



MINUTES OF THE PLANNING COMMITTEE MEETING OF KEMPSEY SHIRE COUNCIL

Tuesday 23rd March 2004 commencing at 9.00 am.

PRESENT:

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

Councillor Sproule entered the Chambers at 9.04am.

Councillor Parkinson entered the Chambers at 9.10am.

General Manager, A V Burgess; Director Engineering, K J Finnie; Acting Director Environmental Services, R B Pitt; Pat Hanrahan and Donna Pearson.



APOLOGY:

2004. P37

RESOLVED:

*Moved: Cl. Hunt
Seconded: Cl. Sowter*

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



At this stage 9.04am Councillor Sproule entered the Chambers.



ASSESSMENT OF ITEMS LISTED IN CONFIDENTIAL BUSINESS

2004. P38

RESOLVED:

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

That the Confidential Reports be considered in the Confidential Section of this Meeting.



MINUTES OF THE PLANNING COMMITTEE MEETING OF KEMPSEY SHIRE COUNCIL DATED 24TH FEBRUARY 2004

2004. P39

RESOLVED:

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

That the Minutes of the Planning Committee Meeting of Kempsey Shire Council dated 24th February 2004, be adopted.



PUBLIC FORUM

- 1 - Mr Peter Hadlow addressed Council in favour of DES1 81 Ocean Street South West Rocks and DES 11 Split Level Dwelling, Salmon Circuit, South West Rocks.
- 2 - Mr Peter Hadlow addressed Council in favour of DES11 Split level dwelling Salmon Circuit South West Rocks.



At this stage, 9.10am, Councillor Parkinson entered from the Chambers.



PUBLIC FORUM

- 3 - Pastor Lindsay Laws addressed Council against DES5 Off Road Club, Dungay Creek.
- 4 - Mr Ian Ismay addressed Council in favour of DES6 Proposed relocation of an existing dwelling, construction of a new dwelling and swimming pool at 34 Main Street Smithtown.
- 5 - Doctor Vincent Lee addressed Council speaking in favour of DES9 dual occupancy - South West Rocks modification of consent.



CONSIDERATION OF LATE REPORTS

2004. P40

RESOLVED:

*Moved: Cl. Hunt
Seconded: Cl. Sowter*

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



CONSIDERATION OF REPORTS RELATING TO PUBLIC FORUM – Reports RM1, DES1, DES11, DES5, DES6 and DES9.

2004. P41

RESOLVED:

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

That the reports relating to Public Forum be dealt with immediately.

RM1	TWO-STOREY DWELLING 81 OCEAN STREET, SOUTH WEST ROCKS FILE: T6- 03- 882 RBP	{Folio No. 271756}
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Notice is hereby given that we intend to move the following Rescission Motion at the Ordinary Meeting of Kempsey Shire Council on Tuesday 23rd March 2004.

2004. P42

RESOLVED:

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

That the resolution number 2004.P34 from the planning Committee Meeting held 24th February 2004, as follows;

That the application be returned to the applicant as it is in breach of the Development Control Plan 22 in relation to the height of the building and the site coverage and the applicant be invited to resubmit the application in line with the new Development Control Plan 22 guidelines.

be rescinded

.....
Councillor B Sowter
.....
Councillor J Hayes
.....
Councillor J Bowell

**Councillor Hunt recorded his vote against the foregoing Resolution.
Be rescinded.**

DES1	TWO STOREY DWELLING - LOT 49 DP 791310 NO 81 OCEAN STREET, SOUTH WEST ROCKS FILE: T6-03-882 DJW	{Folio No. 271758}
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This report is resubmitted and to be read in conjunction with the Rescission Motion in relation to the application.

Mrs Margaret Ann Angus, Applicant has submitted comprehensive documentation from Hadlow Design Services to support the variations. [\(Appendix A\)](#)

The submission is attached and may be summarised as follows:

- The applicant has provided letters of non-objection from the adjoining property owners.

- The 30% site coverage for low-density areas is considered primarily for Dual Occupancy Development and not for single storey dwellings.
- A spreadsheet has been provided demonstrated comparisons between the proposed development and Council approved dwellings in Ocean Street and Marlin Drive. The spreadsheet demonstrates Council approved variations are uniformed and met the performance objectives of DCP 22.
- The area of height non-compliance is 35m² less than 12% of the building footprint.
- Elevations of the dwelling detailing the areas of height non-compliance have been provided which demonstrates the performance objectives of DCP 22 have been met.

Acting Director's Comment

It should be noted that the maximum site coverage requirements applying to South West Rocks were not intended to restrict single dwelling development and were targeted at dual occupancy and other multi-dwelling developments. In this instance, the proposal meets the performance objectives of DCP 22 and no unacceptable impacts would result from the development.

SUMMARY:

Reporting that a Local Development Application has been received to build a two storey dwelling. The building height and maximum site coverage exceeds the maximum permitted under Development Control Plan No 22 Development Standards - Local Housing Strategy.



Applicant: M A Angus
Subject Land: Lot 49 DP 791310 No 81 Ocean Street,
 South West Rocks
Zone: 2(a) Residential Zone

Proposed Development

The proposal is to build a two storey dwelling on the abovementioned allotment.

Siting

The site is a vacant allotment situated on the Western side of Ocean Street. The land falls to the rear in a western direction, approximately 9.7 m over a distance of 42 metres, has frontage of 20m and a total site area of 840m². The land falls approximately 5metres where the building is to be sited.

Heads of Consideration

The proposal has been examined having regard for the Heads of Consideration identified under Section 79C(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 the 2(a) Residential "A" Zone under Kempsey Local Environmental Plan 1987.

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

DCP No 22 - Local Housing Strategy

The proposal is required to comply with the following requirements of DCP No 22:-

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 Standards of DCP No 22 results in the following:

STANDARD	REQUIRED	PROPOSED	COMPLIES YES/NO
<i>DENSITY</i>	1 x 4 bedroom – 500m ²	840m ²	Yes
<i>SETBACKS</i> - side - east elevations - west elevations - front - rear	1.5m min 1.5m min 5m 1.5m min	1.5m 1.5m 7.5m >1.5m	Yes Yes Yes Yes
CARPARKING	1 covered space	2 covered spaces	Yes
PRIVATE OPEN SPACE	25m ²	>25m ²	Yes
LANDSCAPING	165m ²	>165m ²	Yes
HEIGHT	6.2m	6.3m & 7.05m	No
SOLAR ACCESS	15 points	15 points	Yes
PRIVACY	Adequate	Adequate	Yes
CUT AND FILL	<1.5m	>1.5m	Yes
LONG WALLS	20m	<20m	Yes
ACCESS	<20%	<19%	Yes

MAXIMUM SITE COVERAGE	252m ²	299m ²	No
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2004. P43

RESOLVED:

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

That Development Application T6-03- 882 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.
- 4 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.

- 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) wet area floor and wall surfacing prior to tiling;
- (d) completion of stormwater systems prior to backfilling;
- (e) prior to any wall linings the insulation shall be inspected, a ladder shall be provided at the final stage to provide access to the ceiling space or alternatively, a certification from a registered installer shall be submitted certifying the wall and ceiling installation complies with the approved single residence scorecard.

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 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.**
- 9 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.**
- 10 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.

- 11 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 Structural Engineer's Details for footing reinforced concrete slab, structural steel work is to be submitted prior to any work commencing on the building.**
- b 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.

- c 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.
- d 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.
- e 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.

- f 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.

- g Kitchen exhaust fans are to be ducted externally of the building or a recirculating hood type be provided.
- h 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.

- i All glass in shower doors, shower screens, bath enclosures and associated windows (the lowest sight line of which is less than 1500mm above the floor or bottom of the bath or shower base) shall be Grade A Safety Glass.
 - k 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.
 - l The door to all fully enclosed sanitary compartments must open outwards, or slide, or be readily removable from the outside, in accordance with the requirements of the Building Code of Australia.
 - m Any sarking used in the roof of the dwelling must have a flammability index not more than 5.
 - n 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).
 - o Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
 - p Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
- 12 A Survey Report is to be submitted on completion of slab formwork to ensure the location of the building is in accordance with the approval issued.
- 13 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.
- 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:-
- 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.

Councillors Hunt and Parkinson recorded their votes against the foregoing Resolution.

DES11	SPLIT LEVEL DWELLING - LOT 30 DP 855311
	SALMON CIRCUIT, SOUTH WEST ROCKS
FILE: T6-04-23	JGR {Folio No. 271777}

SUMMARY:

Reporting that Council has received an application to construct a split level dwelling which requires a variation to Council's Local Housing Strategy DCP 22.



Applicant: Mr S Hanisch
Subject Land: Lot 30 DP 855311 Salmon Circuit, South West Rocks
Zone: Residential 2(a)

Proposed Development

The proposal is to construct a split level brick veneer dwelling.

Site

The split level residence is proposed to be constructed on the southern side of Salmon Circuit. The allotment has a 24.5 metre street frontage and a site area of 767m².

The allotment slopes from rear to front with a fall of 11 metres over the length of the allotment which is considered significant.

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.

DCP 22 - Local Housing Strategy

An assessment of the proposal against the relevant requirements of DCP 22 is as follows:-

Standard	Required	Proposed	Complies
Density - Low	500m ²	767m ²	Yes
Set Backs - Front - Rear Side - East	3.5 m to open verandah 1.8 m 900mm-1.5 metres	4.28 m 2.84 m 1.4 to 2.1 m (ok with compensation)	Yes Yes Yes
Side - West	900mm-1.5 metres	5.78 m	Yes
Carparking	1 covered	2 covered	Yes
Height	6.2 metres	6.9 verandahs	No*
Privacy	Adequate	Adequate	Yes
Cut/Fill	1.5 m	1.7 m	No*
Long Wall	20 m	<20 m	Yes
Access	<25%	Provided at subdivision stage	Yes
Site Coverage	30%	37%	No*

As indicated in the above table, the proposal complies with DCP 22 except in respect to (i) Height, (ii) Cut/Fill and (iii) Site Coverage.

(i) Height

The owners agent has provided a submission in respect to a request for a variation to Council's Height Policy. The main points of the submission are summarised as follows:

- 1 The dwelling has been stepped 450 mm to reduce the height of the building facing Salmon Circuit.
- 2 The building has a flat roof to keep the overall height of the building below the 7.9 metre ridge height requirement.
- 3 The garage floor level was set by the existing driveway which was cut and graded at subdivision stage.
- 4 The allotment to the east is substantially higher than the subject allotment and proposed development should not effect potential views from this allotment.

Council has discretion in respect to the building height where compliance maybe difficult in respect to the site topography.

The allotment is very steep as it falls approximately 6 metres over the footprint of the building. The submission points provided by the applicant have been examined and provide merit for a variation to the minimum building alignment.

The height variation applies only to the ceiling level to the open verandah which exceeds Council's minimum height of 6.2 metres by a maximum of 650mm, although the top-plate level is exceeded at the three (3) points along the verandah the flat roof (2°) and ridgeline comes under the allowable 7.9 metre height. (*Appendix R*)

(ii) Cut and Fill

Given the steep cross slope of the allotment, keeping the cut/fill parameters within the requirements of DCP 22 are restrictive, however the design provides for a cut of 1.7 metres which is a 200 mm departure from the code.

Because of the site topography and given that the site cut is contained within the building ie. the external wall of the building acts as the retaining structure it is considered that Council support this minor variation which effects only a small section of the cut. Compliance with the height restriction would require an increased cut.

(iii) Maximum Site Coverage

The site coverage exceeds the maximum site coverage by 7% which is considered acceptable in this instance as the proposed dwelling site coverage is consistent with other existing Council approved dwellings in the locality without any unacceptable diminution of amenity.

Notification

The proposal was notified in accordance with Council's Policy and no objections were received.

Acting Directors Comment

It should be noted that the maximum site coverage requirements applying to South West Rocks were not intended to restrict single dwelling development and were targeted at dual occupancy and other multi-dwelling developments. In this instance, the proposal meets the performance objectives of DCP 22 and no unacceptable impacts would result from the development.

2004. P44

RESOLVED:

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

That Development Application T6-04-23 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 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;**
- (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;**

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 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.
- 7 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 Structural Engineer's Details for slab and footings is to be submitted prior to any work commencing on the building.
- b 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.
- c 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.
- d External walls of the garage are strengthened by a minimum of 350mm x 230mm engaged brick piers spaced at maximum 1800mm centres.
- e 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.
- f 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.

- g 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.

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

- i 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.

- j 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.

- k Glazing of all windows and doors is to be in accordance with the requirements of B1 of the Building Code of Australia.

- l All glass in shower doors, shower screens, bath enclosures and associated windows (the lowest sight line of which is less than 1500mm above the floor or bottom of the bath or shower base) shall be Grade A Safety Glass.

- m The door to all fully enclosed sanitary compartments must open outwards, or slide, or be readily removable from the outside, in accordance with the requirements of the Building Code of Australia.
 - n Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
 - o Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
- 8 A Survey Certificate is to be submitted upon completion of the roof framing to ensure that the verandah top plate is at or below 6.85 metres A.H.D.
- 9 The dwelling shall be constructed to include all of the energy efficiency requirements contained within the single residence scorecard provided.

Walls	Light Colour
Roof	Light Colour
Wall	Brick Veneer & R1 Insulation
Roof	Anticon
Ceiling	R2.5 Batts
Hotwater	3.5 Star Compliant

Councillors Hunt and Parkinson recorded their votes against the foregoing Resolution.

DES5 KEMPSEY MACLEAY OFF ROAD CLUB INC.
FILE: T6-03-559 DEC

SUMMARY:

Reporting that Council has received an application for off road racing events two (2) events over two (2) days) for which seventeen (17) objections have been received.



Applicant: Kempsey Macleay Off Road Club Inc.
Owner: Mr D F B and Mrs M R Kemp
Subject Land: Lot 12, 17, 16, 15, 14, 21, 20, 7, 12, 25, 23, 24, DP 752435, 701 Dungay Creek Road, Wittitrin
Zone: 1(A1) Rural A1 Zone

Background

Kempsey Macleay Off Road Club Inc. have previously held national off road racing events within the Shire at Temagog and club events at Dondingalong.

The current proposal is for a single 'Club Level event and a New South Wales State Round' over one weekend during August or September 2004.

Kempsey Macleay Off Road Club Inc. have indicated that should the first event be successful, future plans to extend the proposed track similar to the Dondingalong motor complex and create an event of national status would be considered. Any further events and modifications will be subject to Council consent.

The applicant proposes to hold the event under a permit from the Confederation of Australian Motor Sport Ltd, which includes \$100 000 000 public liability cover. The Applicant also requires approval from the Department of Sport and Recreation.

The original proposed racetrack was designed to cross Dungay Creek twice but the applicant submitted amended plans so as no crossing of Dungay Creek is required. This amendment resulted in the racetrack being reduced from 15km to 10.5km in length. The track is comprised of existing fire trails and open paddocks (*Appendix I*). It was not considered necessary to advertise the amended track as it predominantly follows the same course and it is considered that advertising the proposal again would not result in any significant issues or potential impacts that have not already been raised and addressed.

