



## **MINUTES OF THE PLANNING COMMITTEE MEETING OF KEMPSEY SHIRE COUNCIL**

Tuesday 23rd September 2003 commencing at 9.02am.

### **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.

General Manager, A V Burgess; Acting Director Environmental Services, R B Pitt; Director Corporate and Community Services, T I Hannam; Ken Woods and Donna Pearson.



### **APOLOGY:**

**2003. P54**

#### **RESOLVED:**

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

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



**2003. P55**

#### **RESOLVED:**

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

That Standing Orders be suspended to allow one minute silence in remembrance for the Late Slim Dusty OAM.



## **MINUTES OF THE PLANNING COMMITTEE MEETING OF KEMPSEY SHIRE COUNCIL DATED 26TH AUGUST 2003.**

**2003. P56**

#### **RESOLVED:**

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

That the Minutes of the Planning Committee Meeting of Kempsey Shire Council dated 26th August 2003, be adopted.



### **PUBLIC FORUM**

- 1 - Trevor Scott addressed Council in opposition to item DES13 South West Rocks Belle O'Connor Sub division.
- 2 - Peter Hadlow addressed Council in favour of item DES13 South West Rocks Belle O'Connor Sub division.
- 3 - Noel McKay addressed Council in favour of item DES8 26 Barnard Street Gladstone.
- 4 - Nerida O'Hearn addressed Council in opposition to item DES1 Development Control South of Crescent Head.
- 5 - Fred Wanstall addressed Council in opposition to item DES11 Residential Unit Additions Frederickton.



**CONSIDERATION OF REPORTS RELATING TO PUBLIC FORUM –  
Reports DES13, DES 8, DES 1, DES 11.**

2003. P57

**RESOLVED:**

*Moved: Cl. Sproule  
Seconded: Cl. Howell*

**That items relating to Public Forum be dealt with in the order DES 11, DES 1, DES 8 and DES 13.**

<b>DES11</b>	<b>RESIDENTIAL UNIT ADDITIONS, FREDERICKTION</b>
<b>FILE: T6-03-401</b>	<b>AD {Folio No. 261614}</b>

**SUMMARY:**

Reporting that an application has been received to erect three units and five garages in addition to two existing units, for which objections have been received.



2003. P58

**RESOLVED:**

*Moved: Cl. Howell  
Seconded: Cl. Parkinson*

**That the this item be deferred until after morning tea at which stage the relevant engineer will address Council regarding the disposal of stormwater in Edgar Street.**

<b>DES1</b>	<b>DEVELOPMENT CONTROL - SOUTH OF CRESCENT HEAD</b>
<b>FILE: R POINT PLOME</b>	<b>BWC {Folio No. 261545}</b>

**SUMMARY:**

Reporting on the need to arrange for the appointment of a Committee to discuss likely planning controls.



**Director Environmental Services Recommendation:**

- (a) That Council adopt the suggestions and procedures as outlined in this report.
- (b) That the committee recommendations be provided to Council within three (3) months of the first meeting of the committee.

**MOVED:**

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

That the Director's Recommendation be adopted subject to;

The deletion of the words 'following residents' in dot point 1 in the report and including the words 'of Kempsey Shire'. That dot point 4 be amended to read "8 community members (at least 1 being from Crescent Head) including 2 representatives nominated by the Aboriginal Liaison Committee".

**An Amendment was MOVED:**

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

That Council proceed with the formation of a public committee as per the Director's Recommendation after a public meeting in regard to the second committee regarding Point Plomer Road.

The AMENDMENT was PUT to the Meeting and was LOST.

**An Amendment was MOVED:**

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

That a public meeting be convened in Kempsey prior to expressions of interest being called.

That the Directors Recommendation be adopted subject to the deletion of the words 'following residents' in dot point 1 and including the words 'of Kempsey Shire'. That dot point 4 be amended to read "8 community members (at least 1 being from Crescent Head) including 2 representatives nominated by the Aboriginal Liaison Committee".

2003. P59

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

<b>DES8</b>	<b>PROPOSED FIRST FLOOR ADDITIONS LOT 151 DP 565060 No 26 BARNARD STREET, GLADSTONE FILE: T6-03-464 SAR</b>	<b>{Folio No. 261611}</b>
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## **SUMMARY:**

Reporting that a Development Application has been received for approval for a first floor addition, conversion of an attached single carport to double garage and new rear garage to an existing single storey dwelling at the above-mentioned address.



2003.P60

## **RESOLVED:**

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

**That the Development Application T6-03-464 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 The rear garage and double garage is not approved for or to be used for human habitation, industrial or commercial purposes.**
- 3 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.**
- 4 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.**
- 5 The additions 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.**

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

**Inspections required:**

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

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

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

- 7 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.

- 8 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.
- 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 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 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.

- g 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.

- 11 Building materials are not to be stored within the road reserve or any other public place.
- 12 Roofwaters are to be connected to the existing stormwater disposal system.

