAL OCCUPANCY - 6 TREVOR JUDD AVENUE, SOUTH WEST ROCKS	{Folio No. 267135}
	FILE: T6-03-771 AD	

SUMMARY:

Reporting that Council has received a Development Application for a dual occupancy for which objections have been received.



Applicant: Arakoon Homes Pty Ltd
Subject Land: Lot 25 DP 1044239 No 6 Trevor Judd Avenue,
South West Rocks
Zone: 2(a) Residential "A" Zone

Heads of Consideration:

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The proposal has been examined having regard for the Heads of Consideration identified under Section 79 C(1) of the Environmental Planning and Assessment Act with the following matters considered to be of particular relevance to the proposal.

The proposal is not contrary to any State Environmental Planning Policies, the North Coast Regional Environmental Plan 1988, or the Kempsey Local Environmental Plan 1987.

The proposal is permissible with consent in the zone.

Development Control Plan No 22 (DCP 22) - Local Housing Strategy

STANDARD	REQUIRED	PROPOSED	COMPLIES Y/N
DENSITY - medium	570m ²	631m ²	Yes
SETBACKS - side - front - rear	Section 4.2.2 DCP 22	1.8 m average, 70.9m min 5 m primary, 3m secondary, 1.8 average, 70.9m min	Yes
CARPARKING Resident Visitor AS2890.1	Section 4.3 DCP 22	1 covered per dwelling 2 visitor spaces complies with AS2890.1	Yes
PRIVATE OPEN SPACE	Section 4.4 DCP 22	>4 x 4m ² and 25m ² accessible and levelled	Yes
LANDSCAPING Area Plan	205m ² natives, natural features	238m ² all provided for	Yes
HEIGHT	6.2 m maximum	Unit 1 - 2.9m Unit 2 - 4.25m	Yes
SOLAR ACCESS Sunlight	Section 4.7 DCP 22	Solar diagram	No

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Energy Smart		provided 3-5 Star NatHERS	
PRIVACY	Section 4.8 DCP 22	Minimal privacy issues	Yes
CUT AND FILL	<1.5m	Max cut - 0.5m Max fill - 1.3m	Yes
EROSION/ SEDIMENT CONTROL	Section 4.10 DCP 22	Temporary measures provided. No other issues	Yes
INFRASTRUCTURE	To be conditioned	To be conditioned	Yes

Solar Access

An assessment against the requirements of DCP 22 indicate that the proposal complies with all relevant development standards except overshadowing of proportion of the private open space of dwelling 1. This is considered acceptable in this instance, as other areas of private open space and landscaped area have been provided. The area overshadowed for more than 2 hours on the 22nd of June represents 2.2% of the total landscaped area (4.8m²) and the area of non-compliance is only overshadowed between 12 noon and 3pm.

Public Exhibition

The proposal was advertised in accordance with Councils Policy with one (1) objection marked 'confidential' having been received. This may be summarised as follows:-

Objection		Planning Comment	
1	Enjoyment of a quiet private estate would be detrimentally affected due to increased traffic and noise.	1	The proposal is not anticipated to produce any unacceptable increase in noise or traffic.
2	Condensed housing environment would cause an over-crowded appearance.	2	The proposal meets all the DCP 22 requirements concerning density and landscaped area and, as such, is not expected to unlikely impact upon the visual amenity of the area.
3	Character of the estate would be affected due to the area not being at "one house per block".	3	The proposal complies with the density requirements outlined within DCP 22. Council has an obligation to ensure adequate

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		provision of a range of housing types and sizes.
4	Estate not privately owned and/or occupied and as such not encouraging maintenance of the estate.	4 No evidence exists to support this objection.
5	Housing of this type should be kept to the tourist area of town.	5 KLEP 1987 places no zoning restrictions on the construction of dual occupancies within the residential zone. All requirements of DCP 22 have been satisfied and as such is the proposal considered an appropriate development.
6	High resident turn-over will result from such properties being leased.	6 The leasing of such property is permissible and the rate of turnover of the tenants not a Council issue.
7	Such a development amongst private housing due to previous bad experiences.	7 The future use of the development as a "holiday home" is unsubstantiated. There are no limitations regarding the construction of leased, high resident turnover holiday dual occupancy development within the subdivision.

Bushfire

The proposal is required to be referred to the Rural Fire Service as integrated development. As at the date of writing, no comments had been received. Being within an existing urban area, no adverse comments are expected. However, consent cannot be issued until the Bushfire Safety Authority has been received. As integrated development, any conditions imposed by the Rural Fire Service must be included in any consent.

2003. 122

RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Bowell*

That subject to concurrence being received from the Rural Fire Service, consent be granted subject to the following conditions, including any conditions imposed by the Rural Fire Services.

- 1 The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.**

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- 2 This consent has been issued on the basis that Council has been appointed as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.
- 3 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.
- 4 The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.
- 5 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
- 6 The dwellings are not to be occupied until all conditions of Council's consent have been complied with to the satisfaction of Council and an Occupation Certificate has been obtained.
- 7 Before the commencement of site works, demolition or building, the following activities must be completed:
 - a Installation of soil erosion and sedimentation control devices.
 - b Installation of safety fencing/hoardings between the property and the street
 - c Protection barriers for existing trees
 - d Installation of builder's toilets
 - e Installation of signage in prominent, visible position including -
 - "Unauthorised site entry is prohibited"
 - Name and phone number of builder or other responsible person for contact outside working hours.
- 8 Provision of a security deposit to Council totalling \$600 to cover any damage sustained to public property including footway and kerb and gutter or road pavement during construction and to ensure satisfactory completion of any works on public property required in connection with this approval. The deposit is to be lodged with Council prior to the issuing of the required Construction Certificate and will be released upon submission of documentary evidence indicating that an Occupation Certificate has been issued.

- 9 Submission of an application(s) to Council pursuant to Section 68 of the Local Government Act 1993 for the following, prior to the issue of a Construction Certificate:-
- a Installing a temporary structure on land.
 - b Carrying out water supply work.
 - c Installing, altering, disconnecting or removing a meter connected to a service pipe.
 - d Carrying out sewerage work.
 - e Carrying out stormwater drainage work.
 - f Connecting a private drain or sewer with a public drain or sewer under the control of a Council or with a drain or sewer which connects with such a public drain or sewer.
 - g Disposing of waste into a sewer of the Council.
- 10 Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6.
- Details are to be submitted to Council prior to work commencing.
- 11 Before work commences, the Council must be informed in writing of the name and contractor licence number of the licensee who has been contracted to do or intends to do the work
- 12 All excavation and backfilling are to be executed safely and in accordance with appropriate professional standards, and are to be properly guarded and protected to prevent them from being dangerous to life or property.
- 13 If the excavation is to extend below the level of the base of the footings on an adjoining allotment, the person causing the excavation shall:
- a preserve and protect such building from damage; and
 - b if necessary, underpin and support the building in an approved manner.

Seven (7) days notice is to be given to the owner of the adjoining allotment of the intention to excavate below the level of the base of the footings. (Reference: Clause 34, Local Government (Approvals) Regulation 1993).

- 14 Hoarding/fence is to be provided to the site in accordance with the assessment provided to Council.