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 1979 with the following matters to be of particular relevance to the proposal

Department of Infrastructure Planning and Natural Resources (DIPNR) – Concurrence Report

Pursuant to Section 91 of the Environmental Planning and Assessment Act 1979 a development that is to be carried out within 40m of a natural water course or foreshore is "integrated development" as an approval from DIPNR under the Rivers and Foreshores Improvement Act 1948 is required.

DIPNR proposes to grant a Part 3A Permit subject to conditions, which Council must include in any consent.

Kempsey Local Environment Plan 1987 and North Coast Regional Environmental Plan 1988

The proposal is permissible with the consent of Council under the Kempsey Local Environment Plan 1987.

The objectives of the 1(A1) Rural Zone of the Kempsey Local Environment Plan are to:

- Predominantly provide for agricultural use
- Preserve the visual amenity of the land
- Provide for compatible tourist and industrial uses.

It is considered that a single event, operating in accordance with appropriate conditions, over one weekend does not conflict with the objectives of the rural zone.

It is considered that the proposed development will not cause a loss of prime crop or pasture land and is therefore consistent with the North Coast Regional Environmental Plan 1988.

Access, Transport and Traffic

Access to the event will be via Dungay Creek Road. Dungay Creek Road from the end of bitumen surface at the intersection of Clarkes Road to the site is a gravel road at an average width of 5m. It is considered that contributions for the upgrading of Dungay Creek Road should not be payable for a 'one off event', having regard to a lack of certainty as to likely competitor and spectator numbers. However, road contributions may be payable for the upgrading and maintenance of Dungay Creek Road should any future events be proposed and approved.

Several neighbouring residents to the subject property have an informal access agreement over the property. This access crosses the proposed track and as such would not be safe during the event. There is a second access that can be used by the residents. It is considered reasonable to require the Applicant to advise all adjoining property owners four (4) weeks in advance of the event occurring. In the event of any emergency, the event should be temporarily halted to assist emergency vehicles.

The narrow causeway crossing over Dungay Creek is subject to inundation and any flood event would result in inadequate access and postponement of the event. Should a storm and/or flash flooding occur during the event there is the possibility of isolation for a period of time.

The exact volume of traffic to and from the event is not known. However, the applicant has indicated that a total number of vehicles associated with the participants and crews would be approximately 100 and it is anticipated that 50 spectator vehicles would attend the event with the capacity to cater for 100 off road spectator parks. (*Appendix J*) The potential for an increase in traffic congestion over the weekend of the event does exist.

The applicant has stated that 'heavy vehicles are generally not used to transport competing vehicles and crews'.

To ensure safety and to maintain adequate access, it should be a condition of any Consent that no vehicles be parked on, or immediately adjacent to, Dungay Creek Road. The applicant intends to provide sufficient off road car parking and to separate event and spectator vehicles by temporary fencing. It is proposed that signage and 'roaming officials' be used in order to prevent parking on Dungay Creek Road which should be incorporated in any Consent.

Noise

The proposal has the potential to impact on a number of adjoining dwellings by reason of noise. Given EPA criteria which allow considerable noise to be

generated by infrequent motor sports events, and the separation of the track to the nearest residence (approximately 275 metres), it is considered reasonable to require noise monitoring of the event to be undertaken. Monitoring is to be undertaken by an appropriately qualified person and a detailed noise impact assessment should be submitted to Council after the event. Whilst the applicant has stated that a condition of the Confederation of Australian Motor Sport (CAMS) permit is that all competing vehicles project a maximum noise output of 95 decibels (dB(A)) at a 30m distance, it is considered reasonable that noise emissions be consistent with EPA guidelines and the Protection of the Environment Operations (Noise Control) Regulation 2000 and that such guidelines and legislation be used when monitoring the event. No EPA approval is required.

In addition to such a condition, it is considered reasonable to restrict the use of the track to a single weekend nominated by the applicant. The track should not be used for practice prior to the nominated weekend and use of the track on event days should be restricted to 9am to 5pm Saturday and 8.30am to 5pm Sunday.

The results of monitoring could then be used to determine any future applications.

Air and Microclimate

The proposal has the potential to result in dust pollution should weather conditions at the time of the event be dry. It is considered reasonable that the applicant provide a water cart or similar dust suppression mechanisms to prevent excessive dust from becoming airborne through vehicle use. Dust management should be undertaken along the entire length of unsealed section of Dungay Creek Road from the Intersection of Clarkes Road to the furthest vehicle access point to the site from 7am of the Saturday to 7pm on the Sunday of the event. Dust should be suppressed in any location where any dwelling is within 400m of the racetrack should weather conditions warrant it.

Cumulative Impact on Amenity

An accumulation of potential traffic congestion, noise and dust impacts may lead to some loss of amenity, 'peace and quiet' and be of inconvenience for some residents in the area. By only allowing racing and practice to occur on one weekend and during the specified time period, and by imposing conditions of consent specifically relating to noise and dust management, the enjoyment and lifestyle of surrounding residents should not be detrimentally affected for any extended period of time. It should be a condition of Consent that adjoining residents be informed in writing of the weekend the event is to take place at least four (4) weeks in advance.

Public Exhibition

Adjoining property owners were notified of the proposal in accordance with Council's Advertising Policy. Council received seventeen (17) objections including one (1) marked confidential to the proposal. A copy of each submission is attached ([Appendix K](#)) and can be summarised as follows:

Objection	Planning Comment
1 Dungay Creek and its riparian zone will be severely damaged and the water quality of Dungay Creek may be affected.	1 The amended plans submitted by the applicant have deleted the crossing of Dungay Creek, reducing the potential impact. However, it is recognised that the proposed racetrack is within the Dungay Creek catchment and crosses several drainage lines. As such, concurrence is required from DIPNR and subject to a Part 3A Permit being obtained. Adherence to a Part 3A Permit and appropriate conditions relating to sediment control should result in no significant impact to Dungay Creek and its riparian zone.
2 Potential for vehicles to cause water pollution via leaking fuels and oils.	2 The deletion of the two crossings of Dungay Creek has reduced pollution potential. Conditions should be imposed requiring the applicant to provide adequate cleaning equipment in the event of any oil or fuel spillage; fuels and oils should be stored in appropriate approved vessels; and used oils are to be disposed of off-site at a waste management facility capable of processing oils and fuels.
3 There will be significant erosion and degradation of the land.	3 It should be a condition of any consent that disturbed surfaces (race track, car park and marshal area etc.) be seeded and stabilised after completion of the event. Refer to Planning Comment 1.
4 There is a need for an Environmental Impact Study/Statement.	4 The applicant submitted a standard Statement of Environmental Effects. Under the Act the applicant is not required to produce an EIS for the event, however, Environmental safeguards should be included in any conditions of Consent.
5 There is a significant potential for	5 Refer to 'Noise' comments and

noise pollution.	conditions of Consent.
6 Loss of amenity and 'peace and quiet'.	6 Refer to 'Cumulative Impact on Amenity' comments. It is recommended that on one weekend any approval be for two events only. In the event unacceptable impacts result, and if any further events are applied for, Council could require additional mitigation measures be employed, or if such measures are impractical, approval for any additional events could be denied.
7 Atmospheric pollution from dust and fumes may result in increase in allergic reactions and asthma.	7 Refer to 'Air and Microclimate' comments. Fumes from vehicle use are expected. The closest residence to the racetrack is approximately 275 metres. Being a rural locality, it is expected that fumes will dissipate effectively.
8 Potential for rubbish accumulation.	8 A condition of consent should be imposed requiring the applicant to provide adequate prior arrangements for rubbish/litter removal from the site.
9 Concerns of the safety of residents using Dungay Creek road.	9 Refer to 'Access, Transport and Traffic' comments.
10 Concerns over hygiene and lack of sanitary facilities.	10 The applicant proposes to provide portable toilets. As a precaution, it is recommended that toilets be provided for twice the anticipated number of persons (i.e. 10 portable toilets). All waste, including grey water, should be stored and removed from the site. All food vending vehicles should be required to comply with the Food Act 2003 and relevant Council Guidelines and no overnight camping should be permitted.
11 Concerned over frequency of	11 Consent should only be for two

events.	events over two days on one weekend during the specified time periods.
12 Reduction in value of property.	12 Impact upon the value of surrounding properties is speculative.
13 Loss of privacy and visual amenity.	13 All participants and spectators are to be located on the subject property. Competitors are proposed to be confined to the track and designated marshalling areas and spectators are to be confined to a dedicated viewing area. The spectatory/marshalling areas are not visually obtrusive to any adjoining dwelling in any direction. However, distant views of the track and competing vehicles may be evident.
14 There is a need for a public meeting and extension of 10 day exhibition period.	14 The Application was advertised in accordance with Council's Advertising Policy and the information provided is considered adequate to alert neighbours to potential impacts.
15 There is no preservation of flora and fauna.	15 As the proposed racetrack uses existing trails and open paddocks and no trees are to be felled, it is considered that obtainment of a Part 3A Permit and compliance with appropriate conditions of Consent would result in no significant impact to flora and fauna. There is no evidence to suggest that any long-term disturbance to any threatened fauna is likely.
16 Dungay Creek Road usage has not been considered and is not suitable for excess traffic.	16 Refer to 'Access Transport and Traffic' comments and conditions of consent.
17 Public liability if a spectator is injured on our property.	17 There should be no reason for a spectator to enter another property. Spectators are to be confined to the designated area. The event will be covered by a \$100 000 000 public liability

	insurance. However, it is considered reasonable to require the placement of suitable signage at appropriate locations to advise spectators of their obligations.
18 Other similar racing events have been described as being detrimental to the environment.	18 Adherence to a Part 3A Permit and conditions of Consent and controls relating to toilets, litter and grease and oil should result in no detrimental impacts to the environment.
19 There are already racing tracks in the area.	19 There is a motor sport complex at Dondingalong and there has been previous national events at Temagog. The applicant has indicated that the 'Temagog Event' is not proceeding again and that there is a future plans to connect the proposed racetrack to the Dondingalong motor complex to create a course of national status. Any further extensions are subject to further Council consent.
20 Loss of the areas character.	20 Refer to 'Kempsey Local Environmental Plan' and 'Cumulative Impact on Amenity' comments.
21 Increase in visitors may result in theft and loss of security.	21 Whilst crime prevention is a relevant Head of Consideration, there is no evidence to support the claims of possible increases in theft associated with the proposed event.
22 Concerns over possible bushfires caused by vehicles and/or cooking fires.	22 There is an increased potential for bushfire occurrence from vehicle use. It should be a condition of Consent that the applicant informs the Local Rural Fire Service of the date of the event. Camping should not be permitted and any cooking facilities in food vehicles/stalls should comply with relevant Council guidelines.

23	Dungay Creek causeway is prone to flash flooding.	23	Refer to 'Access, Transport and Traffic' comments.
24	Our regular access is through the subject property. This may affect quick emergency vehicle access.	24	Refer to 'Access, Transport and Traffic' comments.
25	Unauthorised camping is a concern.	25	It should be a condition of Consent that no overnight camping is permitted.
26	Tree removal and heavy vehicles constructing track is a concern.	26	There is to be no tree removal and the applicant has stated that 'farm tractors with slashers and blades' will be used for track preparation and maintenance.
27	Concerns over public and participant safety.	27	In addition to any Council approvals, an approval from the Confederation of Australian Motor Sport is also required which addresses matters related to public safety and liability insurance.
28	Concern over alcohol use, night-time entertainment and undesirable people.	28	The consent does not permit any night time entertainment. Criminal and violent behaviour as a result of possible alcohol use at the proposed event is speculative and difficult to justify. Any criminal incidents are police matters. The possibility of 'undesirable' persons that may be drawn to the area is speculative.
29	Lack of information with the Development Application.	29	It is considered that the information forwarded to the adjacent residents was sufficient to raise the relevant potential impacts that have been raised and addressed in this Report.
30	Potential introduction and spread of weeds.	30	The potential for spread of weeds such as Giant Parramatta Grass does exist. However, this can be minimised by vehicles and people only accessing the designated track/areas and by managing the grass levels on the

31 There is a lack of adequate fencing to control stock.

track/areas.

31 It is agreed that straying stock could pose a threat to spectator and competitor vehicles. Details of the designated stock containment area, including stock numbers and fencing, should be required as a condition of consent.

Conclusion

As evidenced in the Heads of Consideration above, there are a number of issues and potential impacts associated with the proposed off-road racing event.

It is considered reasonable to require the applicant to furnish Council with a Plan of Management for the events three (3) months prior to the staging of the events. Such a plan is to outline how the applicant will implement each condition of Consent and outline contingencies in the event of any hazard, incident or emergency.

Upon obtainment of, and compliance with; a Part 3(A) Permit under the Rivers and Foreshores Improvement Act 1948, a permit under the Confederation of Australian Motor Sport Ltd, Approval from the Department of Sport and Recreation and appropriate Conditions of Consent from Council, including a Plan of Management, it is considered that the proposed development could be held in a safe and sustainable manner with manageable impacts on surrounding residents.

It should be emphasised that approval is recommended for two events to be held over two days on one weekend during 2004. Should an approval be granted, compliance with the relevant permits and conditions would be heavily weighted and carefully analysed when examining any future proposals of this nature.

Director Environmental Services Recommendation:

A That 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 gives approval for two events over two days on one weekend during 2004 only. The applicant is to provide written advice to Council of the nominated date of the event not less than three (3) months prior to the such nominated date.**
- 3 A detailed Plan of Management (in a single document) is required to be provided to Council not less than 3 months prior to the nominated dates of the events incorporating**

the means of complying with all conditions of consent. The events shall not proceed unless Council has provided written confirmation that all conditions have been adequately addressed.

- 4 Monitoring of the event is to be carried out by a suitably qualified acoustic consultant at the closest affected adjoining residence in accordance with Environment Protection Authority Guidelines and relevant legislation.
- 5 A report is to be forwarded to Council indicating the results of the monitoring within twenty-eight (28) days after the staging of the event.
- 6 The applicant is to provide a minimum of ten (10) portable toilets onsite for the event. All effluent is required to be disposed off-site at an approved facility. The required Plan of Management should provide for the placement of toilets in all spectator and competitor locations.
- 7 Any premises or vehicle that is to be used for the transportation, preparation, storage and/or sale of food is to be designed, constructed and equipped in compliance with the Food Act 2003 and Council's Standards for Temporary Food Premises, complete details of which are to be submitted for approval prior to the event. The applicant is advised to confer with Council's Environmental Services Department concerning these requirements prior to the preparation of detailed plans.
- 8 No overnight camping or night time entertainment is permitted on the subject land.
- 9 The applicant is to make adequate provision for the collection and removal of waste rubbish/litter from the site. Details of the means for compliance are to be included in the required Plan of Management.
- 10 All disturbed soils are to be levelled and re-seeded immediately following the event and no trees are to be felled or loped. Details of the means for compliance are to be included in the required Plan of Management.
- 11 Sediment control devices are required to be installed on the access points to and from Dungay Creek Road. Details of the means for compliance are to be included in the required Plan of Management.
- 12 All spectator vehicles are to be confined to the parking spaces provided and no parking is permitted on, or immediately adjacent to Dungay Creek Road. Details of the means for compliance are to be included in the required Plan of Management.