13 **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.**

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

<b>DES13</b>	<b>SUBDIVISION OF LOTS 52 DP 1025337 AND LOT 223 DP 754396, SOUTH WEST ROCKS</b>
	<b>FILE: T6-02-402, T6-03-186 &amp; T6-03-191</b>
	<b>AJC</b>
	<b>{Folio No. 261616}</b>

**SUMMARY:**

Reporting that Council has received three development applications for excision of a total of 82 residential allotments, off Belle O'Connor Street, South West Rocks, which requires consideration of the impact on threatened species.



**Director Environmental Services Recommendation:**

**That consent be granted subject to the following conditions for each of the developments: -**

**GENERAL**

- 1 The development referred to in this application is to be carried out substantially in accordance with the approved development Plan No 50419-02 and as modified by any conditions of this consent.**
  
- 2 Submission of an appropriate restriction as to user to be placed over the title of proposed lots 6 to 14 and 21 to 27 preventing vehicular and pedestrian access onto Keith Andrews Avenue and Gregory Street.**  
  
**This restriction is to be clearly marked on the plan of subdivision.**  
  
**Kempsey Shire Council is to be nominated as the sole party to vary, modify and or extinguish this restriction.**  
  
**A copy of the restriction is to be lodged for approval with the application for Subdivision Certificate.**
  
- 3 The Construction Certificate for this development shall not be issued until all the conditions of the concurrence issued by the NSW National Parks and Wildlife Service identified in condition 22 of this consent have been met.**  
  
**A clearance letter from NSW National Parks and Wildlife Service stating that satisfactory arrangements have been made and that written approval has been issued will be provided to Council or the private certifier prior to issue of the Construction Certificate.**  
  
**Any variations to the conditions of concurrence are to be referred to the NSW National Parks and Wildlife Service for approval prior to the issuing of the construction certificate.**
  
- 4 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained. A Construction Certificate may be obtained from Council upon application being made or from an accredited certifier.**
  
- 5 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.**
  
- 6 Submission with the final plan of subdivision, copies of any instruments under Section 88B or E of the Conveyancing Act 1919, relevant to any restrictive covenants, easements, rights of way created or affected by this development.**

7 In addition to the requirement of the NSW Rural Fire Service (as detailed in condition 21 of this consent) should this development proposal commence before the development immediately adjoining lot 511 DP1048157 then the following additional requirements shall be met prior to the release of the Subdivision Certificate: -

- (a) The creation of a suitable restriction as to user allowing for the creation and maintenance of the required 40metre wide Bushfire Asset Protection Zone for the full length of the common boundary between lots 511 and 223 over Lot 511.

Proposed lots 1,6, and 16 to 20 shall be nominated as the benefiting allotments on that part of the instrument that creates the section of Asset Protection Zone.

The restriction is to be clearly marked on the plan of subdivision.

Kempsey Shire Council is to be nominated as the sole party to vary, modify and/or extinguish the restriction.

The restriction shall cease to have effect once lot 511 has been fully developed.

- (b) The required fire trail, where it traverses lot 511 is to be wholly located within a suitable right of carriageway of sufficient width to allow construction and ongoing maintenance.

This restriction is to be clearly marked on the plan of subdivision

Kempsey Shire Council is to be nominated as the sole party to vary, modify or extinguish this restriction.

A copy of the restriction is to be lodged for approval with the application for Subdivision Certificate.

- (c) In respect to the required Asset Protection Zone to be established along the full length of the western boundary of lot 223, a suitable restriction as to user is to be created over proposed lots 27, 32 to 35 restricting the erection of any building, including outbuildings within the affected area.

8 Submission of an application for Subdivision Certificate pursuant to Part 4A of the Environmental Planning and Assessment Act 1979, which authorizes the registration of the plan of subdivision.

## **PUBLIC UTILITIES**

- 9 The applicant shall make satisfactory arrangements with Telstra Australia for the provision of underground telephone plant to each lot. A letter from Telstra stating that satisfactory arrangements have been made for the provision of underground telephone plant is to be lodged with Council prior to release of the linen plan.
- 10 The applicant is to make satisfactory arrangements with CountryEnergy for the supply of electricity to each lot. A letter from CountryEnergy stating that satisfactory arrangements have been made for the provision of underground electricity supply to this development is to be lodged with Council prior to release of the linen plan.
- 11 Any necessary alterations to or relocations of public utility services to be carried out at no cost to Council.

#### CONTRIBUTIONS

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

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

- (a) Payment of a contribution towards district water supply at the rate of \$1184 per equivalent tenement, i.e \$1184 x 34 E.T = \$40,256 (Indexed 2003/2004), prior to the issue of the Subdivision Certificate.
- (b) Payment of a contribution towards the augmentation of sewerage headworks(Spencerville Area 4) at the rate of \$1592 per equivalent tenement, i.e \$1,592 x 29 E.T = \$46,168 (Indexed 2003/2004), prior to the issue of the Subdivision Certificate.
- (c) Payment of a contribution towards the augmentation of sewerage headworks (Spencerville Area 1) at the rate of \$2899 per equivalent tenement, i.e \$2,899 x 5 E.T = \$29,495 (Indexed 2003/2004), prior to the issue of the Subdivision Certificate.
- (d) Extension of the town water supply main(s) is necessary to serve the proposed development, at full cost to the applicant. Detailed plans are to be submitted for approval prior to the issue of the Construction Certificate.
- (e) Extension of the town sewer main(s) is necessary to serve the proposed development, at full cost to the applicant.