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

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

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

- 16 All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Your attention is drawn to the following requirements of the Building Code of Australia.

- 17 If the soil conditions require it:-

- a retaining walls or other approved methods of preventing movement of the soil must be provided; and
- b adequate provision must be made for drainage.

- 18 The following survey certificates must be given to Council at the following stages:-

- On completion of floor slab framework before concrete is poured, detailing the location of the structure to the boundaries. Levels shall relate to the datum shown on the consent.

- 19 The dwelling shall be constructed to include all of the energy efficiency requirements contained within the single residence scorecard provided.

Walls	}	
Wall	}	
Roof	}	
Ceiling	}	
Hotwater	}	
		AS SPECIFIED BY THE HOUSING ENERGY RATING ASSESSMENT PROVIDED WITH THE APPLICATION DATED 5 NOVEMBER 2003.

- 20 Access from the street to the property boundary to be via a standard layback and full width concrete paving. Paving to be 125mm thick unreinforced with construction joints to suit service trenches. Applicant is to consult Council's Environmental Services Department for details prior to commencing work on site.
- 21 Any redundant footpath crossings or access culverts to be removed and reconstructed at the applicant's expense, and footway access restored to the satisfaction of Council, prior to occupation of the premises.
- 22 All internal accessways and parking spaces have been designed and constructed in accordance with Council's Engineering Guidelines for Subdivision and Development to at least concrete paved standard.
- 23 Roofwaters are to be connected to the existing stormwater disposal system.
- 24 An interception drain at the boundary of the property to collect all stormwater runoff from paved areas piped then discharged through the kerb via a standard converter, strictly in accordance with Council's Engineering Guidelines for Subdivision and Development.
- 25 Submission of a detailed landscaping plan providing for the establishment of suitable species endemic to the area, including the number and species of plants to be planted and the means of establishing the landscaping beds prior to release of the Construction Certificate.
- 26 Soil Erosion control measures are to be implemented on the site. The control measures shall be in accordance with Council's Guidelines - Preparing an Erosion and Sediment Control Plan. The Control Plan is to be submitted and approved prior to release of the required Construction Certificate.
- 27 Submission of an application for a Certificate of Compliance pursuant to Section 305 of the Water Management Act 2000 and the lodgement of a Certificate of Compliance indicating that the requirements of Section 306 of the Water Management Act 2000 have been met, prior to release of the Construction Certificate.

You are advised that a Certificate of Compliance pursuant to Division 5 of the Water Management Act 2000 will be issued by Council, subject to the following matters being complied with:-

- a Payment of a contribution towards the augmentation of sewerage headworks at the rate of \$2,031 per equivalent tenement, i.e $\$2,031 \times 0.66 \text{ E.T} = \$1,340$. (Indexed 2003/2004)

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- b Payment of a contribution towards district water supply at the rate of \$1,184 per equivalent tenement, i.e \$1,184 x 0.66 E.T = \$781.50. (Indexed 2003/2004)
- c The applicant is to pay a contribution towards the embellishment of open space and ancillary facilities for each additional dwelling unit after the first unit in accordance with Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Construction Certificate, at the rate prevailing at that time. The current rate is \$1,842 per additional dwelling unit, i.e \$1,842 x 0.66 E.T = \$1,216. (Indexed 2003/2004)

A copy of Council's Section 94 Plan may be inspected at Council's offices, Corner Elbow and Tozer Streets, West Kempsey.

- d Payment of a cash contribution prior to the issuing of the required Construction Certificate towards Council's trunk drainage system in accordance with Council's Section 94 Plan for Stormwater Drainage at the rate of \$1,563 per equivalent tenement, i.e. \$1,563 x 0.66 E.T. = \$1,031.60 (Indexed 2003/2004).

The Plan may be inspected at Council's offices, Cnr Elbow and Tozer Streets, West Kempsey.

- e The applicant is to pay a contribution towards upgrading/maintenance of Belle O'Connor Street for dwellings on lots for which contributions have not been previously paid in accordance with Council's Section 94 Plan for Rural Roads. The contribution is to be paid prior to the release of the Construction Certificate of the rate prevailing at that time. The current rate is \$1,241 per lot/dwelling.

A copy of Council's Section 94 Plan may be inspected at Council's offices, corner Elbow and Tozer Streets, West Kempsey.

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

Councillor Hunt recorded his vote against the foregoing Resolution.

DES8	STRATEGIC DIRECTION FOR SOUTH WEST ROCKS
FILE: T4-88	BWC {Folio No. 267138}

SUMMARY:

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Reporting on submissions received in respect to Council's invitation in relation to Infrastructure Planning for South West Rocks.



Council placed a discussion paper, in respect to future infrastructure planning for South West Rocks, on exhibition and seventeen (17) submissions have been received in relation to that paper.

A summary of those submissions is as follows:

Infrastructure Submissions

	Submission
Adelaide Swift Memorial Trust	Request for Arts Centre - more related to Crown Land Assessment Gordon Young Drive.
Stan Keifer	<ul style="list-style-type: none"> • Questions whether Council has strayed from the intentions of the Vision Statement. • Should not discourage young families by the absence of high school education facilities. • Should investigate ways of reducing load of sewerage services. • Need to remedy problem of low water pressure in "high" areas. • Encourage stormwater collection. • Possibly a high school with a shared pool will reduce Councils cost for upgrading by the existing pool. • Questions why Council would remove the "icon" Horseshoe Bay Caravan Park. • Concern at sale of land without consideration as to why it was originally "set aside".
Lower Macleay High School Establishment Association	<ul style="list-style-type: none"> ▪ Pensioner rebate burden would be considerably lifted if Management Plans focused on strategies to attract young families. ▪ Council needs to ensure sufficient land is available for a future K-12 Central School or High School.
Michael Hinchey	<ul style="list-style-type: none"> ▪ Concern at demand driven approach rather than

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	<p>the refusal needs of the community believes Council should establish a desired population growth and plan for that growth.</p> <ul style="list-style-type: none"> • Urges Council to undertake major LEP reviews.
South West Rocks Ratepayers and Citizens Association	<ul style="list-style-type: none"> ▪ Discussion paper extremely difficult to discuss. ▪ Some information inconsistent e.g. population figures differ with Residential Land Release Strategy. ▪ Poses the question "do we need 1505 new blocks, mentions the PB Report and comments in respect to population. Population projections cause concern as to quality and quantity of development. ▪ Questions whether re-zoning for additional lots would be approved. ▪ Concern at PB review shelved because of possible conflict with PlanFirst. ▪ Less haste, better planning and a far more pleasing result.
Heather Hubert	<ul style="list-style-type: none"> ▪ Concern at likely loss of walking spaces adjoining residences and the Golf Course and loss of bushland.
NSW EPA	<ul style="list-style-type: none"> ▪ Suggesting that Council should consider various Policies in any augmentation strategies for water and sewerage and state how the principles of Integrated Water Cycle Management will apply via a DCP. ▪ Suggests future infrastructure requirement not proceed until final IWCM plan is available.
North Coast Environment Centre	<ul style="list-style-type: none"> ▪ Engineering solutions do not justify any developments in coastal towns and villages. ▪ A master plan should be prepared after full community consultation.
Susan Fraser	<ul style="list-style-type: none"> ▪ Document not lay-person friendly. ▪ Want ecologically sustainable and sensitive development which is not necessarily compatible with growth.