- 13 The applicant is to consult with Councils Engineering Department three (3) months prior to staging of the event so as appropriate signage for Dungay Creek Road, spectator and car parking areas can be arranged.
- 14 The event race times are restricted to the hours of 9am to 5pm Saturday and 8.30am to 5pm Sunday of the nominated weekend.
- 15 No practice is to be carried out prior to/after the date of the designated event.
- 16 All residents immediately adjoining the subject land are to be given written notice of the nominated date of the approved event at least four (4) weeks prior to staging of the event.
- 17 The applicant is to give written notice to the Local Rural Fire Service of the location and date of the approved event at least four (4) weeks prior to the staging of the event.
- 18 The applicant is to provide a water cart or similar dust suppression mechanisms along the entire unsealed section of Dungay Creek Road to the furthest vehicle access point to the site and provide similar measures to all sections of the racetrack within 400 metres of dwellings. Details of the means for compliance are to be included in the required Plan of Management.
- 19 To prevent excessive weed dispersal competition vehicle use is to be restricted to the designated racetrack and 'pit area'. Where possible, weeds are to be managed in all trafficable areas by means of slashing, spraying and/or similar.
- 20 The applicant is to provide equipment and facilities suitable for the containment and clean-up of any petroleum products that are spilt. Details of the means for compliance are to be included in the required Plan of Management.
- 21 All spectators are to be confined to the designated spectator area. Details of the means for compliance are to be included in the required Plan of Management.
- 22 In the event of any emergency requiring access through/on the subject land all racing is to cease until such access has been obtained. Details of the means for compliance are to be included in the required Plan of Management.

Conditions imposed by DIPNR

- 23 Irrespective of the granting of this consent or approval by any other Authority, work is not to commence in, or within a horizontal distance of 40 m from the top of the bank of the watercourse, without the prior issue of a Part 3A permit by DIP & NR.
- 24 The Part 3A permit will be issued upon application to the DIP & NR comprising:
- A copy of Council's development consent including all conditions of approval;
 - Plans and/or other documentation (3 copies) that satisfy the DIP & NR General Terms of Approval and recommendations, which are, included in Council's consent conditions.
- 25 Work is to be carried out in accordance with drawings and any management plans required by these conditions and approved by DIP & NR that will accompany the 3A permit.
- 26 Any Part 3A permit issued is to be renewed on an annual basis until all works and all rehabilitation, including maintenance provisions, have been satisfactorily completed in accordance with the permit conditions. Any application for renewal will be lodged at least 1 month prior to the permit expiry date.
- 27 Work shall not cause damage to, or increase erosion of, the streambed or banks. The permit holder shall carry out any instructions given by DIP & NR with a view to preventing degradation of the streambed or banks.
- 28 Any vegetation or other material removed from the area of works shall be disposed of so that the material cannot be swept back into the stream during a flood.
- 29 All works proposed must be designed, constructed and operated so they do not cause erosion or sedimentation and do minimise adverse impacts on aquatic and riparian environments.
- 30 No plastic netting is to be used for any purpose, in the stream or within the riparian zone unless such netting is of a rapidly biodegradable variety.
- 31 Erosion and sediment control measures are required to be implemented prior to any works commencing, and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the river system. These measures are to be in accordance with Council's requirements and follow best management practices.
- 32 The excavation of soil/spoil and its removal is the responsibility of the permit holder and the owner or occupier of the land.

- 33 The approval of NSW Fisheries is required for all proposed designs of in-stream works prior to the issue of the Part 3A permit.
- 34 These conditions are issued with the proviso that operations shall be carried-out on freehold land. Should operations be on Crown Land, these conditions are rendered null and void and the occupier of Crown Land should contact DIP & NR's Crown Lands section.
- 35 Work is to be carried out in accordance with any conditions imposed by other government agencies, provided such conditions do not conflict with these conditions or the conditions on the Part 3A permit.
- 36 The permit holder and the owner or occupier of the land are responsible for any works undertaken by any other person or company on this site.
- 37 The rehabilitation of the area in accordance with the Part 3A permit conditions is the responsibility of the permit holder and the owner or occupier of the land.
- 38 Any Part 3A permit granted is not transferable to any other person or company without the written approval of DIP & NR and does not authorise works at any other site.
- 39 Any Part 3A permit granted does not give the holder the right to occupy any land without the owner(s) consent nor does it relieve the holder of any obligation which may exist to also obtain permission from local government and other authorities who may have some form of control over the site and/or the activities proposed.
- 40 Work as executed survey plans of a professional standard shall be provided to DIP & NR upon request.
- 41 If, in the opinion of a DIP & NR officer, any activity is being carried out in such a manner that it may degrade the riparian zone, stream, lake or foreshore environment, all work shall cease immediately upon oral or written direction of such an officer.
- 42 If the permit conditions have been breached, the permit holder shall restore the site in accordance with the permit conditions and/or as directed by DIP & NR. If any breach of the permit conditions requires a special site inspection by DIP & NR, then the permit holder shall pay a fee prescribed by DIP & NR for this inspection and all subsequent breach inspections.
- 43 If works are to cease prior to completion DIP & NR must to be notified in writing one month in advance of the cessation of the operation.
- 44 All stream crossing designs must be sensitive to the ecological functions and geomorphic functions of the stream by providing adequate light levels, protection for aquatic fauna and minimising erosion. Road or track

widths are to be as narrow as possible and bank full creek flows and floodplain flows are not to be inhibited in any way. Crossings should not cause scour or erosion to the streambed or banks in any storm events. A design is to be prepared for each crossing by suitably qualified persons, in consultation with, and with the approval of DIP & NR prior to the issue of the Part 3A Permit.

45 Details of the means of controlling stock within the property, including stock numbers, watering, feeding and fencing are to be provided to Council within 3 months of the nominated dates of the events.

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

C That the applicant be advised that Council's favourable consideration of any additional future events will be contingent upon compliance with all conditions of consent and any justified complaints being received.

2004. P45

RESOLVED:

*Moved: Cl. Bowen
Seconded: Cl. Bowell*

That this matter be the subject of a Works Inspection and that the following people be invited to attend;

- the applicant
- staff from Department of Infrastructure, Planning and Natural Resources
- relevant Council staff in relation to traffic issues
- representatives from the Department of Agriculture in relation to site rehabilitation.

The Mayor noted that this resolution was carried unanimously.

DES6	PROPOSED RELOCATION OF AN EXISTING DWELLING, CONSTRUCTION OF A NEW DWELLING AND SWIMMING POOL - LOTS 35 AND 36 DP752412 NO 34 MAIN STREET, SMITHTOWN FILE: T6-03-852 LA7230 SNB {Folio No. 271763}
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SUMMARY:

Reporting that a Development Application has been received for approval to relocate an existing dwelling that is presently located over two (2) lots and construct a new dwelling, resulting in two (2) dwellings on one allotment, which requires a variation to Council's Flood Risk Management Policy.



Applicant: Ian Ismay

Subject Land: Lot 35 and 36 DP 752412 No 34 Main Street, Smithtown
Proposal: Relocation of an existing dwelling and construction of a new dwelling and swimming pool

The applicant has submitted an application to relocate an existing dwelling from its current position across the boundary of the two allotments to a position at the rear of Lot 36, and construction of a new dwelling and a swimming pool, in the position where the existing dwelling is presently located, on Lot 35. The site plan indicating the proposed positions of the structures is appended to this report. (*Appendix L*)

The proposal effectively will result in two dwellings on one lot. Under Section 6.3.1 of Council's Flood Risk Management Policy building development shall be restricted to single dwellings or such non-residential development as may be permissible. However, because the proposal involves relocation/construction of two dwellings on two adjoining separate 2(v)-village zoned allotments that enjoy a dwelling entitlement, it is considered appropriate in this instance to vary the policy for the following reasons:

- No additional dwelling entitlements are created.
- There is no proposal to subdivide the allotments.
- Each allotment enjoys a dwelling entitlement and therefore the proposal does not involve any increase in density.
- The proposed development is unlikely to adversely impact on the amenity of the area.
- Consolidation of the two lots is required which is proposed to be included in conditions of consent.

DCP 22 - Local Housing Strategy (DCP 22)

The proposal complies with all relevant standards contained in DCP 22.

Public Notification

The application was advertised in accordance with Council's Notification Policy. There were no objections received as a result.

2004. P46

RESOLVED:

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

That the application 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.
- 4 The dwellings and swimming pool are 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 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.
- 6 The ground floor of the dwellings are not approved for habitable purposes.
- 7 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 timber framing with any veneer walls completed prior to wall sheeting being fixed;
- (d) wet area floor and wall surfacing prior to tiling;

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.

- 8 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.

- 9 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.
- 10 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
- 11 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.

- 12 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 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.

- e 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.

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

- g 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.

- h 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.

- i All glass in shower doors, shower screens, bath enclosures and associated windows (the lowest sight line of which is less than 1500mm above the floor or bottom of the bath or shower base) shall be Grade A Safety Glass.

- j 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.

- 13 The proposed dwelling is to have a floor level of 5.6 metres A.H.D. in accordance with council's Flood Plain Management Strategy Policy.

In this regard, Council requires submission of a Survey Certificate issued by an accredited certifier prior to framework indicating that the minimum floor level will be achieved.

- 14 Submission of a certificate from a Structural Engineer advising that the building has been designed to withstand the forces created by floodwaters and debris loading anticipated for that area prior to release of the Construction Certificate.

- 15 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.

- 16 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.

- 17 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.

- 18 Roofwaters are to be directed by means of sealed pipes to the street gutter. Details are to be provided with the plans for the required Construction Certificate.

- 19 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.

- 20 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.

21 Consolidation of Lot 35 and Lot 36 DP 752412 into one allotment prior to occupation of the premises/release of the Construction Certificate. In this regard Council will accept proof of lodgement of the linen plan for registration with the Land Titles Office.

**DES9 DUAL OCCUPANCY - SOUTH WEST ROCKS
 MODIFICATION OF CONSENT
 FILE: T6-03-171 AD {Folio No. 271766}**

SUMMARY:

Reporting that Council has received a request under Section 96 of the Environmental Protection Authority Act 1979 to modify Development Consent T6-03-171 for a dual occupancy which requires variation to standards contained in Development Control Plan No. 22 - Local Housing Strategy.



Applicant: V Y & M E Lee
Subject Land: Lot 51 DP 531363 No. 38 McIntyre Street, South West Rocks
Owner: 2(c) Residential "C"
Proposal: To modify Development Consent T6-03-171 by creating 2 driveway crossings.

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's), North Coast Regional Environment Plan 1988 (NCREP 1988) or Kempsey Local Environment Plan 1987 (KLEP 1987).

Background

On 13 May 2003, Council resolved to approve a dual occupancy on the subject land on the basis that the proposal complied with all requirements of DCP 22, despite an objection being received.

The proposal currently complies with all relevant standards of DCP 22. The S96 Modification of Consent application is to modify condition No. 19 of Development Consent T6-03-171, which required that:

"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.

- a) *all redundant vehicle crossings are to be removed and replaced with kerb and gutter to Council's standard.*
- b) *Telecom pit to be relocated clear of the proposed vehicle access.*
- c) *Electricity supply pole to be relocated clear of the proposed vehicle access."*

As well as modifying the original landscaping plan, the applicant wishes to delete Parts B and C, of Condition 19, i.e. leaving the Telstra pit and electricity supply pole and creating two driveway crossings. Clause 4.3.4f of DCP 22, states that lots which are not on a corner, or lots with more than one street frontage are restricted to a single driveway crossing to maximise on-street carparking. The applicant has made a submission to justify the variation, which may be summarised as follows:

- "we would like to change the driveway from the original 5 metre wide crossing into 2 separate 3.2 metre wide crossings to allow clearance from the Telecom Pit and pole.
- when our Torrens Title subdivision is approved we will be entitled to two separate driveways, with the pit and pole remaining situated between the two driveways on the proposed lot boundary.
- the extensive work and costs involved with moving the Telecom pit and pole are prohibited. According to a Telstra contractor, the relocation is not necessary provided no vehicle drives over the pit."
(Appendix P)

Planning Comment

Whilst it is considered reasonable that the landscaping plan be altered, concerns are raised regarding the planned increase in driveway crossings. The following issues are raised relating to the proposed modification:

- Each existing lot is restricted to one driveway crossing, regardless of proposed methods of subdivision, in accordance with the requirements of DCP 22.
- The creation of two driveway crossings reduces the availability of on-street carparking, and is contrary to the requirements of DCP 22;
- The potential safety issues raised regarding the location of the Telstra pole and pit; and
- The potential impact upon the aesthetic amenity of the location

It is for these reasons that it is not considered desirable to delete Condition 19 Parts B and C from Development Consent T6-03-171.

Note: Under the Environmental Planning and Assessment Act, Council is unable to approve of an application in a form which is substantially different to that which is applied for.

Whilst no objection is raised to the amended landscaping plan, should Council decline to support amendments to the driveway, Council would be obliged to refuse the application unless agreement is provided by the applicant to delete the modified driveway from his application.

Director Environmental Services Recommendation:

- A That the applicant be advised that subject to his written agreement to delete the modified driveway from the application, Council is prepared to agree to the modified landscaping plan only.**
- B That unless the applicants written agreement is received within 14 days of notice being given, that the application be refused for the following reasons:**
- 1 The proposal is likely to adversely impact on the existing streetscape.**
 - 2 The proposal is likely to reduce the opportunity for onsite carparking.**
 - 3 The proposal is likely to conflict with vehicles accessing the property.**
 - 4 The proposal is likely to create an undesirable precedent for similar proposals in the locality or the Shire.**

2004. P47

RESOLVED:

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

That the modification of consent requested by the applicant be approved.

Councillor Parkinson recorded his vote against the foregoing Resolution.



ADOPTION OF AGENDA ORDER OF BUSINESS

2004. P48

RESOLVED:

*Moved: Cl. Hunt
Seconded: Cl. Sowter*

That the Agenda Order of Business be adopted.

NOTICE OF MOTION

NOM1	MASTER ENVIRONMENTAL PLAN	
FILE: T4-10	RBP (NRN)	{Folio No. 271751}

Notice is hereby given that I intend to move the following motion at the Planning meeting of Council scheduled for 23rd March 2004.

2004. P49

RESOLVED:

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

That a report be submitted to Council in respect to the preparation of master environmental plans initially for all undeveloped land within coastal urban areas.