Detailed plans are to be submitted for approval prior to the issue of the Construction Certificate.

- (f) Provision of a suitable booster pump station to allow for the adequate supply of reticulated water to each lot in this subdivision in accordance with the requirements of Development Control Plan 36 *Engineering Guidelines for Subdivision and Development Section D11.17*. The applicant's Consultant Engineer is to liaise with Council's Water and Sewer Manager Mr Glenn Pearson of Council's Business Enterprises Unit for details prior to preparing the detailed engineering drawings.  
The final plans for the booster pump station is to be submitted to council for approval prior to the issue of the Construction Certificate.

13. Payment of a cash contribution prior to the issuing of the required Subdivision Certificate towards Council's Belle O'Connor Street Trunk drainage system in accordance with Council's Section 94 Plan for Belle O'Connor Trunk Stormwater Drainage at the rate of \$1852 per equivalent tenement, i.e. \$1,852 x 34 E.T. = \$62,968 (indexed 2003/2004).

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

- 14 The applicant is to pay a contribution towards the outdoor recreation for each additional dwelling unit after the first unit in accordance with Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Subdivision Certificate, at the rate prevailing at that time. The current rate is \$1842 per additional dwelling unit, i.e \$1,842 x 34 E.T = \$62,628. (Indexed 2003/2004).

- 15 The applicant is to pay a contribution towards upgrading Belle O'Connor Street for each additional building entitlement created. The contribution to be paid will be the rate prevailing at the time of having the plan of subdivision released. The current rate is \$1241 per additional building entitlement created, i.e. \$1,241 x 34 = \$42,194 total for 2003/2004 (Indexed 2003/2004).

**Note:-**

*If deferment of Section 94 and 64 contributions are required, a written request accompanied by a copy of the relevant title deeds must be lodged with Council.*

*When deferring payment the subdivider will be required to enter into a deed with Council, at the owner's expense. The agreement will require a Caveat to be endorsed on the allotment Title and will make provision for Council to be paid the upgrading contribution when the allotment is sold. The amount of contribution to be paid will be the rate per allotment fixed by Council for the year in which the transfer takes place. The*

*Subdivision Certificate will be released once the Deed and Caveat have been registered.*

**INFORMATION TO BE SUBMITTED WITH THE CONSTRUCTION CERTIFICATE**

- 16 Detailed Engineering Plans providing for Civil Works within the subject property as shown in the plan of application (50419-02) in strict compliance with Council's *Engineering Guidelines for Subdivision and Development DCP 36*.

**STORMWATER DRAINAGE**

- a) Provision of a piped urban stormwater drainage system to convey all existing and proposed storm flows through this development in accordance with the most recent version of Australian Rainfall and Runoff (1987).
- b) Piped Inter-allotment Stormwater Drainage is to be installed to service proposed allotments 4 to 14; 21 to 27, 15,16,18,19 and 20.
- c) Submission of a Soil and Water Management Plan prepared using Landcom publication "*Managing Urban Stormwater Soils and Construction*" and approved by the NSW Department of Infrastructure Planning and Natural Resources.
- d) All stormwater from the development site is to be routed through a gross pollutant trap[s] to remove gross pollutants as well as fine sediments. The applicant's Engineer is to liaise with Council's Environmental Services Department prior to submitting preliminary engineering plans. This unit[s] is to be located clear of the proposed habitat protection areas.

**ROADS/ANCILLARY WORKS**

- e) The proposed internal roads are to be constructed for the full frontage of all the lots in the development to the characteristics defined in Table D1.5 of Development Control Plan No 36 Councils *Engineering Guidelines for Subdivision and Development as follows*: -
  - (i) Extension of Trevor Judd Avenue (from the adjacent Settlers Ridge Estate to the unformed Crown Road) and construction of the unformed Crown Road (from the southern boundary of the property to Trevor Judd Avenue) shall be a type 2 Local Street, and
  - (ii) Proposed Road 2 shall be a Type 1 Local Access.
- f) Details on the method(s) to be employed by the Contractor to dispose of cleared vegetation shall be lodged with Council for approval prior to Council issuing the Construction Certificate. Council will not approve of disposal by burning off onsite.