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	<ul style="list-style-type: none"> ▪ Not made use of PB review in their call for studies. ▪ Concern at trading of Water Rights. ▪ Need to look further ahead than 2016.
Gunn and Scott	<ul style="list-style-type: none"> ▪ Suggests population projection overstated. ▪ Need to consider PB report prior to approving infrastructure mentioned in the report. ▪ Zoning of land since 1987 has resulted in unsatisfactory planning in certain area has generated housing slums that have drawn vocal criticism about the lack of satisfactory planning. ▪ Questions various approvals in relation to public reserve areas. ▪ Suggest re-zoning of Horseshoe Bay should be part of a larger planning process. ▪ Suggests strategy should be looked at in regard to requirements of the North Coast Regional Environmental Plan. ▪ Suggests look at on-site treatment of waste in area of Gordon Young Drive to make need for sewer pumping systems unnecessary. ▪ Paper does not offer satisfactory solutions to the problem of population growth in the sensitive coastal environment.
Helen Hallett	<ul style="list-style-type: none"> ▪ SWR can halt its own destruction by:- <ul style="list-style-type: none"> ◇ sustainable planning ◇ putting halt on development ◇ retaining old world charm by the old style cottages and creating tree planting program ◇ becoming a pedestrian and cyclist paradise ◇ take seriously the philosophy in DCP 34.
South West Rocks Progress Association	<ul style="list-style-type: none"> ▪ Concern that population projections may significantly overstate likely growth - based on current lot yields and likely future yields. ▪ Requests assurance that infrastructure improvements will be implemented in a timely manner. ▪ Supports social infrastructure items however believe it would be a mistake to place too great an emphasis on infrastructure for retirees.

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	<ul style="list-style-type: none"> ▪ Would be misguided to plan or reduce open space, particularly in future development is to comprise a greater proportion of medium density housing. ▪ A sensitive approach is needed to the sale of land - existing residents may have bought/built with a reasonable expectation that adjoining land was to remain a reserve. ▪ Horseshoe Bay Caravan park - would like to see it remain. ▪ See the following as unnecessary: <ul style="list-style-type: none"> ○ Roundabouts at Gregory and Arthur Streets ○ Cycleway Bell O'Connor to Phillip Drive ▪ Visitor Information Office could be incorporated in library and Council Office. ▪ Examine costs associated with sporting fields in Boyters Lane.
Catherine Mottee	<ul style="list-style-type: none"> ▪ Short term gains to the building trade, estate agents and developers will cost our Council and community more in the long term if growth is not curtailed. ▪ Re-consider decision to increase population of South West Rocks until it has the financial ability to maintain well what it already has.
Ministry of Energy and Utilities	<ul style="list-style-type: none"> ▪ Council's current extraction entitlement of 2500 mL/a expires in 2012 that allocation always stands (under current legislation) and Council can apply for any additional growth entitlements on the basis of the reasonable entitlement model. ▪ Sufficient amount of planning information will become available following completion of the Shire wide Integrated Water Cycle Management Plan.
Department of Environment and Conservation (DEC) (Environment Protection and Regulation Division)	<ul style="list-style-type: none"> ▪ It may be necessary to combine realistic and innovative strategies for infrastructure planning to achieve an environmental and financially sustainable outcome. ▪ Supports a planning philosophy that promotes increased density living on existing cleared lands adjacent to established infrastructure. ▪ DEC would be interested in discussing the possibility of a jointly funded and operated Public Information Centre in the South West Rocks area.

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<p>Department of Infrastructure, Planning and Natural Resources</p>	<ul style="list-style-type: none"> ▪ Anticipated that during the process of renewing Council's groundwater extraction licence (due 2012) the Department will have determined the sustainable yield of the South West Rocks borefield. Council will need to provide information such as: <ul style="list-style-type: none"> ▲ assessment of impacts of extraction in and around Hat Head National Park ▲ Saltwater intrusion from Macleay River ▲ Impact of extraction of potential acid sulfate soils. ▪ Need for appropriate public access to areas such as: <p>Horseshoe Bay Main Beach Saltwater Lagoon (Estuary) Back Creek Estuary Macleay River Estuary Foreshore</p> <p>Council's current estuary planning process will help with some of the above.</p> ▪ Stormwater management issues are raised particularly in respect to wetland protection areas SWR9 and SWR 12 were highlighted. ▪ Public access and linkages should include walking paths and cycleways. ▪ Council should identify the broad catchment and landscape features.
<p>Friends of South West Rocks</p>	<ul style="list-style-type: none"> ▪ Need to address whether assumed growth potential is realistic. ▪ Submission on 29 specific issues including: <ul style="list-style-type: none"> ○ Concern at suggested lot yield. ○ In respect to library lack of staffing priority. ○ Use of Crown Land at South West Rocks - to benefit whole community. ○ Provision for sustainable water use and re-use. ○ Not a priority to remove from water supply. ○ Contribution plans should have careful consideration of "Triple Bottom Line" accounting. ○ Many of proposed upgrades and new facilities either premature or should have been covered by Section 94 funds - others are unnecessary. ▪ Planning Scheme needs update. ▪ Stressed need to have planning controls to reduce

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	demand for water and waste management.
J Miller	<ul style="list-style-type: none"> ▪ Serious town planning required to address issue of urban sprawl. ▪ Concerned at population growth figures. ▪ No satisfactory solutions to problems of population growth. ▪ Ensure sustainable use of stormwater.

A copy of the submissions are attached. [\(Appendix O\)](#)

Council was particularly interested in receiving feedback from the community to assist with the identification of essential facilities required in the area by 2016. A copy of the discussion paper is attached. [\(Appendix P\)](#)

Whilst the submissions made a number of comments in respect to planning issues related to current and future growth, few actually indicated their preference, or otherwise in respect to infrastructure listed in the paper or other infrastructure.

To obtain further input in respect to future infrastructure needs Councils should consider a Public Meeting at South West Rocks, to further discuss the situation. To continue to move forward on this issue such a meeting could be held towards the end of January 2004. The assistance of a facilitator should also be included in the meeting format.

Financial Implications

Costs would be involved in the hire of a hall and the appointment of a facilitator - the costs are estimated to be in the vicinity of \$1,000.

Director Environmental Services Recommendation:

That Council proceed to hold a Public Meeting and obtain the services of a facilitator.

2003. 123

RESOLVED:

*Moved: Cl. Hunt
Seconded: Cl. Bowen*

That Council proceed to hold a Public Meeting and obtain the services of a facilitator, following further consideration of the submissions received, the Intergenerational Report and the State of the Regions Report.

DES9	INCLUSION OF STUARTS POINT IN COUNCIL'S INDUSTRIAL LAND STRATEGY		{Folio No. 267140}
FILE: T4-89 MEI (NRN)			

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SUMMARY:

Reporting on the cost of including Stuarts Point in the current review of industrial land at South West Rocks and Kempsey.



At its meeting of 12 August 2003 Council resolved to:

“Include Stuarts Point in the Industrial Land Strategy which is being reviewed in the 2003/2004 year”.