Such report to outline methods of recovery of the required funding from future developers in each area.

NOM2	ILLEGAL DWELLINGS	
FILE: B9-10	RBP (NRN)	{Folio No. 271753}

Notice is hereby given that I intend to move the following motion at the Planning Committee Meeting of Council scheduled for 23rd March 2004.

2004. P50

RESOLVED:

*Moved: Cl. Parkinson
Seconded: Cl. Bowell*

That all people occupying illegal dwellings, once notified to Council, be given 42 days to lodge a development application or building application to bring the dwellings up to the required standards if not, the eviction process be put into place.



At this stage 10.35 a.m. the Meeting adjourned for Morning Tea and upon resumption at 11.02 a.m. all present at the adjournment were in attendance.



RESCISSION MOTION

RM1	TWO-STOREY DWELLING 81 OCEAN STREET, SOUTH WEST ROCKS FILE: T6- 03- 882 RBP	{Folio No. 271756}
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This rescission motion was dealt with earlier in the meeting just after PUBLIC FORUM.



DIRECTOR ENVIRONMENTAL SERVICES REPORT

DES1	TWO STOREY DWELLING - LOT 49 DP 791310 NO 81 OCEAN STREET, SOUTH WEST ROCKS FILE: T6-03-882 DJW
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This report DES 1 was dealt with earlier in the meeting just after PUBLIC FORUM.

DES2	DUAL OCCUPANCY - GREGORY STREET, SOUTH WEST ROCKS FILE: T6-03-37 AD	{Folio No. 271759}
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This report should be read in conjunction with DES15 - Council Meeting 24th February 2004.

SUMMARY:

Reporting on an application for a dual occupancy at South West Rocks for which objections have been received.



Applicant: R R O'Neill
Subject Land: Lot 2 DP 622342 No 75 Gregory Street,
South West Rocks
Owner: 2(a) Residential
Proposal: Dual Occupancy (*Appendix C*)

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 Policies (SEPPs), North Coast Regional Environmental Plan 1988 (NCREP 1988) or Kempsey Local Environmental Plan 1987.

Background

Council's resolution at it's meeting on the 24th February 2004 was:

"That this matter be subject to a further report to Council based on additional information in accordance with the resolution of 25th November 2003 from the applicant and the objectors be advised that the information has been submitted".

The original objectors were furnished with a copy of the amended plan submitted by the applicant to Council ([Appendix C](#)), and invited to make comment in accordance with Council's resolution.

The submissions received may be summarised as follows: ([Appendix D](#))

- The block at No 75 Gregory Street is too small and unsuitable for a dual occupancy.
- After revision of the amended plan, it appears there are no significant changes other than a plant list, diagrams of planting and mentions that the large tree will be removed, with nothing else altered.
- Streetscapings and plantings have never been an issue.
- Nothing has changed since the Council almost unanimously rejected the proposal.
- It is questioned whether the planning consultant (ABC), or the Councillors have ever visited the site.
- There are safety, environmental and resident concerns, with the development affecting the character of South West Rocks adversely.
- If this were a new Development Application, it would not comply with DCP 22. For the DCP to be amended in the first place must mean there were good reasons to do so, as recognised by Council.
- The dual occupancy is an over-development of the site. The complex on the southern adjoining lot is already considered overdeveloped, so similar style development should be controlled or stopped.

- Chamonix Village has a wider driveway and every resident can access their garage. The proposal will create extra vehicular traffic, and will detrimentally affect the enjoyment of adjoining properties.
- The proposal will impact upon the safety of school children, which clearly is an issue as admitted by Councillors and the Roads and Traffic Authority.
- There was recently a move by Council to restrict access to Chamonix Village from Gregory Street - surely an indication of overdevelopment in the area.
- The infrastructure in the area does not support this development, and is irresponsible and contrary to the type of development preferred by the residents of South West Rocks.
- The proposal does not include a wide driveway. Cars from Unit 2 will be required to reverse for most of the block (either reversing out or reversing in). The plan allows for the reversing car/s to back into the space in front of the visitor car space - does not mean it will happen.
- There appears not to be enough room for Car Unit 1 to be able to negotiate entry into the garage. We were unable to ascertain measurements.
("driveway non-compliant with Section 4.3.4(a)" - Environmental Services Report 25th November, 2003).
- Congestion and safety on entry and existing property is still a concern. The driveway is **NOT** set back from the southern boundary as required under the DCP 22.
- The amended plan submitted has Unit 1 and Unit 2 moved closer together. WAS another solar projection done for the amended plan? We are not too sure about the accuracy of the first projection, and as the building line has moved, a second overshadowing projection should have been done.
- As explained at the Ratepayers meeting at the South West Rocks on 9th February, several factors are taken into consideration when a plan is proposed to Council - one being topography. We do not believe the topography of this site is suitable for over development.
("the topography of the site is unsuitable for the proposed development" Council resolved on 25th November, 2003).
- Over development of No 75 will affect our property value. In the Environmental Services Report 25th November, 2003 - this statement was considered speculative. However, we have sought the opinion of three local real estate agents, all of whom concur that dual occupancy on No 75 will definitely have an adverse impact on the value of the property.

- Council has already considered and rejected the proposal, one of the reasons being "not in compliance with Development Control Plan (DCP) No 22".
- We have requested clarification on the measurements of the visitor car space. It appeared to take in some of the garden area at the front of the property. No clarification was given. (We visited the Development and Environment Dept.)
- If this over-development is approved, does this set a precedent for the developer to blatantly get away with similar development on his other properties in South West Rocks? Please let common sense prevail.

Planning Comment

Council's resolution of the 25th of November 2003 was that:

"The applicant be invited to submit an amended plan for a single dwelling as the current application is:

- a Not in compliance with DCP 22.*
- b Egress is not considered suitable for a dual occupancy development.*
- c The topography of the site is unsuitable for the proposed development."*

The applicant has submitted amended plans for a dual occupancy indicating additional landscaping and the addition of 'permeable paving with turf fill, which is not considered to be a form of landscaping, in order to address issues of non-compliance with DCP 22 (ie. the driveway not being set-back 1 metre from the side boundary to allow for additional screenplanting). It must also be noted that the amended plan submitted does not include contours or detailed measurements and is not drawn to scale.

In this regard, Council must consider the development application in its current form, bearing in mind previous resolutions made and submissions from both the applicant and objectors to the proposal.

Director Environmental Services Recommendation:

For Council's determination.

2004. P51

RESOLVED:

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

- 1. **That Council reaffirm its previous resolution of 25th November 2003 as follows:**

"The applicant be invited to submit an amended plan for a single dwelling as the current application is:

- a Not in compliance with DCP22.*
- b Egress is not considered suitable for a dual occupancy development.*

- c *The topography of the site is unsuitable for the proposed development.*”
2. That the applicant be given 14 days to comply otherwise the application be refused for the following reasons:
- a Not in compliance with DCP22 as;
 - i the permeable paving with turf fill is not considered to be a form of landscaping
 - ii the driveway is not set back 1 metre from the side boundary to allow for additional screen planting
 - b Egress is not considered suitable for a dual occupancy development due to serious safety concerns.
 - c The topography of the site is unsuitable for the proposed development
 - d The amended plan does not include contours or detailed measurements and is not drawn to scale.

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

**DES3 TEMPORARY SANDBAG STRUCTURE - MARIA
RIVER ROAD RESERVE
FILE: T6-04-99 DEC**

SUMMARY:

Reporting that Council has received an application to construct a temporary sandbag structure in the Maria River Road reserve on Drain 8 of the Maria River, for which one objection has been received.



Applicant: Kempsey Shire Council (Mr T Morris)
Subject Land: Drain 8 of the Maria River, 9.3 km south of Crescent Head
Owner: Kempsey Shire Council
Zone: 1(a3) Agricultural Protection Zone

Background

The proposed development involves the placement of sandbags as a temporary weir to assist in acid sulfate soil (ASS) management within the Upper Maria River – Connection Creek catchment. The Upper Maria River area is described as a ‘hot spot’ under the State Government Funded ‘Acid Sulfate Soils Hot Spot Project’. Kempsey Shire Council coordinates the Upper Maria River ASS Hot Spot Project and has made the application.

Proposed Development

The proposed development is to build a trial sandbag structure (weir) at a height of zero (0) metres Australian Height Datum (AHD) in Drain 8 of the Maria River. The proposed trial is to be conducted over a period of twelve (12) months, at which time the applicant will evaluate the future need for such a structure. (*Appendix E*)

The applicant has stated that the purpose of the sandbag structure is to maintain a higher water level (0m AHD) in the drain, reducing acid groundwater seepage into the drain. The raised water will be restricted to the main drain, adjoining field drains and natural back channel whilst still operating as a drain in allowing excess water (over 0m AHD) to flow over the structure.

The applicant has indicated the proposed development follows the 'Guidelines for Managing Floodgates and Drainage Systems on Coastal Floodplains' *Johnston et al (2003)*

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 1979 with the following matters to be of particular relevance to the proposal.

The Provisions of any Environmental Planning Instrument

Clause 34 of the Model Provisions 1980, as adopted by Kempsey Local Environment Plan 1987, requires development consent to be obtained on any flood prone land. Although it appears that the drain pre-dates planning controls, modification of the drain requires development consent. One of the key objectives of the 1(a3) Agricultural Protection Zone is to 'conserve land particularly suitable for agricultural use'. An objective of Rural Zones listed under the North Coast Regional Environment Plan 1988 is to 'protect prime crop and pasture land'. It is considered that an environmental project of this nature will assist in maintaining the agricultural viability of the Upper Maria River and assist in the management of a water quality within the Upper Maria catchment.

The project is not contrary to any State Environmental Planning Policy.

Access Transport and Traffic

During the construction phase of the development, access from Maria River Road will be required for a short period (1 day). Ample parking is available immediately adjacent to the road and the site is clearly visible from both directions. It should be a condition of any approval that the applicant consult with Council's Engineering Department, prior to commencing works, to arrange for appropriate temporary warning signage to be placed on the road during construction.

Flooding/Drainage

The water level within Drain 8 is expected to permanently rise during the trial period by approximately 200mm. Adjoining field drains and natural back channel will have slightly raised water levels. This water rise is not expected to result in significant inundation of land or effect the natural vegetation of the area as the area is already a wet back swamp environment.

In principle, the trial is attempting to raise the water level to prevent over drainage of the soil. However, the drain will still remove surface water over the height of 0m AHD.

In the unforeseen event of any backing up of flows resulting in damage to adjoining properties, it is intended to terminate the trial, including removal of all structures and restoration to existing levels in such circumstances which should be reinforced in conditions of consent.

In accordance with the application, any consent should only be for a period of twelve (12) months. Any future proposals/consents for Drain 8 will be carefully analysed in relation to the impacts/success of this trial.

It should be a condition of any consent that the applicant monitor the effects of the trial structure, both within the drain and on adjoining land. The results of such monitoring should be submitted to Council prior to any further approvals being obtained.

It should be a condition of any consent that the applicant advise all landholders within the Drain 8 catchment of commencement of the trial. Such advice should list relevant contact details of the project coordinator in the event of any concerns/impacts arising.

Public Exhibition

The applicant invited all twelve (12) landholders within the catchment of Drain 8 to a site meeting to discuss the proposal, with all in attendance in agreement of a trial. Adjoining property owners were notified of the proposal in accordance with Council's Advertising Policy. One objection was received ([Appendix F](#)) from a landholder on Maria River Road. The objection can be summarised as following:

Objection	Planning Comment
1 The proposed development will hold back water.	1 The increase in the water level of drain 8 by only 200 mm is not expected to have any significant impacts on surrounding properties. It should be a condition of any consent that in the event of any unforeseen impacts the structure be removed and the trial cease.
	Refer to 'Flooding/Drainage' Planning Comment.
2 The proposal may raise the	2 The proposal is not expected to

<p>water table.</p>	<p>raise the water table in any adverse way and would prevent over draining leading to the oxidation of ASS.</p> <p>Refer to 'Flooding/Drainage' Planning Comment.</p>
<p>3 The proposal may cause disease through creating stagnant water</p>	<p>3 The proposal is not expected to result in any significant increase in mosquito populations. It should be noted that the environment in the locality is a wet back swamp environment. A common feature of such an environment is the presence of surface water and mosquitoes. There is no evidence to suggest that the proposal will result in the increased occurrence of any disease.</p>
<p>4 The proposed development could be seen to cause loss of enjoyment of land.</p>	<p>4 It is expected that the proposal will have environmental benefit for landholders in the Upper Maria Catchment. In the event of any unforeseen impacts on landholders enjoyment of their land, the structure should be removed and the trial ceased.</p>
<p>5 The proposal may block transport i.e. cause flooding of Point Plomer Road by causing water to back-up at the 'Big Hill Flood Gates'</p>	<p>5 The Drain 8 Catchment is separate to the Big Hill drain network. As such, there is no evidence to suggest that the proposed development will have any impacts on Plomer Road.</p>

Conclusion

It should be emphasised that the proposed development has been designed for environmental benefit, involved extensive public consultation and is a trial only.

There is no evidence to suggest that there will be any adverse impacts. However, Council should take the precautionary approach and impose conditions that would require the structure to be removed and the trial to cease in the event of any unforeseen impacts.

2004. P52

RESOLVED:

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

A That consent be granted subject to the following conditions

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 or Kempsey Local Environment Plan 1987, and is permissible in the zone.

It should be noted that the 1(g) zone applying to the area is specifically to provide for the establishment of small agricultural businesses.

Background

An application for a Free Range Poultry Farm was received by Council on the 31st October 2003, with the activity to be carried out in mobile pens over approximately 6 hectares of the property, with 1250 birds being moved in an easterly direction approximately 300 to 350 metres over a period of 6 to 10 weeks. (*Appendix G*)

The applicant was advised that the original plan submitted which indicated the activity to be carried out less than 100 metres from Pipers Creek, would have required an Environmental Impact Statement under Schedule 3 of the Environmental Planning and Assessment Regulations 2000. Amended plans were subsequently received showing the proposed pen location area being at a distance from the creek greater than 110 metres. The applicant has also submitted documentation from the NSW Department of Agriculture stating the recommended stocking density for poultry on free range as being at 1500 hens per hectare, whereby it is intended to stock only 1250 birds over 6 hectares.

Water Quality

The proposal has the potential to adversely impact on the water quality of creeks in the locality by means of runoff from effluent on the land. In this regard, conditions should be applied requiring the diversion of runoff to constructed holding dam(s), to be used to irrigate and progressively rehabilitate pen areas which should be included in a Plan of Management and agreed to by Council prior to commencement of the activity.

Odour

The NSW EPA Draft Policy: Assessment and Management of Odour from Stationary Sources in NSW recommends that the minimum separation distance between a broiler chicken farm and a neighbouring rural residence as being at 200 metres. The Policy also assumes that a standard broiler chicken farm is one which contains 22,000 birds. In this instance, the activity is being carried out further than 200 metres from the nearest non-associated dwelling, will only be approximately 1250 birds in open and in mobile ventilated cages. It is anticipated that any odour will dissipate and will not impact on adjoining dwellings.