- g) Construction of a fire trail (from the made section of Belle O'Connor Street in the south to the common boundary of lots 511 and 223 and from Trevor Judd Avenue to Keith Andrews Avenue) in accordance with the provisions of the publication Planning for Bushfire Protection 2001, to meet the conditional issue of the NSW Rural Fire Service approval for a Bush Fire Safety Authority. Detailed Engineering plans are to be submitted to Council for approval prior to the issue of the Construction Certificate.
- h) The street design for this stage of the development is to incorporate traffic calming principles in accordance with DCP 36.
- i) Provision of functional vehicular access to all proposed allotments i.e. provision of layback type kerb and gutter.
- j) Provision of a concrete footpath along one side of the proposed internal road pursuant to Section D1.16 (5) of Development Control Plan No 36.
- k) Applicant is to supply and install a "no through" road sign at the intersection of Keith Andrews Avenue and the new Fire Trail.
- l) The applicant is to submit a list of at least three (3) names in accordance with Council's Policy on Street Naming for Council to consider in respect to the proposed internal roads number 2 and the Crown Road.
- m) The proposed Fire Trail where it traverses the section of Crown Road north of the Trevor Judd Avenue intersection is to be sign posted restricting vehicle access to Fire fighting appliances. Details Plans showing how it is intended to physically restrict use of this Fire Trail by others is to be submitted to Council for approval.
- n) The Section of Crown Road traversing along the western boundary of the property is to be dedicated as public road. The applicant is to meet all costs associated with the road dedication.
- o) 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.
- p) 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.

The following inspections required:

- (i) Council is to inspect all Telstra and Country Energy cables where they cross existing and or new Council

sewer or water mains prior to the contractor back filling the trench.

- (ii) The inspections for the required civil engineering works are listed in Section 6.3 of Council's Engineering Guidelines for Subdivision and Development (DCP 36) and must be undertaken prior to the appointed contractor proceeding to the next stage of the construction.

**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.

- 17 The plans for the required construction certificate are to include a detailed plan of management to form the basis of an appropriate restriction as to user providing for maximum tree retention, incorporating the following: -

- (a) A survey plan prepared by a registered surveyor indicating the location of all trees over 3 metres in height and 200mm in diameter relative to the proposed lot boundaries.
- (b) Identification of building envelopes on each affected allotment not less than six metres from trees nominated for retention.
- (c) Location of water, sewer, electricity, telecommunication and drainage services so as to minimise the removal of trees.
- (d) Retention of all trees within roads and public reserves, except where required to be removed to provide services and construct roads.
- (e) A report prepared by a suitably qualified person indicating that the proposed tree retention will comply with the Rural Fire Service *Planning for Bushfire Protection, 2001*.
- (f) Details of the means of protecting trees nominated for retention during construction of the subdivision.

The required restriction as to user shall provide that all buildings, including outbuildings shall be restricted to within the identified building envelopes and nominating Kempsey Shire Council as the sole party to vary.

A draft of the proposed instrument is to be provided to Council prior to the release of the Subdivision Certificate.

- 18 Creation of an appropriate 88E instrument providing that no tree may be removed from the affected allotments, except in accordance with an approval to construct a building within nominated building envelopes or where Kempsey Shire Council

has given its written agreement on the basis that retention of any tree represents an unacceptable risk to public safety.

- 19 The Plans for the required Construction Certificate are to include a Landscape/ Streetscape Plan prepared by a suitably qualified Landscape Architect in respect to proposed allotments 6 to 14 and 21 to 27 inclusive in Keith Andrews Avenue and Gregory Street in accordance with Development Control Plan 36, *Section D13 Land and Street Scape Design* and having regard for but not limited to the following points: -
- (a) Screening the proposed development.
  - (b) Prohibiting vehicular and pedestrian access to Keith Andrews Avenue and Gregory Street
  - (c) Landscaping to be clear of any existing or proposed services
  - (d) Incorporate the use of suitable fencing that compliments the various management plan provisions.
- 20 The Plans for the required Construction Certificate are to include a Streetscape Plan prepared by a suitably qualified Landscape Architect in respect to proposed extension of Trevor Judd Avenue, Road numbers 1 and 2 in accordance with Development Control Plan 36, *Section D13 Land and Street Scape Design*.

#### **NSW RURAL FIRE SERVICE CONDITIONS**

- 21 The NSW Rural fire service has issued a Bushfire Safety Authority subject to the following conditions: -

- (a) Should Machro P/L develop first (Plan A), a right of way and cleared and constructed fire break will be established along the western edge of the Eric Norman site that will link with a formed, curbed and guttered road along the western side of the macro development. To the south the fire trail shall link with Belle O'Connor Street and to the north the curbed and guttered section will link with Keith Andrews Avenue. Both Belle O'Connor Street and Keith Andrews Avenue link with Trevor Judd Avenue, a through road allowing traffic unrestricted access around the development.

The cul-de-sac in the Machro Development has a turning circle and is directly linked to Trevor Judd Avenue. This turning circle shall comply with requirements for Bushfire Protection, 2001.

A minimum 40metre APZ shall be established along the western boundary of the Machro Development and along the boundary between Machro and Eric Norman developments, within the Eric Norman site, as shown on the plan.