Council has appointed ERM of Port Macquarie to undertake a review of industrial land at South West Rocks and Kempsey. This project has received 50% funding from the Department of State and Regional Development. ERM have provided a quote to include Stuarts Point in the review [\(Appendix Q\)](#) which is \$9,850 plus GST. This figure is due to the fact that although Stuarts Point is a small village with limited industrial potential the process of review is the same for the other areas and therefore costs a similar amount. This would increase the cost of the study from \$26,995 to \$36,805.

At present Stuarts Point has approximately 7.5 hectares of 4(a) Industrial (General) land, all of which is owned by JAG International. This land is presently unsubdivided, being the western portion of a 52.8 hectares lot divided by Grassy Head Road [\(Appendix R\)](#). It was zoned 4(a) in 1987 and has remained undeveloped since.

There has been virtually no demand for land for the type of general industry which the 4(a) zone caters for in Stuarts Point and therefore no pressure to develop this area. This is despite the fact that DCP 12 - Stuarts Point requires any industrial development to be generally confined to the 4(a) area. Further, the urban land is zoned 2(v) Village which permits a broad range of uses, including those required to support the village and surrounding area including eg; mechanical repairs and engineering, general building and construction supplies, warehouses etc.

Given the above Council may wish to reconsider the need for a review to be undertaken for Stuarts Point, at this stage.

The review of industrial land at South West Rocks and Kempsey which is currently underway will likely make recommendations which will have implications for the whole Shire. Council may wish to reconsider this matter following the completion of the review.

Director Environmental Services Recommendation:

That Council not include Stuarts Point in the Industrial Land Strategy on the basis that ample land is available and zoned for such purposes in the foreseeable future.

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MAYOR

That this matter be deferred until the report a review of industrial land at South West Rocks and Kempsey is completed.

DES10**SECTION 94 CONTRIBUTIONS TASK FORCE****FILE: S15-2****RBP****{Folio No. 267142}****SUMMARY:**

Reporting that Council has been invited to make a submission to the Section 94 Contributions Taskforce being undertaken by the Department of Infrastructure, Planning and Natural Resources (DIPNR).

**Director Environmental Services Recommendation:**

The Minister for DIPNR has appointed a Taskforce headed by Gabrielle Kibble to review the current system for levying developer charges under Section 94 of the Environmental Planning and Assessment Act. The terms of reference of the Taskforce are to:

- 1 Examine the previous report into developer contributions carried out in 2000 and whether any changes are required.
- 2 Determine whether Section 94 remains the appropriate mechanism for levying contributions for the development at a local level.
- 3 Analyse Section 94 plans, including the amount collected and held throughout the State, and identify any short fall between collected contributions and the costs of works undertaken.
- 4 Review the range of charges on development and assess the impact on affordability of housing.
- 5 Examine alternatives to Section 94, including flat rate levies and developer agreements.
- 6 Advise on implementation mechanisms for any alternatives.
- 7 Examine existing accountability.
- 8 Advise on the role of Section 94 in funding local infrastructure, having particular regard to the impacts of local government rate pegging and debt servicing.
- 9 Consult with stakeholders as necessary to ascertain views.

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In accordance with the Taskforce terms of reference, a workshop was held at Coffs Harbour on the 9th December 2003, including representatives from Council's along the Mid and North Coast Region. Whilst many of the issues raised at the workshop are common to all local government areas, it was apparent that the needs of different local government areas varied markedly depending on the level of development activity, existing level of infrastructure and local community requirements.

In respect to the individual terms of reference, the following comments are made:

Recurrent Expenditure

With the exception of roads, Section 94 does not allow for the collection of contributions towards any recurrent expenditure with contributions restricted to the capital cost of providing physical services. Given current restrictions on Councils in respect to rate pegging, Councils in developing areas such as Kempsey Shire should be provided with a mechanism for charging for recurrent expenditure associated with maintenance of public infrastructure provided in respect of new developments. For example, whilst Council sees the provision of parks and reserves as desirable, it is unable to meet the ongoing costs of maintenance created by these reserves.

Removal of rate pegging is an alternative mechanism whereby Councils are able to determine the level of rating required to provide the services the community wishes.

On the assumption that rate pegging is to remain as a Government Policy, it is considered that Council should submit that Section 94 should be extended to charging contributions for recurrent expenditure.

Existing Infrastructure - Apportionment

Currently Section 94 provides that Council may only levy a contribution towards recoupment of costs of existing infrastructure proportional to the increased demand created by new development. Council must also be able to demonstrate in its Section 94 plans that it has provided the facility in anticipation of future development. There is currently no mechanism for Council to levy contributions towards the establishment costs of infrastructure which has not been provided in advance of development but which will be utilised by the existing and future population. As in the case of the Section 64 of the Water Supply Authorities Act, it is considered that Section 94 should provide for the levying of contributions towards the provision of existing infrastructure whether or not that infrastructure was provided in advance or anticipation of future developments.

Developer Agreements

Whilst the Government is intending to introduce legislation to allow for developer agreements which would run alongside Section 94, it is considered that such agreements could be incorporated in Section 94 by some relaxation of the rigid requirements requiring a direct nexus between a development and

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the provision of a public amenity or service which would be utilised by that development. Prior to the introduction of the Regulations which require the preparation of contribution plans being introduced in 1993, it was common practice for Councils to negotiate with developers to obtain a material public benefit for the community for facilities, whether or not those facilities were directly related to demand created for a particular development. For example, a developer may, in lieu of paying contributions for open space, agree to provide a library which, on balance, a Council may consider to be a reasonable proposition. In order to provide transparency without including works in a works schedule, additional facilities (i.e. such as a multipurpose centre) could be included as matters for which Council would accept contributions as an alternative to scheduled Section 94 contributions for a particular area.

Flat Rate Levies

Whilst flat rate levies may be appropriate in areas which have reasonably equal access to public services, in areas such as Kempsey Shire which contains towns and villages with services and large rural areas with relatively poor access to services, the levying of a flat rate towards facilities may not be equitable. For example, residents in an urban area would create little or no demand for Council's rural road network with demand being restricted to relatively few persons. A flat rate would result in urban dwellers having to subsidise rural residents. Conversely, residents in remote rural areas should not be expected to contribute by means of a flat levy to facilities such as neighbourhood parks in urban areas which they would not in general utilise.

Increased Community Involvement

In order to increase community awareness of the review, Council may wish to advertise the existence of the review, including government contact details and forward a copy of Council submission to community groups who have previously expressed concerns over Section 94. Submissions close 23 January 2004.

That Council resolve to make a submission to the Section 94 Contributions Taskforce in accordance with the above report.

2003. 125

RESOLVED:

*Moved: Cl. Howell
Seconded: Cl. Sowter*

That Council resolve to make a submission to the Section 94 Contributions Taskforce to reflect the above comments in the Director's report and any other matters which are significant.

DES11	CARPARKING CONTRIBUTION - BELGRAVE STREET, KEMPSEY
FILE: T6-03-496 RBP	{Folio No. 267144}

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SUMMARY:

Reporting that Council has received a request to modify a condition of consent requiring payment of contributions towards the provision of carparking.