Traffic

The applicant has specified that the only traffic generated by the proposal will be "a farm ute and trailer" once a week, and a single axle truck once every 3

to 4 weeks, delivering poultry feed. Given the low level of traffic generation as compared to a dwelling, no road contributions should be required.

Public Exhibition

The proposal was advertised in accordance with Council policy, with one (1) objection being received, which may be summarised as follows. ([Appendix H](#))

Objection	Planning Comment
1 The smell of poultry effluents, especially after it is mixed with rain, is of concern so minimum distances from boundaries and other homes should be set.	1 The applicant has stated that odour from the poultry will be limited due to the number of birds on the property, as waste is composted directly into the soil. As the pens are mobile, only small amounts of waste are deposited on any one place. This mobility would also enable moving the pens in the unlikely event of unacceptable odour. The applicant is proposing to run approximately one ninth of the recommended number of poultry per hectare (as per NSW Department of Agriculture guidelines). Concerns that nutrients may have a detrimental impact on the area can be addressed by the imposition of conditions regarding adequate runoff control measures, including diversion of runoff into a holding dam(s) for use in irrigating the rehabilitated areas.
2 Concern is raised regarding disposal of carcasses - if buried, dogs or wild animals may dig up and drag to neighbouring properties - Incineration is a preferred and more hygienic method.	2 The applicant has stated that there are 2 proposed methods of disposal, being processing at the local abattoirs, and in the event of a large scale death event, contacting NSW Agriculture (if not heat or stress related) to determine cause of death, then removal via commercial waste management company. A condition should be applied

3 Noise is an issue, so Council needs to impose a maximum number of birds to be kept on the property at any one time.

requiring disposal of carcasses offsite with no burying or incineration of carcasses permitted.

3 The NSW Department of Agriculture Guidelines for free range poultry recommend a maximum stocking density of no more than 1500 hens per hectare. The applicant has stated that no more than approximately 1250 birds are to be kept over 6 hectares which should be reinforced by a condition of consent. The applicant has stated that at the age the birds are to be slaughtered (8 to 9 weeks), the birds have not yet learned how to make any substantial noise. In addition, the applicant has indicated that a tree and shrub planting process will be undertaken at the rear of the lot to further reduce any noise.

To further reduce potential noise, a condition should be imposed preventing any breeding on-site, thereby precluding roosters. Further, a condition should be imposed requiring monitoring in the event of complaints and an acoustic report should monitoring detect any exceedances recommending additional amelioration measures.

2004. P53

RESOLVED:

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

That 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 permits not more than 1250 birds under the age of 9 weeks only. No breeding is permitted under this consent.**

- 3 No slaughter or processing of any kind is permitted to be undertaken on the land.
- 4 Suitable arrangements are to be made offsite for the disposal of any dead birds. No burying or incineration of carcasses is permitted. Details are to be provided to Council prior to commencement of the use.
- 5 All runoff is to be diverted to a suitably constructed holding dam(s), for use in irrigating and rehabilitating previously utilised areas. In this regard, the applicant is to submit a detailed Plan of Management including the means to comply, prior to commencement of the use.
- 6 Details of the means of progressively rehabilitating the site after moving of the pens, including soil preparation and seeding are to be included in a detailed Plan of Management prior to commencement of the use.
- 7 Upon receipt of any complaints concerning noise which Council considers to be justified, the operator shall provide Council with a report prepared by a suitably qualified acoustic consultant indicating the results of monitoring. Where the results of monitoring indicate non-compliance with EPA criteria, the operator shall provide Council with a report prepared by a suitably qualified acoustic consultant indicating the means of ensuring compliance.

DES5	KEMPSEY MACLEAY OFF ROAD CLUB INC.
	FILE: T6-03-559 DEC {Folio No. 271762}

This report DES 5 was dealt with earlier in the meeting just after PUBLIC FORUM.

DES6	PROPOSED RELOCATION OF AN EXISTING DWELLING, CONSTRUCTION OF A NEW DWELLING AND SWIMMING POOL - LOTS 35 AND 36 DP752412 NO 34 MAIN STREET, SMITHTOWN
	FILE: T6-03-852 LA7230 SNB {Folio No. 271763}

This report DES 6 was dealt with earlier in the meeting just after PUBLIC FORUM.

DES7	PROPOSED TWO STOREY DWELLING - LOT 3 DP1039514 NO 45 FRANCIS DIMOND STREET, SOUTH WEST ROCKS
	FILE: T6-03-809 KJW {Folio No. 271764}

SUMMARY:

Reporting that Council has received amended plans for a dwelling with a variation to front building alignment which Council considered at their February Planning Meeting.



Applicant: Mark Carvill
Subject Land: Lot 3 DP 1039514 No 45 Francis Dimond Street,
South West Rocks
Zone: Residential 2(a)

Council at its 17th February 2004 Planning Meeting considered an application for variation to the 5 metre building alignment and resolved:

"That the applicant be requested to submit amended plans, which meet Council's minimum building alignments".

The applicant has submitted amended plans to Council for consideration. [\(Appendix M\)](#) The changes to the plans are:

- Remove the entry from the lower storey.
- Move the building back to the edge of the sewer easement.

In making these changes to the plan the lower floor of the proposed dwelling will comply with the 5 metre building alignment.

There will be a variation to the building alignment on the first floor with the living room extending 1.58 metres (total area 6.2m²) into the 5 metre building alignment.

The applicant has made changes to the plan which are considered acceptable with a variation on first floor.

2004. P54

RESOLVED:

*Moved: Cl. Parkinson
Seconded: Cl. Bowell*

That the Development Application T6-03-809 be approved with a building alignment variation on the first floor 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 The building or portion of the building is not to be used or adopted for use as a residential flat building.**
- 3 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 floor timbers and/or placing of damp proof course material;
- (d) completion of wall and roof framing prior to wall sheeting being fixed;
- (e) wet area floor and wall surfacing prior to tiling;

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.

- 4 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.

- 5 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.
- 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 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).

- 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 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.

- 10 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 Structural Engineer's Details for footing slabs, beams, verandahs and retaining walls are to be submitted prior to any work commencing on the building.
- b 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.
- c 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.
- d The batter of the excavation is not to be steeper than 1 in 2.
- e 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.
- f 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) Part 3.9.1 and 3.9.2 of BCA Housing Provisions

Note: Spacing of rails not to exceed 125mm.

- g 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.

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

- i 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.

- j 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.

- k The stair being a minimum 1000mm between handrail and wall.

- 11 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.

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

13 A Survey Report is to be submitted on completion of the dwelling to ensure the location of the building is in accordance with the approval issued.

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

Walls	Medium
Roof	Dark
Wall	Brick Veneer
Roof	Insulated Sarking with Anticon
Ceiling	Insulated R2.5
Hotwater	Heat Pump

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

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

17 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.

18 Roofwaters are to be directed by means of sealed pipes to the street gutter. Details are to be provided with the plans for the required Construction Certificate.

19 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.
- 20 Under the provisions of AS3959-1999 – Construction of Buildings in Bushfire-Prone areas, the site has been determined as a high category of bushfire attack requiring level 2 construction.

DES8 SUBDIVISION OF LOT 22 DP 1052637, OFF KEMP STREET, WEST KEMPSEY - STREET NAME PROPOSAL
 FILE: S15-92-25 AJC {Folio No. 271765}

SUMMARY:

Reporting on a proposal to modify Condition 5 of the Development Approval.



Applicant: N T Griffin, M Baxter and J Williamson
Subject Land: Lot 22 DP 1052637, at Kemp Street, West Kempsey

Background

The applicant submitted a proposal seeking to have the street name that was allocated with the stage 2 (after a World War II veteran Keith Lalor) of the development consent issued on the 12 June 1992 replaced by the name Yates Place.

Council at its meeting of the 27 January 2004 resolved to *invite the applicant to submit a list of preferred names for Council to consider that comply with the provisions of the existing Council Policy on Street Naming.* A copy of the Council report is appended. ([Appendix N](#))

Proposal

The applicant has now replied to the Council resolution and has forwarded another submission requesting Council reconsider the use of *Yates Place* as a street name for stage 2 of this development and is attached to this report. ([Appendix O](#))

In its January report council has recognised that in stage 1 of the development that the applicant had adopted one street name obtained from the list provided by the Returned Services League of Australia and that it would be appropriate for Council to consider alternatives for stage two of this development.

The applicant provides the following comments in support:-

- 1 "The naming of the other street would meet the historical requirements of the policy, as it relates to family of the current and past owners of the land."; and
- 2 The Macleay Branch of the Returned Services League of Australia has no objection to the use of *Yates Place* as a street name as the names refers to past family member.

Discussion

The following comments are made in respect to the submission: -

Council policy requires "*that where possible, the name should have an affinity with at least one of the following aspects of the particular area in which it is to be applied.....*". The applicant has nominated a historical aspect only. It is standard practice for the applicant to approach the Macleay River Historical Society for comment before lodging submissions to Council. This has not been done.

The proposal does not comply with Council's Street Naming Policy C22:6.

Should Council decide to adopt the street name being offered by the applicant then serious consideration should be given by Council to amend the policy to make clear Council's position regarding criteria to be used when choosing street names in Kempsey Shire.

Director Environmental Services Recommendation:

For the determination of Council.

2004. P55

RESOLVED:

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

1. That Council seek clarification from the RSL Sub-branch regarding their letter agreeing to the name *Yates Place* being used bearing in mind Councils policy.
2. That a review of the street naming policy be undertaken by the new Council.

DES9	DUAL OCCUPANCY - SOUTH WEST ROCKS MODIFICATION OF CONSENT FILE: T6-03-171 AD	{Folio No. 271766}
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This report DES 9 was dealt with earlier in the meeting just after PUBLIC FORUM.

DES10

DWELLING - LOT 1 DP 506144 NO 54 WIDE STREET,
WEST KEMPSEY

FILE: T6-04-89 JGR

{Folio No. 271768}

This report should be read in conjunction with Confidential Report DES1.

SUMMARY:

Reporting that Council has received a Development Application to construct a dwelling at Wide Street which does not comply with Council's Flood Risk Management Policy.



Applicant: Mr J G Howard
Subject Land: Lot 1 DP 506144 No 54 Wide Street, West Kempsey
Owner: Snofen Pty Ltd
Zone: Residential 2(a)

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 Environmental Plan 1988 (NCREP 1988), or Kempsey Local Environmental Plan 1987 (KLEP 1987).

Flood Risk Management Policy

Council's Flood Risk Management Policy - Section 6.3.1 Urban Development (Residential) states:-

"(a) *The difference between the 1:100 flood level and natural ground level should not be more than 2.5 metres*".

The average natural ground level at the proposed building site was taken from Surveyors Report Ref 14816 DET.VCO prepared by M W Rogers and Associates dated 6 August 2003.

The natural surface level at the building site was 4.05 AHD. The difference between natural surface level and the flood level 8.66 metres AHD is 4.61 metres.

This exceeds Council's minimum requirements by 2.11 metres, which constitutes a major departure from the code.

The required floor height of the building would be 5.1 metres above the current site level, this would necessitate a building design which would then not meet Council's height restrictions as required by Development Control Plan No 22 being at least 7.5 metres.

Note: Although the proposed building site is flood prone it is in close proximity to Council's floodway boundary where velocities of up to 3.5 metres/second can be expected.

Public Exhibition

The application was notified in accordance with Council's Policy with one (1) objection received relating to the lack of detail as to the height of the building due to the need to comply with the minimum floor level and the resulting impacts on privacy. (*Appendix Q*)

2004. P56

RESOLVED:

*Moved: Cl. Bowell
Seconded: Cl. Parkinson*

- A** That Council refuse the Development Application T6-04-89 Lot 1 DP 506144 No 54 Wide Street, Kempsey on the following reasons:
- 1** The proposal is contrary to Council's Flood Risk Management Policy and it is likely to result in an unacceptable risk to life or damage to property; and
 - 2** The proposal is likely to create an unacceptable precedent for similar proposals within the Shire.
- B** That the objector be advised of Council's decision.

DES11	SPLIT LEVEL DWELLING - LOT 30 DP 855311 SALMON CIRCUIT, SOUTH WEST ROCKS FILE: T6-04-23 JGR {Folio No. 271777}
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This report DES 11 was dealt with earlier in the meeting just after PUBLIC FORUM.

DES12	REQUEST FOR REZONING OF FORMER SHELL DEPOT, PHILLIP DRIVE, SOUTH WEST ROCKS FILE: LA18308 RBP {Folio No. 271778}
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SUMMARY:

Reporting that the new owners of the former Shell Depot at South West Rocks would like Council to consider rezoning the site for residential development. This is contrary to Council's Residential Land Release Strategy which identifies the land for long term release.



Subject Land: Lot 1 DP 445196, Phillip Drive, South West Rocks
Owner: SWRUT Pty Ltd
Current Zone: 5(a) Special Uses (Oil Terminal)
Proposed Zone: 2(a) Residential

The new owners of the former Shell Oil Terminal site at Phillip Drive, South West Rocks would like Council to consider rezoning the subject land from 5(a) Special Uses (Oil Terminal) to 2(a) Residential. (*Appendix S*) The current zone only allows use of the site as an oil terminal, therefore any change of use will require a rezoning.

The proposal is contrary to Council's Residential Land Release Strategy (RLRS) which identifies the subject land for long term release. The first steps in the rezoning of the medium term land are being taken, and the RLRS anticipates that rezoning the long term land would not occur until the medium term land was rezoned and being taken up by the market. The RLRS is a requirement of the North Coast Regional Environmental Plan 1988 and was prepared by Council to guide and direct future landuse decisions, thereby providing greater certainty for the community and was endorsed by the Director-General of the (then) Department of Urban Affairs and Planning on that basis.

Planning Comment

No objection is raised, in principle, to the proposed rezoning for the following reasons:

- 1 Clause 38 of North Coast Regional Environment Plan 1988 provides that Councils should not prepare a draft Local Environmental Plan that "...constitutes significant urban growth unless it has adopted an urban land release strategy."

The proposed rezoning does not constitute significant urban growth being infill development of an allotment of only 4.64ha between existing residential areas.

- 2 The reasons the subject land was not included in the strategy for shorter term release was due to the contamination from the previous use as an oil terminal and a lack of urgency by the previous owners to have the land considered for shorter term release.
- 3 Having regard to the size of the land and the reasons for designating the land for long term release, the rezoning will not create any undesirable precedent for others seeking to "leap frog" the release program.
- 4 Apart from the issue of contamination there are no known issues of significance preventing the land being developed for residential purposes, having regard to extensive prior disturbance of the land.

Land Contamination

As Council is aware, the land has previously been contaminated from discharges of hydrocarbons associated with the ex oil terminal. SEPP 55 - Land Contamination requires Council to be satisfied that the land will be suitable for residential purposes.