- (b) Should Eric Norman P/L develop first (Plan B), Road No. 1 long the western boundary will be curbed and guttered and there will be a 40 metre APZ with modifications to the final lot layout to cater for the APZ. The road will link with the right of way and cleared and constructed fire break along the western edge of the Machro development, that will link with Keith Andres Avenue. To the south the road will join Belle O'Connor Street. Belle O'Connor Street and Keith Andrews Drive link with Trevor Judd Avenue, a through road allowing traffic unrestricted access around the development.  
The cul-de-sac in the Eric Norman Development has a turning circle and is directly linked to road number 1.  
A minimum 40 metre APZ will be established along the boundary between Machro and Eric Norman developments, within the Machro site as shown on the plan.
- (c) If both parcels of land were developed concurrently, there will be a minimum 40metre APZ along the western boundary, with a curbed and guttered road (road no. 1) along the entire western edge linking Belle O'Connor Street to Keith Andrews Avenue. Both cul-de-sacs will have turning circles and be linked to road No. 1(Eric Norman Developments) and Trevor Judd (Machro).
- (d) Future construction of lots 59, 60, 61, 93, 103, 94, 95, 96, 98, 99, 100, 101, 102, 35, 34,33, and 27 shall be constructed to comply with level 3 Construction AS3959.
- (e) All access must conform with *Planning for Bushfire Protection, 2001*.

#### **NSW NATIONAL PARKS AND WILDLIFE SERVICE CONDITIONS**

- 22 The NSW National Parks and Wildlife Service has issued a conditional concurrence subject to the following conditions: -
- (i) The applicant for the development consent (the applicant) must undertake the development in accordance with the ameliorative measures documented in the species Impact Statement (SIS) that are currently extant and referred to in Sections 2.2 and 2.3 of this report, unless modified by the following conditions.
  - (ii) The applicant must inform the NPWS and obtain its approval, prior to the clearing or construction, for any proposed variations in the location of clearing construction, design, structures or relative timing of clearing of the approved development that may adversely impact on threatened species, which is not contained within the SIS or development application. Any such proposed variations must be approved in writing by the NPWS before works associated with the variation can

begin. Requests for proposed variations must include an assessment of the potential adverse impacts of the proposed variation on threatened species.

(iii) The applicant must prepare and implement a Fauna Management Plan that addresses the impacts of clearing on the subject site on native fauna species. Specifically, the Plan must include: -

- Measures for the immediate welfare and subsequent relocation (or putting into care if injured, distressed or otherwise incapacitated) of native fauna that are found within the area being cleared during or immediately subsequent to clearing, if the native fauna appear unable to move to appropriate other habitats of their own accord;
- Arrangements with a licensed wildlife carer or organisation to collect and tend for any injured, distressed or otherwise incapacitated native fauna resulting from the vegetation clearing process;
- Species and wildlife prescriptions, as appropriate, for searching for, handling and relocating all the threatened species and native fauna listed in Section 7.2 Appendix 2, respectively, of the SIS as occurring or having the potential to occur on the subject site (these prescriptions must include, where appropriate, pre-clearing measures to encourage potential occupiers of habitat to vacate the area prior to clearing, the searching of all hollow limbs and hollows present in felled trees and post clearing relocation of habitat features, such as tree hollows, if they are still occupied by native fauna species.);
- The identification of suitable habitat, and the written concurrence of the landowner(s) of the habitat, for the relocation of any native fauna taken into care as a result of the clearing of the subject site and considered by the above wildlife carer or organisation to be suited to relocation;

The identification of the appropriate wildlife handling techniques, protective clothing and fauna holding equipment to be used by the wildlife carer in the collection and transportation of injured distressed or otherwise incapacitated native fauna from the site of the clearing;

A requirement that the clearing contractors are provided with a copy of the Plan and are made aware of their responsibility to implement the relevant contained conditions;

**A procedure for the provision of details to the NPWS, within one month of the date of the collection, of any native fauna species put into care or relocated during clearing, and**

**A commitment by the applicant to provide sufficient funding to enable the adequate implementation of the Plan.**

**The Plan must be approved in writing by the NPWS before clearing activities begin on the subject site.**

- (iv) The applicant must not remove, clear or under scrub vegetation from the subject site between the months of June and December inclusive, unless NPWS has provided specific approval in writing for the activity.**
- (v) The Applicant must, where practicable, minimise the burning of material from vegetation clearing occurring as part of the proposed development. Unless it is the requirement of another relevant consent conditions or approval by another authority, vegetation, timber, logs and topsoil that would otherwise be cleared, buried or removed from the subject site and dumped shall be mulched or otherwise utilised in landscaping or re-vegetation works on the subject site.**
- (vi) The Applicant must prepare and implement a Vegetation Retention Plan that, within the constraints of the design of the proposed subdivision, fire hazard reduction measures and safety to building and people, identifies individual trees and areas of vegetation that will be retained, and measures for the on ground identification and conservation of these trees and areas of vegetation during and subsequent to clearing, subdivision and housing construction activities. Within the constraints of the proposed subdivision design, preference in the selection of trees and areas of vegetation to be retained must be given to known or likely habitat of threatened species known or likely to occur on the subject site.  
The Plan must be approved in writing by the NPWS before clearing of the vegetation begins on the subject site.**
- (vii) Prior to both any Construction Certificate being issued for any subdivision or engineering works the subject of the development and the development being commenced, the Applicant must submit to the Council evidence in writing that the Applicant has entered into an arrangement with the Director-General of National Parks and Wildlife in respect of the acquisition or embellishment of land containing habitat similar to that within the subject site and or providing known or potential habitat for the threatened species known or likely to occur within the**