Applicant: V Lee
Owner: Deer Investments Pty Ltd
Subject Land: Lot H DP 2006 No 35 Belgrave Street, Kempsey

On the 19th September 2003, consent was issued for extensions to the existing Belgrave Street Medical Centre, including ground floor commercial floor space. As no details of the internal layout was provided, in accordance with Council’s Parking Code and Section 94 Plan for Offstreet Carparking, Condition 15 was imposed requiring payment of a contribution in lieu of the provision of five carparking spaces of \$29,575.

Applicant’s Submission

The applicant has subsequently requested a reduction in the carparking, as it relates to the extensions to the medical centre on the basis that no increase in staffing or capacity of the building will result as the areas are required to meet Occupational Health and Safety requirements.

The applicants are agreeable to pay a contribution in lieu of the increase in carparking generated by the additional commercial floor space for 2.7 spaces. The applicants’ consultant considers the rate to be 2.3 spaces.

Planning Comment

It is considered that the applicant has justified a reduction in the amount of carparking based on the intended future use of the Medical Centre. In respect to the area of increased commercial space, the applicants consultant is correct, however, Council’s Policy also provides for rounding off, thereby reducing the contribution on the basis of 2 carparking spaces rather than 2.3.

2003. 126

RESOLVED:

*Moved: Cl. Bowell
Seconded: Cl. Sowter*

That pursuant to Section 96 of the Environmental Planning and Assessment Act, Council agree to modify condition 15 as follows:

- **Payment of a cash contribution in lieu of onsite parking in accordance with Council’s Section 94 Plan for Offstreet Carparking at the rate applicable at the time of payment (currently \$5,915 per space) based on 2 parking spaces (ie. \$11,830 indexed 2003/2004) prior to the release of the Construction Certificate.**

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Council's Section 94 Plan may be inspected at Council's offices, corner of Elbow and Tozer Street, West Kempsey.

DES12	PROPOSED REZONING, BAKER DRIVE, CRESCENT HEAD FILE: T5-59 MEI	{Folio No. 267147}
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SUMMARY:

Reporting on further progress on this rezoning.



Council considered this matter at its meeting of 26th August 2003 and [\(Appendix S\)](#) resolved:-

- "1 That Council resolve to prepare a draft Local Environmental Plan that aims to rezone Lots 703, 704 DP 749885 and Part Lot 707 DP 811608 Crescent Head for residential purposes.**
- 2 That Council's support of the above draft Local Environmental Plan be subject to a Local Environmental Study being prepared, at no cost to Council, in support of the plan. The study should address the issues identified by public authorities."**

Following this resolution the applicant was advised that before the LES could be prepared it would be necessary for the matter of road access to the subject land to be finalised. The applicants intend gaining road access over Crown Land and as such it will be necessary to open a new road running from Bakers Drive to the subject land. They have prepared a draft proposal which the Department of Lands have informally raised no objection to. [\(Appendix T\)](#)

Once the road is constructed it will be taken over by Council, being the responsibility of the Director Engineering. The Director has been advised of the proposal and is satisfied with the design.

2003. 127

RESOLVED:

*Moved: Cl. Hunt
Seconded: Cl. Howell*

That Council approach the Department of Lands to formally open the public road from Baker Drive.



Councillor Sowter declared an interest in the following item for the reason that the owners in application 2003/LD-00745 D and S Clarke were his daughter and son-in-law.

DES13

BUILDING AND DEVELOPMENT

FILE: B9-2 BWC (NRN)

{Folio No. 267148}

SUMMARY:

Reporting on applications approved.



2003. 128

RESOLVED:

*Moved: Cl. Howell
Seconded: Cl. Hunt*

That the information be noted.

**DIRECTOR ENVIRONMENTAL SERVICES SUPPLEMENTARY
REPORT**

**DES14
(SUPP.)**

PROPOSED DWELLING NEW ENTRANCE

FILE: T6-02-486 RBP

SUMMARY:

Reporting that Council has received amended plans in respect to a proposed dwelling at New Entrance.



Applicant: A Rudge
Owner: D Johnson
Subject Land: Lot 5 DP 1022342 New Entrance Road,
New Entrance
Zone: 7(d) Scenic Protection
Description of development: Two storey dwelling

Background

Council at its meeting on 25th November 2003 resolved:-

- A. That the applicant be advised that Council considers that the proposed dwelling would result in unacceptable visual impacts on the amenity of the area having regard to its design, size and bulk.**
- B. That the applicant be invited to submit an amended application providing for a reduced scale of development designed having regard for the matters of consideration contained within the**

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Coastal Design Guidelines for NSW and the North Coast Design Guidelines.

C. That the applicant be advised that unless amended plans which address these concerns are submitted or written advice provided as to the intention to submit the requested plans within fourteen (14) days of notice being given, that consent be refused for the following reasons:-

- 1 The proposal is prohibited under Kempsey Local Environmental Plan 1987 having regard to the likely adverse visual impacts in the 7(d) Scenic Protection Zone.**
- 2 The proposal is likely to create an undesirable precedent for future development in the locality and on other 7(d) zoned land in the Shire.**

On 19th December 2003, Council received amended plans accompanied by a submission. ([Appendix U](#))

Applicants Submission

- 1 Three applications have been submitted for dwellings all of which have been rejected by Council.
- 2 The building has been reduced in size, bulk and visual impact.
- 3 A schedule of colours, finishes, textures and restrictions is proposed if necessary.
- 4 All external brickwork is to be stone textured and finished in colours limited to those commonly known as brown, creams and greens of non-reflective type.
- 5 Outward facing windows to be tinted green or grey to reduce reflection.
- 6 All outward facing window frames, handrails etc to be finished in non-reflective colours and materials.
- 7 Roof to be non-reflective dull and unobtrusive colour.
- 8 All balcony infills to be transparent in appearance.
- 9 The building has been moved to 7.5 metres from New Entrance Road to increase the setback to the wetland.
- 10 The boundary of the wetland is to be screen planted.
- 11 Southern boundary of property to be screen planted to reduce visual impacts.

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- 12 Screen planting within the front setback proposed to reduce visual impact.
- 13 Verandahs around the building will reduce reflective impacts.
- 14 The mound has been lowered by 0.54 metres.
- 15 Dwarf walls of family and bedroom reduced by 0.5 metre.
- 16 Building moved slightly north, slightly reducing height.
- 17 Building has been rotated to reduce frontage to New Entrance Road from 32.5 to 28 metres.
- 18 The building footprint has been reduced by 25% from 690m² to 520m².
- 19 The roof pitch has been reduced.
- 20 U shaped building reduces visual impacts.
- 21 The design has paid close attention to the design guidelines of NSW and North Coast Design Guidelines.
- 22 Building complies with guidelines when compared to the Riverside Tavern and the Gowing development.
- 23 The proposal will not create an undesirable precedent having regard for the existing tavern and dwelling approved on the Gowing lot.

Planning Comment

With the exception of the deletion of the swimming pool (which could be added in the future), slight rotation of the building and a reduction in the southern elevation width of 1 metre, the amended proposal is virtually identical to that previously rejected by Council. ([Appendix V](#))

On this basis, it is considered that the applicant has failed to address Council's previous resolution.