Before rezoning the land, Council is required to obtain and have regard to a report specifying the findings of a preliminary investigation of the land carried out in accordance with Environment Protection Authority guidelines. Should Council agree to prepare a draft Local Environmental Plan, the applicant should be requested to prepare such a report.

Bushfire Threat

Although subject to a current rezoning application, the land adjoining to the south contains a large area of coastal heath which could be a potential fire source. A Local Environmental Study is currently being prepared for the adjoining land. Council must consider the land in it's current state as there is a lack of certainty that the adjoining land will be rezoned. Any draft Local Environmental Plan would need to be referred to the Rural Fire Service for comment.

Local Environmental Study (LES)

As the land lies within the Coastal Zone, a Local Environmental Study is usually required for any rezoning. In this instance, although a Statement of Environmental Effects addressing relevant issues should be required prior to public exhibition, it is considered that a formal LES should not be required for the following reasons:-

- 1 The land is largely degraded due to previous disturbances associated with the oil terminal.
- 2 As the land falls away from the Saltwater Lagoon catchment towards the north, adequate stormwater treatment can be provided to control water quantity and quality to pre-development conditions. With proposed remediation of soils, runoff water quality may actually improve as a result of development.
- 3 The area adjoins existing residential development and there are no known significant environmental constraints to development.

Director Environmental Services Recommendation:

- A That Council resolve to prepare a Draft Local Environmental Plan to rezone the land for residential development.**
- B That the DIPNR be requested to waive the need for a Local Environmental Study having regard to the matters raised in the above report.**

MOVED:

*Moved: Cl. Parkinson
Seconded: Cl. Hunt*

That no action be taken until Council is provided with a report from the EPA specifying the findings of the preliminary investigations of the land carried out in accordance with EPA guidelines.

An Amendment was MOVED:

*Moved: Cl. Sowter
Seconded: Cl. Hayes*

That the Director's recommendation be adopted.

The AMENDMENT was PUT to the Meeting and was LOST.

An Amendment was MOVED:

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

That Council prepare a Draft Local Environmental Plan, with all studies and investigations to meet Government agencies requirements be at the expense of the applicant, to rezone the land for residential development and that such plan include a report from the EPA specifying the findings of the investigation of the land carried out in accordance with the EPA guidelines.

The AMENDMENT was PUT to the Meeting and was LOST.

2004. P57

The MOTION was PUT to the MEETING and was CARRIED.

DES13	STRATEGIC PLANNING - SOUTH WEST ROCKS
FILE: T4-88 RBP	{Folio No. 271779}

SUMMARY:

Reporting on the current status of various studies and projects related to Strategic Planning at South West Rocks.



Background

As Council would be aware, in recognition of changes to the NSW planning system, Council sought to appoint consultants to review the South West Rocks Structure Plan (SWRSP) to determine what steps were needed to make the plan relevant in the current planning system.

The review was undertaken, which included community consultation, whereby it was concluded by the consultants that considerable investigations relating to flora and fauna, stormwater, hydrology, groundwater and flooding were required to make the SWRSP relevant within the current planning system. An estimate of the cost of these studies is in the order of \$200,000.

Having regard to the uncertainty as to the future status of the SWRSP resulting from the PlanFirst review, Council subsequently resolved to defer

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MAYOR

implementing the recommendations of the report to update the Structure Plan.

Following the apparent demise of the PlanFirst concept it is apparent that an updated SWRSP would still play an important role in future planning for South West Rocks.

Co-ordination of Council and Government Agencies

Whilst no decision to formally implement the recommendations of the SWRSP review has been taken, Council has attempted to dovetail current strategic planning programs and other natural resource projects with the recommendations of the SWRSP review.

These include:-

- An allocation of \$50,000 in 2004/05 for a study to determine stormwater controls necessary for development in the catchment west of Gregory Street and south of Gordon Young Drive.
- An allocation in 2002 of \$35,000 (including \$13,000 from the Department of State and Regional Development) for a review of Council's requirements for industrial land in South West Rocks and Kempsey. This review has now been completed and the consultants report is expected shortly.
- An allocation of \$70,000 to undertake a flora and fauna study and engineering investigations for the area west of Spencerville linking to new Entrance in conjunction with a proposed distributor road. The flora and fauna component of the study has been underway since early February 2004.
- A funding application has been made to DIPNR for \$40,000 from the money collected by the PlanFirst levy. If successful, this money will allow the flora and fauna studies to be expanded to cover the area between Spencers Creek, New Entrance, Gordon Young Drive and Spencerville. Given the restricted time allowed for applications which closed on 5 March 2004, the matter was not referred to Council for endorsement. However, Council's endorsement may assist Council in its application.
- A flood study, estuary process study and management study jointly funded by council and DIPNR in relation to Saltwater Lagoon.
- Completion of the Bushfire Hazard maps in conjunction with the Rural Fire Service.
- Council's Discussion Paper for the future infrastructure needs of SWR is also important to Council's corporate strategic planning to address funding the requirements of an aging population and to ensure that strategic land use planning also addresses these needs.

Private Studies

In addition to various studies undertaken in respect to specific development proposals, several owners of land have engaged ecological consultants and have signalled a willingness to co-ordinate investigations and/or contribute to the cost of Council's investigation in the area west of Spencerville.

The Local Environmental Study for the proposed rezoning of land between Belle O'Connor Street and Phillip Drive will also provide important information to assist in planning at a broader scale.

Obviously a complete update of the SWRSP will take considerable resources, however, the information being gathered and the studies being undertaken by Council and private developers are all relevant to the matters raised in the Parson Brinkerhoff Report.

2004. P58

RESOLVED:

*Moved: Cl. Parkinson
Seconded: Cl. Sowter*

- A That the above information be noted.**
- B That Council endorse Council's expression of interest for funding towards a flora and fauna study at South West Rocks and that DIPNR be advised accordingly.**

DES14	REVIEW OF DCP 30 - EXEMPT AND COMPLYING DEVELOPMENT	{Folio No. 271780}
	FILE: T4-40 RBP (NRN)	

SUMMARY:

Reporting that draft amendments to DCP 30 - Exempt and Complying Development within Kempsey Shire are recommended for the purposes of public exhibition.



Background

Following amendments to the Environmental Planning and Assessment Act in 1998, Council was required to prepare a draft Local Environmental Plan to include provisions in Kempsey Local Environmental Plan 1987 for Exempt and Complying Development and to prepare a Draft Development Control Plan specifying Council's requirements.

Subsequent experience in the implementation of DCP 30 has identified a number of areas, particularly in respect to Complying Development where improvements could be made to increase the efficiency of the development assessment process.

The amendments, as detailed below, appear in bold face in the text of the draft plan. (*Appendix T*)

Complying Development

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MAYOR

Complying Development is development which meets a set of predetermined development standards set down in DCP 30 - Exempt and Complying Development. These predetermined standards are chosen to ensure that only developments of minimal environmental impact, including impacts on neighbours, are dealt with by means of Complying Development applications. Under DCP 30, applications for Complying Development do not require neighbour notification or public exhibition. Complying Development Applications are also open to competition with private certifiers. As reported to Council on the 24th February 2004, there are considerable efficiency gains to be achieved by increasing the amount of development determined as Complying Development, without abandoning proper scrutiny of development proposals, likely to adversely impact on neighbours.

At present Complying Development comprises only approximately 3% of applications, almost all of which are determined by Council. This reflects a lack of direct competition from private certifiers who chose not to provide the service, presumably on the basis of the distances involved and the inability to compete with Council, particularly in respect to inspection charges as a result of economies and scale.

In order to remove the number of smaller developments which are currently clogging the development assessment system, at its meeting of 24th February 2004 Council resolved to appoint an additional staff member to be responsible for Complying Development.

Council further resolved to note the information provided, in relation to potential efficiencies afforded by an increased utilisation of Complying Development and increased delegations to the General Manager which are the basis for this report.

General Provisions

There is no proposal to alter the existing general provisions so as to allow Complying Development to be carried out in any environmentally sensitive areas, including any critical habitat; wilderness areas; on land on which an item of environmental heritage is situated or within a conservation area; within any environmental protection zones identified under Kempsey Local Environmental Plan 1987; on land affected by State Environmental Planning Policy No 14 - Coastal Wetlands; on land affected by State Environmental Planning Policy No 26 - Littoral Rainforest; any Aboriginal Place; where any tree removal is required or on any contaminated land.

However, in line with other Councils Complying Development provisions it is proposed to relax the provisions relating to water, sewer and stormwater lines so as to only restrict Exempt and Complying Development where a proposed building is directly affected by an easement or is located over a water main sewer main or storm water line, other drainage systems or easements. The current provisions prevent Complying Development within three metres of any main, whether or not an easement was in place or the main in question would be affected. Standard conditions relating to the methods for protecting mains are also proposed. (See pages 5 & 6 Draft DCP 30).

In addition, it is proposed to relax the provisions relating to flood prone land whereby, with the exception of commercial development which is already allowed as Complying Development on flood prone land, other flood prone lands could be included provided such lands are not identified as being within any floodway under Council's Flood Risk Management Policy. In such cases, it is proposed to include provisions, which relate to the requirements of Council's Flood Risk Management Policy (See page 7 Draft DCP 30).

Having regard to recent changes to Bushfire Legislation, it is necessary to amend DCP 30 so as to preclude Complying Development in areas identified as being bushfire prone lands as identified on Council's bushfire prone lands map which are currently with the RFS for approval (page 7).

Compliance with the Building Code of Australia

It is proposed to include a provision whereby only buildings that comply with the Deemed-to-Satisfy provisions of the Building Code of Australia can be dealt with by means of Complying Development. Other matters related to buildings including classifications of buildings, which rely on performance based assessments, would require submission of a Local Development Application. (See page 7 of Draft DCP 30).

Duration of a Complying Development Certificate

In accordance with the requirements of the Environmental Planning and Assessment Act, an explicit provision has been included so as to advise people that Complying Development Certificates lapse after five years of the date of endorsement unless commenced within that period (See page 7 of Draft DCP 30).

Definitions

A number of additional definitions have been included to increase clarification of various aspects of the plan. These definitions have also been removed from the general text and included as an additional schedule (See Schedule 6 of Draft DCP30).

Complying Development Standards

Dwelling and Dwelling House Extensions in Residential Zones

(See pages 23-25 of Draft DCP 30).

General

It is proposed to amend the provisions to allow Complying Development on lots over 1,000m² in residential zones as there has been no incident where development on larger lots would have caused any problems if dealt with as Complying Development. The 500m² minimum is proposed to be retained.

Effluent Disposal

In residential zones where allotment sizes are typically smaller, it is intended to clarify the existing provisions that any new dwelling must be connected to Council's sewer and where additions are proposed, any existing dwelling must also be connected to sewer. This would continue to preclude the Shire's unsewered towns and villages from Complying Development provisions.

Streetscape

The wording of the DCP has been altered so as to include reference to the specific provisions of DCP 22 required to be complied with.

Bulk and Scale

The existing restriction that the ground floor level of any structure be not more than 0.5 metres above the natural ground level has been increased to 1 metre. The existing provision is seen to be overly restrictive and effectively prevents buildings utilising bearers and joist construction from utilising Complying Development provisions.

In accordance with the Timber Framing Code, the maximum roof pitch has been increased from 24 degrees to 35 degrees provided the maximum height of the ridge is no more than 7.9 metres above natural ground level in accordance with Council's current height restrictions. The variation has been included as a number of proposals have been submitted to Council, which but for a slight variation in roof pitch could have been dealt with by Complying Development, whilst complying with Council's current height requirements, thereby not impacting on any adjoining property.

The maximum length of external walls has been increased to 20 metres in accordance with recent changes to DCP 22.

The existing maximum site coverage of two thirds of the site area has been amended to make reference to the exceptions applying at South West Rocks relating to maximum site coverage included in recent amendments to DCP 22.

Similarly, provisions to restrict outbuildings to not larger than 18m² have been included to be consistent with recent amendments to DCP 22.

Solar Access

Amendment to the text relating to solar access is recommended to be consistent with requirements of DCP 22.

Energy Rating

Similarly, reference has been made to the energy rating requirements of DCP 31.

Stormwater Disposal

A provision relating to stormwater disposal has been included having regard to the requirements of DCP 36 recently adopted by Council.

Privacy and Security

A review of other Councils DCPs relating to Complying Development indicate that the current provisions relating to windows in a room or a garage or outbuilding that allow an outlook to a window in a room or any adjoining dwelling within 9 metres was particularly onerous. It is proposed to reduce such provisions to any window within 2 metres. The existing provision alone effectively precluded the vast majority of applications that could be dealt with by means of Complying Development.

However, in order to ensure that adequate additional safeguards are put in place to protect privacy, it is intended to include provisions similar to Hastings whereby privacy screens may be required in relation to certain terraces, decks and the like which are setback less than 1.5 metres from the boundary. Additional provisions preventing overshadowing are also proposed.

Open Space and Landscaping

Additional wording is proposed to clarify that the 15% restriction on hard surfaces does not apply to any buildings or in respect to additions to existing dwellings.

Cut and Fill

Whilst DCP 22 allows a maximum cut and fill of 1.5 metres, it is proposed to allow cut and fill to a maximum of only 1 metre as Complying Development in line with the changes to the maximum floor level.

External Cladding

The previous provisions relating to roof cladding have been expanded to include all external cladding. Additional provisions relating to dwellings have been included whereby the use of metal cladding for dwellings shall be restricted to not more than 30% of the area of any wall in the same elevation.

Flooding

An additional section has been included whereby Complying Development would be permissible in strict compliance with Council's Flood Risk Management Policy. In addition to reference to the Policy, the actual provisions relating to such developments have been included.

Acid Sulfate Soils

A provision relating to acid sulfate soils has been included to encompass development on the Macleay River floodplain whereby

land, although identified as potentially affected by acid sulfate soils could still be included for consideration for Complying Development provided a preliminary soil assessment has been carried out indicating that no acid sulfate soil exists. The effect of the provisions are that, in accordance with Kempsey Local Environmental Plan 1987, where acid sulfate soils are found to exist the development could not be approved by a means of Complying Development. Alternatively, Council may confirm that disturbance to acid sulfate soils would not occur having regard to the Acid Sulfate Soils Risk Maps held by Council.

Dwellings and Dwelling Extensions in 1(c) & 1 (g) Areas & Extensions to Existing Dwellings in 1(a1) and 1(a3) zones. (See pages 25-28 of Draft DCP 30).

In addition to dwelling-house extensions in rural areas, it is intended to include the erection of single and two storey new dwelling houses, in Councils approved rural residential subdivisions. This reflects the fact that, subject to compliance with all other relevant provisions of the plan, there is generally less potential for impacts by dwellings on rural lands than on urban lands which currently permit single storey dwellings by means of Complying Development.