subject site, and or the conservation and management of those threatened species known or likely to occur within the subject site.

**ERIC NORMAN DEVELOPMENTS PTY LTD T6-03-186**

**GENERAL**

- 1** The development referred to in this application is to be carried out substantially in accordance with the approved development Plan No 50035-022 amendment "A" and as modified by any conditions of this consent.
- 2** The existing restriction on the use affecting proposed lots 51 to 56 created in accordance with development application T6-01-376 is to be extinguished prior to the issue of the Subdivision Certificate.
- 3** The Construction Certificate for this development shall not be issued until all the conditions of the concurrence issued by the NSW National Parks and Wildlife Service identified in condition 20 of this consent have been met.  
  
A clearance letter from NSW National Parks and Wildlife Service stating that satisfactory arrangements have been made and that written approval has been issued will be provided to Council or the private certifier prior to issue of the Construction Certificate.  
  
Any variations to the conditions of concurrence are to be referred to the NSW National Parks and Wildlife Service for approval prior to the issuing of the construction certificate.
- 4** This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained. A Construction Certificate may be obtained from Council upon application being made or from an accredited certifier.
- 5** Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council
- 6** Submission with the final plan of subdivision, copies of any instruments under Section 88B or E of the Conveyancing Act 1919, relevant to any restrictive covenants, easements, rights of way created or affected by this development.
- 7** In addition to the requirements of the NSW Rural Fire Service as detailed in condition 19 of this consent, should this development proposal commence before the development immediately adjoining lot 223 DP754396 then the following additional

requirements shall be met prior to the release of the Subdivision Certificate: -

- (a) The creation of a suitable restriction as to user allowing for the construction and maintenance of a 40metre wide Bushfire Asset Protection Zone for the full length of the common boundary between Stage 2 (Lots 62 - 64 and 67-70) and residual lot 81 and between Lot 31 DP 754396 and proposed lots 59 and 60.

Proposed lots 62-64 and 67-70 shall be nominated as the benefiting allotment on that part of the instrument that creates the section of Asset Protection Zone.

The restriction is to be clearly marked on the plan of subdivision.

Kempsey Shire Council is to be nominated as the sole party to vary, modify and/or extinguish the restriction.

The restriction shall cease to have effect once residual lot 81 has been fully developed.

- (b) The required fire trail, where it traverses proposed lot 81 is to be wholly located within a suitable right of carriageway of sufficient width to allow construction and ongoing maintenance.

This restriction is to be clearly marked on the plan of subdivision

Kempsey Shire Council is to be nominated as the sole party to vary, modify and or extinguish this restriction.

A copy of the restriction is to be lodged for approval with the application for Subdivision Certificate.

Kempsey Shire Council is to be nominated as the sole party to vary, modify or extinguish the restriction.

The restriction shall cease to have effect once lot 511 and adjoining lot 31 DP 754396 to the west are fully developed.

- (c) In respect to the required Asset Protection Zone to be established on proposed lots 59 and 60, a suitable restriction as to user is to be created restricting the erection of any building, including outbuildings within the affected area.

This restriction is to be clearly marked on the plan of subdivision

Kempsey Shire Council is to be nominated as the sole party to vary, modify and or extinguish this restriction.

A copy of the restriction is to be lodged for approval with the application for Subdivision Certificate.

Kempsey Shire Council is to be nominated as the sole party to vary, modify and/or extinguish the restriction.

The restriction to be drafted shall cease to have effect once adjoining lot 31 DP 754396 to the west is fully developed.

- 8 Submission of an application for Subdivision Certificate pursuant to Part 4A of the Environmental Planning and Assessment Act 1979, which authorizes the registration of the plan of subdivision.

#### **PUBLIC UTILITIES**

- 9 The applicant shall make satisfactory arrangements with Telstra Australia for the provision of underground telephone plant to each lot. A letter from Telstra stating that satisfactory arrangements have been made for the provision of underground telephone plant is to be lodged with Council prior to release of the linen plan.
- 10 The applicant is to make satisfactory arrangements with CountryEnergy for the supply of electricity to each lot. A letter from CountryEnergy stating that satisfactory arrangements have been made for the provision of underground electricity supply to this development is to be lodged with Council prior to release of the linen plan.
- 11 Any necessary alterations to or relocations of public utility services to be carried out at no cost to Council.