Director Environmental Services Recommendation:

- A That the applicant be advised that the amended plans do not address Council's concerns concerning the visual impact of the dwelling having regard to its design, size and bulk.**
- B That the applicant again be invited to submit an amended application providing for a reduced scale of development design having regard for the Coastal Design Guidelines for NSW and North Coast Design Guidelines.**
- C That the applicant be advised that unless the amended plans which address the concerns are submitted or written advice**

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provided as to the intention to submit the requested plans within 14 days of notice being given, the consent be refused for the following reasons:

- 1 The proposal is prohibited under Kempsey Local Environmental Plan 1987 having regard to the likely visual impacts in the 7(d) zone.
- 2 The proposal is likely to create an undesirable precedent for future development in the locality and on other 7(d) zoned land in the Shire.

MOVED:

*Moved: Cl. Sowter
Seconded: Cl. Bowell*

That the application be approved subject to conditions to be imposed by the General Manager.

An Amendment was MOVED:

*Moved: Cl. Bowen
Seconded: Cl. Hunt*

That the Director Environmental Services Recommendation be adopted.

2003. 129

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

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



PRESENTATION

At this stage 10.46 a.m. a presentation was made to Kempsey Police Inspector Loughland for the 2003 John Mawson Award for access provided to the Kempsey Police Station.

Reporting that the following applications have been approved.

Council Report on Local Development Application

Reporting that the following applications have been approved:-

2003/CB-00590

SWIMMING POOL

Owner: DOWLING CL and CROCKFORD RV

2003/LD-00413 Lot 61 DPDP789067 KEMP STREET WEST KEMPSEY

BOUNDARY ADJUSTMENT

Owner: GRIFFIN T G

Builder: 0

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- 2003/LD-00422 2 GOWING STREET CRESCENT HEAD
 ADDITIONS TO UNITS AND STRATA SUBDIVISION
 Owner: SUSSMAN E C and B
 Builder: 0
- 2003/LD-00449 4-5 WOOLFORD CRESCENT SOUTH KEMPSEY
 WORKSHOP ADDITIONS and ALTERATIONS
 Owner: MAVIN RL and AM, MACNAMARA PW
 Builder: 0
- 2003/LD-00514 18 KINCHELA STREET CRESCENT HEAD
 TWO STOREY DWELLING
 Owner: QORRAJ F and S
 Builder: 0
- 2003/LD-00516 Lot 337 DPDP754396 LIVINGSTONE STREET
 SOUTH WEST ROCKS
 CLUB ADDITIONS
 Owner: SOUTH WEST ROCKS SURF CLUB
- 2003/LD-00535 Lot 212 DPDP880136 WILLI WILLI ROAD TEMAGOG
 BOUNDARY ADJUSTMENT
 Owner: MURRAY N
 Builder: 0
- 2003/LD-00541 1272 BELMORE RIVER LEFT BANK ROAD BELMORE
 RIVER
 FARM SHED
 Owner: THURGOOD D
 Builder: 0
- 2003/LD-00546 1/70-74 OCEAN AVENUE STUARTS POINT
 AWNING
 Owner: NORFOLK PACIFIC HOTELS PTY LTD
 Builder: 0
- 2003/LD-00558 213-215 SHERWOOD ROAD YARRAVEL
 DWELLING
 Owner: WARD L J
 Builder: 0
- 2003/LD-00561 35 ELBOW STREET WEST KEMPSEY
 CARPORT ADDITIONS
 Owner: BOYLE KD and JM
 Builder: 0
- 2003/LD-00565 Lot 29 DPDP263419 LINDSAY PLACE WEST
 KEMPSEY
 3 UNITS
 Owner: BOYES C and V
 Builder: 0

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2003/LD-00567 28 CURRAWONG CRESCENT SOUTH WEST ROCKS
DWELLING
Owner: MCTERNAN PE
Builder: 0

2003/LD-00570 30 POLWOOD STREET WEST KEMPSEY
CARPORT EXTENSION
Owner: FOX J and L
Builder: 0

2003/LD-00572 161-171 PHILLIP DRIVE SOUTH WEST ROCKS
RECEPTION/SHOP ADDITIONS
Owner: INFINITY PROPERTY PTY LTD
Builder: 0

2003/LD-00592 20 KINCHELA STREET CRESCENT HEAD
DWELLING ADDITIONS
Owner: BROWN A and WILLIAMS W
Builder: 0

2003/LD-00596 Lot 81 DPDP752429 ARMIDALE ROAD BELLBROOK
MANUFACTURED DWELLING
Owner: ZERAF A M and A
Builder: 0

2003/LD-00602 65 JEWELL DRIVE CRESCENT HEAD
INGROUND SWIMMING POOL
Owner: OSBORNE S and J
Builder: 0

2003/LD-00622 Lot 910 DPDP830044 MARIA RIVER ROAD
CRESCENT HEAD
SHED
Owner: WHITEHAIR SandJ
Builder: 0

2003/LD-00626 15 JUBILEE LANE WEST KEMPSEY
STORAGE SHED
Owner: NICHOLAS NG
Builder: 0

2003/LD-00627 110 SECOND LANE WEST KEMPSEY
DWELLING ADDITION
Owner: FOSTER B and K
Builder: 0

2003/LD-00630 2 HILTON TROTTER PLACE WEST KEMPSEY
DWELLING
Owner: ROBINSON JandC
Builder: 0

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2003/LD-00635 Lot 613 DPDP731283 GRASSY HEAD ROAD GRASSY
HEAD
MACHINERY SHED
Owner: MATHERS K A
Builder: 0

2003/LD-00648 60 ARMIDALE ROAD YARRAVEL
DWELLING ADDITIONS
Owner: HICKMAN A and D M
Builder: 0

2003/LD-00658 44 BELGRAVE STREET KEMPSEY
SHOP ADDITIONS
Owner: KYLQUEST PTY LTD
Builder: 0

2003/LD-00659 78 GRASSY HEAD ROAD STUARTS POINT
DWELLING
Owner: HUNT R
Builder: 0

2003/LD-00663 12 FRANKS LANE KUNDABUNG
DWELLING ADDITIONS - PATIO
Owner: ILES C and D
Builder: 0

2003/LD-00664 30-34 PACIFIC STREET CRESCENT HEAD
BBQ AREA COVER
Owner: JENZ / WOMBAT BEACH RESORT
Builder: 0

2003/LD-00666 Lot 1971 DPDP551829 JACKS CROSSING SKILLION
FLAT
DWELLING and SHED
Owner: SANDERS P and S
Builder: 0

2003/LD-00667 Lot 1 DPDP790405 YORK LANE KEMPSEY
CLUB EXTENSIONS
Owner: KEMPSEY MACLEAY RSL CLUB
Builder: 0

2003/LD-00670 33 KOROGORA STREET CRESCENT HEAD
RENOVATION, ADDITION
Owner: K and M HARDY
Builder: 0

2003/LD-00672 76 NELSONS WHARF ROAD ALDAVILLA
SWIMMING POOL
Owner: ARGUE I and T
Builder: 0

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2003/LD-00674 26 SPRINGFIELDS DRIVE GREENHILLS
INGROUND POOL
Owner: KESBY S and JENKINS AP
Builder: 0