These provisions have not been extended to the rural 1(a1) and 1(a3) zones where matters such as dwelling entitlements, access and road contributions make the use of Complying Development impractical to administer.

General

Clarification that existing dwellings proposed for additions have been lawfully erected and approval to operate on-site sewage system has been approved in respect to new dwellings. This would also apply in respect to alterations and additions involving additional bedrooms which are likely to increase effluent loadings.

In accordance with other amendments related to flooding, acid sulfate soils, energy efficiency, building heights and roof pitches in residential areas, similar provisions are proposed to be included in rural areas.

Swimming Pools

Additional wording has been included to clarify that swimming pools located between the dwelling and the primary street frontage, including the secondary street frontage shall not be dealt with by means of Complying Development, having regard to the potential impacts on privacy and streetscapes which require additional assessment via the submission of a development application.

Similar provisions relating to dwellings with associated terraces, decks or the like have been incorporated in the provisions relating to swimming pools. (See Page 29 of Draft DCP 30).

Commercial Development

No amendments are proposed in respect to commercial development except reference to Council's current Flood Risk Management Policy.

Bed and Breakfast Accommodation

An additional clause has been inserted that Bed and Breakfast involving buildings of more than 300m² as such proposals involve a change of building classification with associated increased fire safety requirements. (See Page 30 - Draft DCP 30).

Industrial Development

A number of major changes to industrial development have been included which reflects the fact that, although subject to public notification, few, if any, objections have ever been received in respect to any industrial developments and assessment is generally straightforward. As a result, it is intended to expand Complying Development to allow for the construction of new industrial buildings, including additions to existing approved buildings and changes of use. (See Pages 30-31 of Draft DCP 30).

General

Having regard to the expanded use of Complying Development for industrial development, it is necessary to ensure that uses are restricted to "light industrial purposes" as defined under Kempsey Local Environmental Plan 1987. Other heavy industrial uses or uses such as "car repair stations" involving oils and greases cannot be dealt with by means of Complying Development. It is also intended to ensure that a trade waste agreement has been entered into before any Complying Development Certificate can be issued.

Access and Parking

Due to the reduced parking requirements for light industrial uses, Council has experienced few conflicts with developers in respect to the provision of carparking. Provisions relating to carparking include requiring sufficient parking to comply with Council's Parking Code; parking spaces to be located not less than 3 metres from any street frontage to enable landscaping; turning areas to comply with the relevant Australian Standard; internal access to provide for 11 metre rigid trucks in accordance with the relevant Australian Standard, sufficient area to allow trucks to enter in the site in a forward direction; space to be provided to allow for unloading and loading wholly onsite; and driveways, internal accessways and carparking to be designed and constructed in accordance with DCP 36.

Setbacks

Except as provided for under Council's Building Alignments Policy, the setback to the primary street frontage has been specified, including a reduction for the secondary street frontage.

A garbage storage facility located behind the building line so as not to be visible is also required to be provided.

Bulk and Scale

Provisions which reflect Council's experience relating to the overall height of the building inclusive of the roof of 9 metres has been imposed, including maximum floor space ratio in accordance with the requirements of Kempsey Local Environmental Plan 1987.

Stormwater Disposal

Complying Development can only be utilised for industrial development which can be connected to a Council stormwater drainage system. Additional provisions relating to the provision of a gross pollutant traps have been included to facilitate future auditing of discharges from industrial sites.

Subdivision

Slight amendments have been made to include reference to an Occupation Certificate which is currently required in respect to the occupation of all buildings. (See Page 32 Draft DCP 30).

Mandatory Conditions

Changes to mandatory conditions to applying to Complying Development are required to be made to the DCP, to comply with legislative changes since the original DCP was adopted. These changes will be made prior to exhibition of the plan.

Exempt Development

Generally, the current Exempt Development provisions have been well received with very few problems resulting from unanticipated impacts. Only minor adjustments to Exempt Development are proposed including (see Pages 9-22 Draft DCP 30):

- The inclusion of a reference that heat pump water systems be set back at least 3 metres from any boundary in accordance with the current requirements applying to air conditioners. This follows complaints relating to noise levels generated from such systems.
- It is intended to increase exemptions relating to the erection of agricultural buildings to increase the number of buildings from 1 to 2 per property to be allowed as Exempt Development and to allow agricultural buildings as Exempt Development on flood prone land, provided such buildings are erected in strict compliance with council's Flood Risk Management Policy. The practical effect of this is that any building subject to inundation by more than 800mm would require a structural engineers certificate certifying the building is capable of withstanding the forces of flooding.
- So as to be consistent with provisions relating to patios and pergolas, it is proposed to allow awnings, canopies and storm blinds on

buildings up to a maximum of 20m² from the maximum of 10m² currently applying.

- It is proposed to increase the maximum height allowed for covered BBQ areas to 2.4 metres in accordance with the normal floor to ceiling levels applying to buildings from the current 2.1 metres.
- As with awnings, it is proposed to allow unroofed decks attached to dwellings up to a maximum of 20m² with no minimum width applying so as to be consistent with other patios and decks permitted under Exempt Development.
- It is proposed to delete from Exempt Development, the demolition or removal of any buildings, all of which should require a full assessment by submission of a Local Development Application, having regard for the potential impacts associated with contaminated materials and public safety issues. Council has also experienced situations where demolition has occurred without the adequate safeguards being in place.
- It is proposed to reduce the current minimum setback of 3 metres from side boundaries for small garden sheds, greenhouses and the like which are not more than 10m² down to the standard 900mm setback applying to other buildings in residential areas.
- The exemption provided for satellite dishes should be extended to non domestic uses which typically have less potential for impacts than in residential areas which currently enjoy the exemption.
- There are a number of other minor amendments required in respect of signs and subdivision relating to recent statutory changes which are intended to be incorporated prior to exhibition of the plan.

2004. P59

RESOLVED:

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

That the draft DCP 30 - Exempt and Complying Development referred to in this report be placed on public exhibition for a period of at least 28 days.

DES15	DWELLING - LOT 2 MEMORIAL AVENUE, GLADSTONE
FILE: T6-03-847 AD	{Folio No. 271781}

This report should be read in conjunction with Confidential Report No 2.

SUMMARY:

Reporting that Council has received a Development Application for a dwelling in Gladstone which does not comply with Council's Flood Risk Management Policy. (*Appendix U*)



Applicant: Dutton Engineering Excellence
Subject Land: Lot 2 Section 21 DP 75844 Memorial Avenue, Gladstone
Owner: 1(a3) - Rural (Agricultural Protection)
Proposal: Dwelling

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 Environmental Plan 1988 (NCREP 1988) or Kempsey Local Environmental Plan 1987 (KLEP 1987 and is permissible in the zone with consent.

The subject land enjoys a dwelling entitlement being the first dwelling on an "existing holding" comprising 4 lots.

Flood Risk Management Policy

Council's Flood Risk Management Policy requires Council to be satisfied that the difference between the 1 in 100 year flood level and Natural Surface Level is not more than 2.5 metres and that the product of the velocity and depth does not exceed 1. Council's Flood Risk Management Policy defines "natural surface" as:

*"The average level of an area of at least 1,000m² surrounding, and inclusive of the proposed development in rural areas and likewise the average level of at least 500m² in urban areas and in all instances the average level of specified areas shall be **exclusive of fill**".*

Clause 6.3.2 of the Policy - Rural Development (Residential) states that:

"Council's aim is to restrict rural dwellings in flood prone areas to a minimum by only approving of ... Dwellings proposed to be erected on existing holdings as defined in the Kempsey Local Environmental Plan and where the product of the depth and velocity of flow of water during a 1 in 100 flood, is equal to or less than 1."

The subject land is subject to the following flooding characteristics:

Natural Surface (by applicant)	2.34 metres AHD
1 in 100 year flood level	4.70 metres AHD

Depth	2.36 metres
Velocity	0.8 metres/second
V x D	1.9

Planning comment

The above assessment is based on the applicant's flood statement which suggests that the natural ground level is 2.34 metres AHD. However, the applicant's flood statement includes levels on a man-made mound, which is contrary to Council's Policy. The Flood Statement provided states that the survey, relates to the mound in accordance with the applicant's instructions. *(Appendix U)*

In response to Council's request for a revised statement, the applicant refused to provide additional levels reasserting that the natural surface is "about 2.5 metres AHD" and states that the average "appears to be 2.34 metres AHD". *(Appendix V)*

For the purposes of the above assessment, the applicant's flood statement has been adopted which indicates that the proposal does not comply with Council's Policy.

Possible Contamination

As the land has previously been used in conjunction with the Gladstone Tip, geotechnical and contamination reports would be required. However, given the fact that the land does not comply with Council's Flood Risk Management Policy, the assessments have not been requested.

2004. P60

RESOLVED:

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

- A That the application be refused for the following reasons:**
 - 1 Based on the information provided, the proposed dwelling site does not comply with Council's Flood Risk Management Policy, having regard to the pattern of flooding in the locality.**
 - 2 The proposal is likely to create an undesirable precedent for similar proposals in the locality and within the Shire.**
- B That the applicant be advised that the Flood Statement provided does not satisfy the requirements of Council's Flood Risk Management Policy.**

DES16	LAND RELEASE TASKFORCE	
	FILE: T4-41 RBP	{Folio No. 271782}

SUMMARY:

Reporting on the Land Release Strategy Task Force Meeting which was held 10th March 2004 and commenced at 2.00pm.



Present: Cr J Hayes, Cr J Bowell, Cr R Bowen and R Pitt.

Apologies: Cr Sowter

Future Intentions of Owners of Un-subdivided Rural Residential Land

Recommended:

- 1 That comments again be sought from Department Infrastructure Planning and Natural Resources concerning a possible review of Council's Rural Residential Land Release Strategy to adopt a locality - based approach which reflects varying demand across the Shire.

Moved: Cr Hayes
Seconded: Cr Bowen

- 2 That the responses from landholder be referred to Council's Economic Development Officer with a view to identifying potential developer interest in rural residential subdivision.

Rural Residential Land Rezoning Proposals

Recommended:

- 1 That the comments of Department Infrastructure Planning and Natural Resources be sought in respect to a number of rezoning proposals for rural-residential subdivisions which are currently outside of the scope of the Strategy.
- 2 That Council give consideration to an allocation of \$50,000 in the 2004/05 Budget to commence a Review of it's Rural Residential Land Release Strategy to identify opportunities for rural residential development within the Shire.

Moved: Cr Hayes
Seconded: Cr Bowell

Conclusion

There being no further business, the meeting concluded at 3.15pm.

Acting Directors Comment

Council has also submitted an expression of interest for funding of \$50,000 from the PlanFirst levy for an initial study to determine options and requirements for a Rural Lands Study for the Shire. Council's endorsement of

this application would assist Council's application as matching funding is a prime criteria for assessing applications.

2004. P61

RESOLVED:

*Moved: Cl. Parkinson
Seconded: Cl. Sowter*

That Council endorse Council's expression of interest for funding towards a Rural Lands Study and that DIPNR be advised accordingly.

DES17	BUILDING AND DEVELOPMENT	
	FILE: B9-2 RBP (NRN)	{Folio No. *}

SUMMARY:

Reporting that the following applications have been approved:

APPROVALS

Local Development (LD)

Council Report on Local Development Application

Reporting that the following applications have been approved

2002/LD-00439 Lot 1 DP789586 HUNTERS ROAD YARRAHAPINNI
FARMSTAY BED & BREAKFAST
Owner: CARE J & M
Builder: 0

2003/LD-00038 19 SEA STREET WEST KEMPSEY
STORAGE SHED
Owner: KEMPSEY SHOWGROUND TRUST
Builder: 0

2003/LD-00130 Lot 9 DP1036869 ARAKOOON RD SOUTH WEST ROCKS
SUBDIVISION IN TO 7 LOTS
Owner: SMOKY CAPE DEVELOPMENTS
Builder: 7

2003/LD-00424 341 TURNERS FLAT ROAD TURNERS FLAT
BOUNDARY ADJUSTMENT
Owner: MAINEY W P
Builder: 0

2003/LD-00643 Lot 4 DP1062980 BUNYA PINE COURT
WEST KEMPSEY
DUAL OCCUPANCY & TORRENS TITLE SUBDIVISION
Owner: GOWINGS KEMPSEY P/L & ARAKOOON HOMES P/L
Builder: 0

2003/LD-00644 24 CECIL BALDWIN CLOSE WEST KEMPSEY
DUAL OCCUPANCY UNITS & TORRENS TITLE SUBDIVISION

Owner: GOWINGS KEMPSEY P/L & ARAKOOON HOMES P/L
Builder: 0

2003/LD-00645 Lot 5 DP1062980 BUNYA PINE COURT
WEST KEMPSEY
DUAL OCCUPANCY & TORRENS TITLE SUBDIVISION
Owner: GOWINGS KEMPSEY P/L & ARAKOOON HOMES P/L
Builder: 0

2003/LD-00675 5 SALMON CIRCUIT SOUTH WEST ROCKS
DUAL OCCUPANCY
Owner: DUNBAR MANAGEMENT HOLDINGS P/L C-/ HADLOW
DESIGN SERVICES
Builder: 0

2003/LD-00708 44 CHANNELLS WAY EUROKA
DWELLING & DRIVEWAY
Owner: KEIR S & J
Builder: 0

2003/LD-00725 309 GREGORY STREET SOUTH WEST ROCKS
SUBDIVISION
Owner: GOODWIN RJ
Builder: 2

2003/LD-00734 28 SIMPSON STREET SOUTH WEST ROCKS
ADDITIONS & STRATA SUBDIVISION
Owner: TYLER G
Builder: 0

2003/LD-00785 846 PLUMMERS LANE RAINBOW REACH
JETTY
Owner: NSW DEPT OF LANDS
Builder: 0

2003/LD-00802 Lot 46 DP812565 WEBSTER STREET WEST
KEMPSEY
SUBDIVISION 2 LOTS AND RESIDUE
Owner: MCGOLDRICK W P
Builder: 2

2003/LD-00808 4-6 RIVERVIEW PLACE SOUTH WEST ROCKS
TWO STOREY DWELLING AND ATTACHED GARAGE
Owner: QUINNELL R & C
Builder: 0

2003/LD-00858 58 PHILLIP DRIVE SOUTH WEST ROCKS
ADDITIONS TO DWELLING AND GARAGE
Owner: AKHURST C & N
Builder: 0

2003/LD-00869 7 MARLIN DRIVE SOUTH WEST ROCKS
2 STOREY DWELLING
Owner: PLENTY J & J

Builder: 0

2003/LD-00871 Lot 55 DP843499 GOWINGS HILL ROAD
DONDINGALONG
DWELLING & GARAGE
Owner: MACDONALD A

2003/LD-00875 30 WALTER CONN ROAD STUARTS POINT
GARAGE
Owner: HARRIS F & J

2003/LD-00878 4 SANDERS PLACE SOUTH WEST ROCKS
TWO STOREY DWELLING
Owner: CLARKE N & D
Builder: 0

2003/LD-00879 23 ROY LEWIS CLOSE SOUTH KEMPSEY
SHED
Owner: WRIGHT A & T

2004/LD-00001 Lot 11 DP248428 RIVER STREET WEST KEMPSEY
DWELLING
Owner: METHAM K
Builder: 0