#### **CONTRIBUTIONS**

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

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

- (a) Payment of a contribution towards district water supply at the rate of \$1184 per equivalent tenement, i.e \$1184 x 24 E.T = \$28,416 (Indexed 2003/2004), prior to the issue of the Subdivision Certificate.
- (b) Payment of a contribution towards the augmentation of sewerage headworks( Spencerville Area 1) at the rate of \$2899 per equivalent tenement, i.e \$2,899 x 24 E.T =

\$69,576 (Indexed 2003/2004), prior to the issue of the Subdivision Certificate.

- (c) Extension of the town water supply main(s) is necessary to serve the proposed development, at full cost to the applicant. Detailed plans are to be submitted for approval prior to the issue of the Construction Certificate.
- (d) Extension of the town sewer main(s) is necessary to serve the proposed development, at full cost to the applicant. Detailed plans are to be submitted for approval prior to the issue of the Construction Certificate.
- (e) Provision of a suitable booster pump station to allow for the adequate supply of reticulated water to each lot in this subdivision. The applicant's Consultant Engineer is to liaise with Council's Water and Sewer Manager Mr Glenn Pearson of Council's Business Enterprises Unit for details prior to preparing the detailed engineering drawings.

The final plans for the booster pump station is to be submitted to council for approval prior to the issue of the Construction Certificate.

13 Dedication of an area within the subdivision not less than 750m<sup>2</sup> in area, suitable for the purposes of developing as a neighbourhood park.

14 The applicant is to pay a contribution towards the Belle O'Connor Trunk Drainage System in accordance with Council's Section 94 Plan for Belle O'Connor Trunk Drainage System. The contribution is to be paid prior to the release of the Subdivision Certificate, at the rate prevailing at that time. The current rate is \$1852 per additional dwelling unit, i.e \$1,852 x 24 E.T = \$44,448. (Indexed 2003/2004).

The plan may be inspected at Councils Offices, cnr Elbow and Tozer Streets, West Kempsey.

15 The applicant is to pay a contribution towards upgrading Belle O'Connor Street for each additional building entitlement created. The contribution to be paid will be the rate prevailing at the time of having the plan of subdivision released. The current rate is \$1241 per additional building entitlement created, i.e. \$1,241 x 24 = \$29,784 total for 2003/2004 (Indexed).

**Note**

*If deferment of Section 94 and 64 contributions are required, a written request accompanied by a copy of the relevant title deeds must be lodged with Council.*

*When deferring payment the subdivider will be required to enter into a deed with Council, at the owner's expense. The agreement will require a Caveat to be endorsed on the allotment Title and will make provision for*

***Council to be paid the upgrading contribution when the allotment is sold. The amount of contribution to be paid will be the rate per allotment fixed by Council for the year in which the transfer takes place. The Subdivision Certificate will be released once the Deed and Caveat have been registered.***

**INFORMATION TO BE SUBMITTED WITH THE CONSTRUCTION CERTIFICATE**

- 16 Detailed Engineering Plans providing for Civil Works within the subject property as shown in the plan of application (50035-022 amendment "A") in strict compliance with Council's *Engineering Guidelines for Subdivision and Development DCP 36.***

**STORMWATER DRAINAGE**

- a) **Provision of a piped urban stormwater drainage system to convey all existing and proposed storm flows through this development in accordance with the most recent version of Australian Rainfall and Runoff (1987).**
- b) **Piped Inter-allotment Stormwater Drainage is to be installed to service proposed allotments 70 to 80 and 60.**
- c) **Submission of a Soil and Water Management Plan prepared using Landcom publication "*Managing Urban Stormwater Soils and Construction*" and approved by the NSW Department of Infrastructure Planning and Natural Resources.**
- d) **All stormwater from the development site is to be routed through a gross pollutant trap[s] to remove gross pollutants as well as fine sediments. The applicant's Engineer is to liase with Council's Environmental Services Department prior to submitting preliminary engineering plans. This unit[s] is to be located clear of the proposed habitat protection areas.**
- e) **Provision of a permanent onsite detention facility clear of future public reserves to limit flows from this development to pre-development levels, thence connection to the existing natural drainage system. To be designed in accordance with the current version of Australian Rainfall and Runoff and having regard to Water sensitive Urban Design principles.**

**ROADS/ANCILLARY WORKS**

- f) **The proposed internal roads are to be constructed for the full frontage of all the lots in the development to the characteristics defined in Table D1.5 of Development Control Plan No 36 Councils *Engineering Guidelines for Subdivision and Development as follows: -***