2003/LD-00686 94 HILLVIEW DRIVE WEST END YARRAVEL
DWELLING AND SHED
Owner: CRAFT T and L
Builder: 0

2003/LD-00688 6 WILLIAM STREET FREDERICKTON
ABOVE GROUND SWIMMING POOL
Owner: KIRKMAN TM and THOMSON DC
Builder: 0

2003/LD-00689 16 EAST STREET CRESCENT HEAD
ROOF DECKING
Owner: BERRY GEOFFREY
Builder: 0

2003/LD-00699 Lot 12 DPDP1006580 CUMMINGS LANE
COLLOMBATTI
DWELLING
Owner: HENRY P and A
Builder: 0

2003/LD-00701 18 CYRUS SAUL CIRCUIT FREDERICKTON
INGROUND SWIMMING POOL
Owner: WALKER G and N
Builder: 0

2003/LD-00706 76 MACLEAY STREET FREDERICKTON
SWIMMING POOL
Owner: DOWLING CL and CROCKFORD RV
Builder: 0

2003/LD-00712 183 TURNERS FLAT ROAD TURNERS FLAT
SHED
Owner: WATERS TONI
Builder: 0

2003/LD-00714 472 FISHERMANS REACH ROAD FISHERMANS
REACH
RELOCATE DWELLING
Owner: THOMPSON G R and W H
Builder: 0

2003/LD-00716 16 THIRD AVENUE STUARTS POINT
DWELLING ADDITIONS
Owner: JONES D and K
Builder: 0

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2003/LD-00721 8 NEVILLE MORTON DRIVE CRESCENT HEAD
STORAGE SHED
Owner: TEUNIS M and A
Builder: 0

2003/LD-00726 58 MARLIN DRIVE SOUTH WEST ROCKS
DWELLING
Owner: HENSON BJ and CA
Builder: 0

2003/LD-00740 49A LACHLAN STREET SOUTH KEMPSEY
GARAGE
Owner: MAVIN AP
Builder: 0

2003/LD-00741 145 EVERINGHAMS LANE COLLOMBATTI
GARAGE and CARPORT
Owner: ROBINSON ME
Builder: 0

2003/LD-00744 343 GOWINGS HILL ROAD DONDINGALONG
GARAGE
Owner: HERBERT S
Builder: 0

2003/LD-00745 2-10 EDGAR STREET FREDERICKTON
SHED
Owner: CLARKE D and S
Builder: 0

2003/LD-00746 65 JEWELL DRIVE CRESCENT HEAD
CONTINUE TO USE EXISTING BUILDING FOR DWELLING
Owner: OSBORNE J and S

2003/LD-00748 33 DENNIS CRESCENT SOUTH WEST ROCKS
NEW DWELLING
Owner: STEPHENSON R and Y
Builder: 0

2003/LD-00750 104 JOHN LANE ROAD YARRAVEL
SHED
Owner: HALVERSON FE and WM
Builder: 0

2003/LD-00754 1070 WILLI WILLI ROAD TEMAGOG
SWIMMING POOL
Owner: BURRELL M and TOWNSEND K
Builder: 0

2003/LD-00755 93 BUSHLAND DRIVE YARRAVEL
SWIMMING POOL
Owner: WHALEN R J

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.....
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Builder: 0

2003/LD-00756 18 FOURTH AVENUE STUARTS POINT
DWELLING
Owner: BROWN D and SJ
Builder: 0

2003/LD-00759 3 MICHAEL PLACE SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: HUDSON A R
Builder: 0

2003/LD-00761 54 KEMP STREET WEST KEMPSEY
SWIMMING POOL
Owner: CAMPBELL D and D
Builder: 0

2003/LD-00772 1 EUCALYPT CLOSE ALDAVILLA
GARAGE
Owner: HUGHES B and K
Builder: 0

2003/LD-00773 231 LINK ROAD YARRAVEL
GARAGE and CARPORT
Owner: SHIELDS J and P
Builder: 0

2003/LD-00776 2184 ARMIDALE ROAD WILLAWARRIN
DWELLING ADDITIONS
Owner: BARRY B and L
Builder: 0

2003/LD-00783 19 MUNGAY CREEK ROAD WILLAWARRIN
SHED
Owner: CROKER J
Builder: 0

Summary	No	Value
Local Development Application	60	6256162

As at 12 Dec 2003 211 applications are in the office awaiting a determination.

The number of applications in excess of 40 days is 114.

The reasons for the matters outstanding are:-

BL	Builders Licence Requirements	1
FD	Further Details Req	67
IA	Incomplete Application	21
NN	Neighbour Notification	5

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OA	Other Agencies	17
RC	Refer Council	1
XX	No Reason Given	2

Council Report on Construction Certificate Building

Reporting that the following applications have been approved:-

2003/CB-00369 4-5 WOOLFORD CRESCENT SOUTH KEMPSEY
WORKSHOP ADDITIONS and ALTERATIONS
Owner: MAVIN RL and AM, MACNAMARA PW

2003/CB-00374 Lot 893 DPDP701552 MOPARRABAH ROAD
MOPARRABAH
DWELLING
Owner: WALSH S P and N

2003/CB-00434 18 KINCHELA STREET CRESCENT HEAD
TWO STOREY DWELLING
Owner: QORRAJ FandS

2003/CB-00456 1272 BELMORE RIVER LEFT BANK ROAD BELMORE
RIVER
FARM SHED
Owner: THURGOOD D

2003/CB-00471 213-215 SHERWOOD ROAD YARRAVEL
DWELLING
Owner: WARD L J

2003/CB-00473 35 ELBOW STREET WEST KEMPSEY
CARPORT ADDITIONS
Owner: BOYLE KD and JM

2003/CB-00477 28 CURRAWONG CRESCENT SOUTH WEST ROCKS
DWELLING
Owner: MCTERNAN PE

2003/CB-00479 30 POLWOOD STREET WEST KEMPSEY
CARPORT EXTENSION
Owner: FOX J and L

2003/CB-00497 20 KINCHELA STREET CRESCENT HEAD
DWELLING ADDITIONS
Owner: BROWN A and WILLIAMS W

2003/CB-00499 Lot 81 DPDP752429 ARMIDALE ROAD BELLBROOK
MANUFACTURED DWELLING
Owner: ZERFA M and A

2003/CB-00508 65 JEWELL DRIVE CRESCENT HEAD
INGROUND SWIMMING POOL

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Owner: OSBORNE S and J

2003/CB-00522 Lot 910 DPDP830044 MARIA RIVER ROAD
CRESCENT HEAD
SHED
Owner: WHITEHAIR SandJ

2003/CB-00526 15 JUBILEE LANE WEST KEMPSEY
STORAGE SHED
Owner: NICHOLAS NG

2003/CB-00529 2 HILTON TROTTER PLACE WEST KEMPSEY
DWELLING
Owner: ROBINSON JandC

2003/CB-00530 110 SECOND LANE WEST KEMPSEY
DWELLING ADDITION
Owner: FOSTER B and K

2003/CB-00537 301 RIVER STREET GREENHILLS
DRAINAGE INTERLOT
Owner: BOOTH C and W SUPERANNUATION FUND

2003/CB-00545 60 ARMIDALE ROAD YARRAVEL
DWELLING ADDITIONS
Owner: HICKMAN A and D M

2003/CB-00551 44 BELGRAVE STREET KEMPSEY
SHOP ADDITIONS
Owner: KYLQUEST PTY LTD

2003/CB-00552 78 GRASSY HEAD ROAD STUARTS POINT
DWELLING
Owner: HUNT R

2003/CB-00557 12 FRANKS LANE KUNDABUNG
DWELLING ADDITIONS - PATIO
Owner: ILES C and D

2003/CB-00558 30-34 PACIFIC STREET CRESCENT HEAD
BBQ AREA COVER
Owner: JENZ / WOMBAT BEACH RESORT

2003/CB-00560 33 KOROGORA STREET CRESCENT HEAD
RENOVATION, ADDITION
Owner: K and M HARDY

2003/CB-00562 76 NELSONS WHARF ROAD ALDAVILLA
SWIMMING POOL
Owner: ARGUE I and T

2003/CB-00564 26 SPRINGFIELDS DRIVE GREENHILLS

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INGROUND POOL
Owner: KESBY S and JENKINS AP