2004/LD-00003 435 WILLI WILLI ROAD TURNERS FLAT
DWELLING
Owner: CLARKE B & M
Builder: 0

2004/LD-00010 71 BELGRAVE STREET KEMPSEY
SWIMMING CENTRE, BACKWASH DETENTION TANK
Owner: KEMPSEY SHIRE COUNCIL
Builder: 0

2004/LD-00013 94 GREGORY STREET SOUTH WEST ROCKS
GARAGE
Owner: HILL BJ & TM
Builder: 0

2004/LD-00014 192 GREGORY STREET SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: LANCASTER C H
Builder: 0

2004/LD-00018 11 PETER MARK CIRCUIT SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: ALSFORD T & K
Builder: 0

2004/LD-00019 5 FRANK COOPER STREET SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: MCKAY P & L
Builder: 0

- 2004/LD-00022 17 NORTH STREET WEST KEMPSEY
DWELLING RELOCATION
Owner: BOWEN N W
Builder: 0
- 2004/LD-00024 Lot 1 DP1062980 BUNYA PINE COURT WEST
KEMPSEY
DWELLING
Owner: ARAKON HOMES & GOWINGS PTY LTD
Builder: 0
- 2004/LD-00026 192 SHERWOOD ROAD ALDAVILLA
MACHINERY SHED
Owner: BRAUER J & P
Builder: 0
- 2004/LD-00027 38 PETER MARK CIRCUIT SOUTH WEST ROCKS
DWELLING AND ATTACHED GARAGE
Owner: HAMMERHEAD CARPENTRY & BUILDING PTY LTD
Builder: 0
- 2004/LD-00028 40 PETER MARK CIRCUIT SOUTH WEST ROCKS
DWELLING
Owner: HAMMERHEAD CARPENTRY & BUILDINGS PTY LTD
Builder: 0
- 2004/LD-00032 23 CECIL BALDWIN CLOSE WEST KEMPSEY
DWELLING AND ATTACHED GARAGE
Owner: GOWINGS KEMPEY P/L & ARAKON HOMES P/L
Builder: 0
- 2004/LD-00036 120 BROWNS ROAD YARRAHAPINNI
INGROUND SWIMMING POOL
Owner: PELSER A & C
Builder: 0
- 2004/LD-00040 16 COCHRANE STREET WEST KEMPSEY
DWELLING ADDITIONS
Owner: ABORIGINAL HOUSING OFFICE
Builder: 0
- 2004/LD-00046 209-211 SHERWOOD ROAD YARRAVEL
DWELLING ADDITION
Owner: MCMILLAN T
Builder: 0
- 2004/LD-00049 54 CYRUS SAUL CIRCUIT FREDERICKTON
SWIMMING POOL
Owner: COUTTS D & J
Builder: 0
- 2004/LD-00051 6 ERIC FITTLER PLACE SOUTH WEST ROCKS
DWELLING ADDITIONS

Owner: GRINDROD B & G
Builder: 0

2004/LD-00052 Lot 2 DP1062980 BUNYA PINE COURT WEST K
KEMPSEY
DWELLING AND ATTACHED GARAGE
Owner: ANGLICAN DIOCESE OF GRAFTON
Builder: 0

2004/LD-00054 6 FAIRWAY PLACE SOUTH WEST ROCKS
GARAGE
Owner: O'DONNELL B
Builder: 0

2004/LD-00055 54 BLOOMFIELD STREET SOUTH KEMPSEY
SWIMMING POOL
Owner: CARTWRIGHT S R
Builder: 0

2004/LD-00059 5 JAMES GRIMWADE PLACE EAST KEMPSEY
SWIMMING POOL
Owner: GORMAN S
Builder: 0

2004/LD-00062 21 SULLIVAN STREET EAST KEMPSEY
DWELLING ADDITIONS
Owner: BOOTH N J
Builder: 0

2004/LD-00064 16 CECIL BALDWIN CLOSE WEST KEMPSEY
DWELLING AND ATTACHED GARAGE
Owner: BAVISTER J & K
Builder: 0

2004/LD-00069 61 RIVER STREET WEST KEMPSEY
DWELLING ALTERATIONS
Owner: DENBERGER L & K

2004/LD-00072 5 BASS LANE CRESCENT HEAD
DETACHED GARAGE & SWIMMING POOL
Owner: NORTHWOOD S

2004/LD-00074 129 SMITH STREET KEMPSEY
BOUNDARY ADJUSTMENT
Owner: PARKER RD & H & BRAMBLEY CB & CJ
Builder: 2

2004/LD-00086 4 MERTENS PLACE SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: PAYNE KM & WOOD PG
Builder: 0

2004/LD-00092 28 BELLE RIO CLOSE VERGES CREEK
DWELLING ADDITIONS

Owner: WALSH P & A
Builder: 0

2004/LD-00094 136 UPPER SMITHS CREEK ROAD KUNDABUNG
SWIMMING POOL
Owner: OLEARY A & M
Builder: 0

2004/LD-00096 16 CAERLON PLACE GREENHILLS
DWELLING
Owner: SNOWDEN W & P
Builder: 0

Summary Type	No	Value
Local Development Application	51	4244600

As at 12 Mar 2004 211 applications are in the office awaiting a determination.

The number of applications in excess of 40 days is 108

The reasons for the matters outstanding are:-

BL	Builders Licence Requirements	1
FD	Further Details Required	61
IA	Incomplete Application	16
NN	Neighbour Notification	4
OA	Other Agencies	15
RC	Refer Council	2
XX	No Reason Given	9

Construction Certificates (CB)

Council Report on Construction Certificate Building

Reporting that the following applications have been approved
2003/CB-00035 19 SEA STREET WEST KEMPSEY
STORAGE SHED
Owner: KEMPSEY SHOWGROUND TRUST

2003/CB-00481 181 MARYS BAY ROAD EUROKA
DWELLING
Owner: ODONNELL P, J & M

2003/CB-00490 29 GAP BEACH ROAD ARAKOOON
DUAL OCCUPANCY
Owner: STRONG A

2003/CB-00592 44 CHANNELLS WAY EUROKA
DWELLING & DRIVEWAY
Owner: KEIR S & J

2003/CB-00641 6 TREVOR JUDD AVENUE SOUTH WEST ROCKS

DUAL OCCUPANCY UNITS AND TORRENS TITLE
SUBDIVISION
Owner: CLARKE N & D

2003/CB-00670 4-6 RIVERVIEW PLACE SOUTH WEST ROCKS
TWO STOREY DWELLING AND ATTACHED GARAGE
Owner: QUINNELL R & C

2003/CB-00673 35 MEMORIAL AVENUE SOUTH WEST ROCKS
TWO STOREY DUAL OCCUPANCY
Owner: GIRARD R

2003/CB-00719 58 PHILLIP DRIVE SOUTH WEST ROCKS
ADDITIONS TO DWELLING AND GARAGE
Owner: AKHURST C & N

2003/CB-00725 23 ROY LEWIS CLOSE SOUTH KEMPSEY
SHED
Owner: WRIGHT A & T
Builder: COUNCIL

2003/CB-00727 30 WALTER CONN ROAD STUARTS POINT
GARAGE
Owner: HARRIS F

2003/CB-00729 7 MARLIN DRIVE SOUTH WEST ROCKS
2 STOREY DWELLING
Owner: PLENTY J & J

2003/CB-00737 4 SANDERS PLACE SOUTH WEST ROCKS
TWO STOREY DWELLING
Owner: CLARKE N & D

2004/CB-00009 71 BELGRAVE STREET KEMPSEY
MCELHONE POOL, BACKWASH DETENTION TANK
Owner: KEMPSEY SHIRE COUNCIL

2004/CB-00011 435 WILLI WILLI ROAD TURNERS FLAT
DWELLING
Owner: CLARKE B & M

2004/CB-00014 94 GREGORY STREET SOUTH WEST ROCKS
GARAGE
Owner: HILL BJ & TM

2004/CB-00015 5 FRANK COOPER STREET SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: MACKAY P & L

2004/CB-00016 11 PETER MARK CIRCUIT SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: ALSFORD T & K

2004/CB-00017 192 GREGORY STREET SOUTH WEST ROCKS

DWELLING ADDITIONS
Owner: LANCASTER C H

2004/CB-00020 17 NORTH STREET WEST KEMPSEY
DWELLING RELOCATION
Owner: BOWEN N W

2004/CB-00021 40 PETER MARK CIRCUIT SOUTH WEST ROCKS
DWELLING
Owner: HAMMERHEAD CARPENTRY & BUILDINGS PTY LTD

2004/CB-00022 38 PETER MARK CIRCUIT SOUTH WEST ROCKS
DWELLING AND ATTACHED GARAGE
Owner: HAMMERHEAD CARPENTRY & BUILDING PTY LTD

2004/CB-00025 Lot 1 DP1062980 BUNYA PINE COURT WEST
KEMPSEY
DWELLING
Owner: ARAKOOON HOMES & GOWINGS PTY LTD

2004/CB-00026 192 SHERWOOD ROAD ALDAVILLA
MACHINERY SHED
Owner: BRAUER J & P

2004/CB-00028 23 CECIL BALDWIN CLOSE WEST KEMPSEY
DWELLING AND ATTACHED GARAGE
Owner: GOWINGS KEMPEY P/L & ARAKOOON HOMES P/L

2004/CB-00031 120 BROWNS ROAD YARRAHAPINNI
SWIMMING POOL
Owner: PELSER A & C

2004/CB-00034 16 COCHRANE STREET WEST KEMPSEY
DWELLING ADDITIONS
Owner: ABORIGINAL HOUSING OFFICE

2004/CB-00036 209-211 SHERWOOD ROAD YARRAVEL
DWELLING ADDITION
Owner: MCMILLAN T

2004/CB-00041 54 CYRUS SAUL CIRCUIT FREDERICKTON
SWIMMING POOL
Owner: COUTTS D & J

2004/CB-00044 6 ERIC FITTLER PLACE SOUTH WEST ROCKS
CARPORT
Owner: GRINDROD B & G

2004/CB-00046 Lot 2 DP1062980 BUNYA PINE COURT WEST
KEMPSEY
DWELLING AND ATTACHED GARAGE
Owner: ANGLICAN DIOCESE OF GRAFTON

2004/CB-00047 6 FAIRWAY PLACE SOUTH WEST ROCKS

GARAGE
Owner: O'DONNELL B

2004/CB-00048 54 BLOOMFIELD STREET SOUTH KEMPSEY
SWIMMING POOL
Owner: CARTWRIGHT S R

2004/CB-00052 5 JAMES GRIMWADE PLACE EAST KEMPSEY
SWIMMING POOL
Owner: GORMAN S

2004/CB-00055 5 BASS LANE CRESCENT HEAD
DETACHED GARAGE & SWIMMING POOL
Owner: NORTHWOOD S

2004/CB-00057 21 SULLIVAN STREET EAST KEMPSEY
DWELLING ADDITIONS
Owner: BOOTH N

2004/CB-00059 16 CECIL BALDWIN CLOSE WEST KEMPSEY
DWELLING AND ATTACHED GARAGE
Owner: BAVISTER J & K

2004/CB-00061 15-33 GREAT NORTH ROAD FREDERICKTON
PERGOLA & UNISEX DISABLED TOILET
Owner: KEMPSEY SHIRE COUNCIL

2004/CB-00066 61 RIVER STREET WEST KEMPSEY
DWELLING ALTERATIONS
Owner: DENBERGER L & K

2004/CB-00071 4 MERTENS PLACE SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: PAYNE KM & WOOD PG

2004/CB-00077 28 BELLE RIO CLOSE VERGES CREEK
DWELLING ADDITIONS
Owner: WALSH P & A

2004/CB-00079 136 UPPER SMITHS CREEK ROAD KUNDABUNG
SWIMMING POOL
Owner: OLEARY A & M

2004/CB-00082 16 CAERLON PLACE GREENHILLS
DWELLING
Owner: SNOWDEN W & P

2004/CB-00090 Lot 5 DP1062980 BUNYA PINE COURT WEST
KEMPSEY
DUAL OCCUPANCY & TORRENS TITLE SUBDIVISION
Owner: GOWINGS KEMPSEY P/L & ARAKOOON HOMES P/L

Summary Type	No	Value
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Construction Certificate Building 43 0

As at 12 Mar 2004 194 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	4
FD	Further Details Required	38
IA	Incomplete Application	6
OA	Other Agencies	1
RC	Refer Council	1
XX	No Reason Given	5

2004. P62

RESOLVED:

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

That the information be received.



QUESTIONS WITHOUT NOTICE

Councillor J H Bowell

Councillor Bowell was advised:-

1. That the Director Environmental Services would discuss with the facilitator of the Point Plomer Road LEP committee the criteria and terms of reference of the committee and the need for this criteria to be made clear to the committee members at the beginning of each meeting.
2. That the Director Environmental Services would explain in more detail in the confidential session of this meeting the issues surrounding a subdivision involving access issues at Loftus Road.



MOTION FOR COMMITTEE

2004. P63

RESOLVED:

*Moved: Cl. Bowell
Seconded: Cl. Parkinson*

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	DWELLING - LOT 1 DP 506144 NO 54 WIDE STREET, WEST KEMSPEY	FILE: T6-04-89	JGR	{Folio No. 271784}
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This report should be read in conjunction with DES10.

SUMMARY:

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

REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

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



2004. P64

RECOMMENDED:

*Moved: Cl. Bowell
Seconded: Cl. Parkinson*

That the information be noted.

DES2	PROPOSED DWELLING - MEMORIAL AVENUE, GLADSTONE	FILE: T6-03-847	RBP	{Folio No. 271785}
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This report should be read in conjunction with DES15.

SUMMARY:

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

REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

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



2004. P65

RECOMMENDED:

*Moved: Cl. Bowell
Seconded: Cl. Parkinson*

That the information be noted.

DES3 HOLIDAY CABINS - CRESCENT HEAD
FILE: * GL

SUMMARY:

Reporting that a contravention of the Environmental Planning and Assessment Act, 1997 exists for the above premises.

REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

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



2004. P66

RECOMMENDED:

*Moved: Cl. Bowell
Seconded: Cl. Parkinson*

That the owner be advised that unless the unauthorised occupation of the cabins within the development ceases immediately, that Council intends to commence action in the Land and Environment Court to restore the breach.



REPORT OF THE MEETING OF THE COMMITTEE OF THE WHOLE

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



ADOPTION OF REPORT OF THE COMMITTEE OF THE WHOLE

2004. P67

RESOLVED:

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

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



CONCLUSION:

There being no further business, the Meeting terminated at 12.46 p.m.