2003/CB-00570 94 HILLVIEW DRIVE WEST END YARRAVEL
DWELLING AND SHED
Owner: CRAFT T and L

2003/CB-00577 16 EAST STREET CRESCENT HEAD
ROOF / DECKING
Owner: BERRY GEOFFREY

2003/CB-00580 Lot 12 DPDP1006580 CUMMINGS LANE
COLLOMBATTI
DWELLING
Owner: HENRY P and A

2003/CB-00583 6 WILLIAM STREET FREDERICKTON
ABOVE GROUND SWIMMING POOL
Owner: KIRKMAN TM and THOMSON DC

2003/CB-00584 18 CYRUS SAUL CIRCUIT FREDERICKTON
INGROUND SWIMMING POOL
Owner: WALKER G and N

2003/CB-00587 Lot 1971 DPDP551829 JACKS CROSSING SKILLION
FLAT
DWELLING and SHED
Owner: SANDERS P and S

2003/CB-00596 16 THIRD AVENUE STUARTS POINT
DWELLING ADDITIONS
Owner: JONES D and K

2003/CB-00600 Lot 613 DPDP731283 GRASSY HEAD ROAD GRASSY
HEAD
MACHINERY SHED
Owner: MATHERS K A

2003/CB-00601 183 TURNERS FLAT ROAD TURNERS FLAT
SHED
Owner: WATERS T

2003/CB-00603 472 FISHERMANS REACH ROAD FISHERMANS
REACH
RELOCATE DWELLING
Owner: THOMPSON G R and W H

2003/CB-00604 58 MARLIN DRIVE SOUTH WEST ROCKS
DWELLING
Owner: HENSON BJ and CA

2003/CB-00608 8 NEVILLE MORTON DRIVE CRESCENT HEAD

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.....
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STORAGE SHED
Owner: TEUNIS M and A

2003/CB-00617 49A LACHLAN STREET SOUTH KEMPSEY
GARAGE
Owner: MAVIN AP

2003/CB-00618 145 EVERINGHAMS LANE COLLOMBATTI
GARAGE and CARPORT
Owner: ROBINSON ME

2003/CB-00620 343 GOWINGS HILL ROAD DONDINGALONG
GARAGE
Owner: HERBERT S

2003/CB-00621 2-10 EDGAR STREET FREDERICKTON
SHED
Owner: CLARKE D and S

2003/CB-00622 33 DENNIS CRESCENT SOUTH WEST ROCKS
NEW DWELLING
Owner: STEPHENSON R and Y

2003/CB-00625 104 JOHN LANE ROAD YARRAVEL
SHED
Owner: HALVERSON FE and WM

2003/CB-00626 1070 WILLI WILLI ROAD TEMAGOG
SWIMMING POOL
Owner: BURRELL M and TOWNSEND K

2003/CB-00627 93 BUSHLAND DRIVE YARRAVEL
SWIMMING POOL
Owner: WHALEN R J

2003/CB-00628 54 KEMP STREET WEST KEMPSEY
SWIMMING POOL
Owner: CAMPBELL D and D

2003/CB-00629 3 MICHAEL PLACE SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: HUDSON A R

2003/CB-00637 1 EUCALYPT CLOSE ALDAVILLA
GARAGE
Owner: HUGHES B and K

2003/CB-00638 231 LINK ROAD YARRAVEL
GARAGE and CARPORT
Owner: SHIELDS J and P

2003/CB-00642 2184 ARMIDALE ROAD WILLAWARRIN

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.....
MAYOR

DWELLING ADDITIONS

Owner: BARRY B and L

2003/CB-00650 19 MUNGAY CREEK ROAD WILLAWARRIN
SHED

Owner: CROKER J

Summary

	No	Value
Construction Certificate Building	50	0

As at 12 Dec 2003 188 applications are in the office awaiting a determination.

The number of applications in excess of 40 days is 59.

The reasons for the matters outstanding are:-

BL	Builders Licence Requirements	2
DA	DA Approval Required	2
DR	DA Requirements	5
FD	Further Details Req	39
IA	Incomplete Application	5
NN	Neighbour Notification	1
OA	Other Agencies	2
RC	Refer Council	1
XX	No Reason Given	2



At this stage 10.50 a.m. the Meeting adjourned for Morning Tea and upon resumption at 11.16 a.m. all present at the adjournment were in attendance.



QUESTIONS WITHOUT NOTICE

Councillor Bowen

Councillor Bowen was advised:-

1. That the Director Environmental Services would investigate clearing for a roadway along the bottom end of Point Plomer Road in a southerly direction towards Big Hill.

Councillor Sowter

Councillor Sowter was advised:-

1. That it was the Director Environmental Services understanding that the preferred highway bypass route and it's affect on flood levels

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MAYOR

would be addressed by an Environmental Impact Statement and that Council itself would be able to make a submission regarding the flood levels.



MOTION FOR COMMITTEE

2003. 130

RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Howell*

That Council form itself into the Committee of the Whole, and at this stage the meeting be closed to the public to permit discussion of the confidential business items listed for the reasons as stated in the Agenda.



**DIRECTOR ENVIRONMENTAL SERVICES
CONFIDENTIAL REPORT**

DES1	UNAUTHORISED SCREENING PLANT - TURNERS FLAT	FILE: LA8596	RBP (NRN)	{Folio No. 267149}
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SUMMARY:

Reporting on the outcome of litigation concerning an unauthorised screening plant at Turners Flat.

REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

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



2003. 131

RECOMMENDED:

*Moved: Cl. Howell
Seconded: Cl. Hunt*

That the information be noted.



REPORT OF THE MEETING OF THE COMMITTEE OF THE WHOLE

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MAYOR

Upon resumption of Open Council, the following Report of the Committee of the Whole was submitted by the Acting General Manager.



ADOPTION OF REPORT OF THE COMMITTEE OF THE WHOLE

2003. 132

RESOLVED:

*Moved: Cl. Sowter
Seconded: Cl. Howell*

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



At this stage 11.36 a.m. the Mayor thanked the Councillors for their commitment, help and regular attendance at the Council meetings during this year and wished Councillors and staff best wishes for the Christmas season.



CONCLUSION:

There being no further business, the Meeting terminated at 11.38 a.m.



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MAYOR