- (i) Proposed Road No. 1(from Belle O'Connor Street to proposed road number 2. shall be a type 2 Local Street, and
  - (ii) Proposed Road 2 shall be a type 2 Local Street.
  - (iii) The provision of a temporary turning area to dimensions specified in DCP 36. The wearing surface is to be a single coat flush bitumen seal.
  - (iv) The intersection with Belle O'Connor Street is to be designed and construction in accordance with DCP 36 and the Austroads Manual Part 5 intersections at grade.
  - (v) Belle O'Connor Street shall be constructed as a type 5 arterial road (Table D1.5 DCP 36) with concrete kerb and gutter, grassed nature strip a minimum of 3.5 metres fronting each lot in this stage of the development and dedicated to Council as public road. The applicant is to submit detailed plans for half width construction of Belle O'Connor Street.
- g) Details on the method(s) to be employed by the Contractor to dispose of cleared vegetation shall be lodged with Council for approval prior to Council issuing the Construction Certificate. Council will not approve of disposal by burning off onsite.
  - h) Construction of a fire trail (from the made section of Belle O'Connor Street for this development to Keith Andrews Avenue) in accordance with the provisions of the publication *Planning for Bushfire Protection 2001*, to meet the conditional issue of the NSW Rural Fire Service approval for a Bush Fire Safety Authority. Detailed Engineering plans are to be submitted to Council for approval prior to the issue of the Construction Certificate.
  - i) The street design for this stage of the development is to incorporate traffic calming principles in accordance with DCP 36.
  - j) Provision of functional vehicular access to all proposed allotments i.e provision of layback type kerb and gutter.
  - k) Provision of a concrete footpath along one side of the proposed internal road pursuant to Section D1.16 (5) of Development Control Plan No 36.
  - l) Applicant is to supply and install "no through" road signs at the intersection of Keith Andrews Avenue where it intersects the new Fire Trail and at the intersection of proposed internal roads 1 and 2.

- m) The applicant is to submit a list of at least three (3) names in accordance with Council's Policy on Street Naming for Council to consider in respect to the proposed internal roads 1 and 2.
- n) The proposed Fire Trail where it traverses part lot 511 and the section of Crown Road is to be sign posted restricting vehicle access to Fire fighting appliances. Details Plans showing how it is intended to physically restrict use of this Fire Trail by others is to be submitted to Council for approval.
- o) The Section of Crown Road traversing along the western boundary of Lot 223 DP 754396 is to be dedicated as public road. The applicant is to meet all costs associated with the road dedication.
- p) 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.
- q) 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.

The following inspections required:

- a) Council is to inspect all Telstra and Country Energy cables where they cross existing and or new Council sewer or water mains prior to the contractor back filling the trench.
- b) The inspections for the required civil engineering works are listed in Section 6.3 of Council's Engineering Guidelines for Subdivision and Development (DCP 36) and must be undertaken prior to the appointed contractor proceeding to the next stage of the construction.

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.

- 17 The plans for the required construction certificate are to include a detailed plan of management to form the basis of an appropriate restriction as to user providing for maximum tree retention, incorporating the following: -

- (a) A survey plan prepared by a registered surveyor indicating the location of all trees over 3 metres in height and 200mm in diameter relative to the proposed lot boundaries.
- (b) Identification of building envelopes on each affected allotment not less than six metres from trees nominated for retention.
- (c) Location of water, sewer, electricity, telecommunication and drainage services so as to minimise the removal of trees.
- (d) Retention of all trees within roads and public reserves, except where required to be removed to provide services and construct roads.
- (e) A report prepared by a suitably qualified person indicating that the proposed tree retention will comply with the Rural Fire Service *Planning for Bushfire Protection, 2001* .
- (f) Details of the means of protecting trees nominated for retention during construction of the subdivision.

The required restriction as to user shall provide that all buildings, including outbuildings shall be restricted to within the identified building envelopes and nominating Kempsey Shire Council as the sole party to vary.

A draft of the proposed instrument is to be provided to Council prior to the release of the Subdivision Certificate.

- 18 Creation of an appropriate 88E instrument providing that no tree may be removed from the affected allotments, except in accordance with an approval to construct a building within nominated building envelopes or where Kempsey Shire Council has given its written agreement on the basis that retention of any tree represents an unacceptable risk to public safety.

#### **NSW RURAL FIRE SERVICE CONDITIONS**

- 19 The NSW Rural fire service has issued a Bushfire Safety Authority subject to the following conditions: -
- (a) Should Machro P/L develop first(Plan A), a right of way and cleared and constructed fire break will be established along the western edge of the Eric Norman site that will link with a formed, curbed and guttered road along the western side of the macro development . To the south the fire trail will link with Belle O'Connor Street and to the north the curbed and guttered section will link with Keith Andrews Avenue. Both Belle O'Connor Street and Keith Andrews Avenue link with Trevor Judd Avenue, a through

road allowing traffic unrestricted access around the development.

The cul-de-sac in the Machro Development has a turning circle and is directly linked to Trevor Judd Avenue. This turning circle shall comply with requirements for Bushfire Protection, 2001.

A minimum 40metre APZ shall be established along the western boundary of the Machro Development and along the boundary between Machro and Eric Norman developments, within the Eric Norman site, as shown on the plan.

- (b) Should Eric Norman P/L develop first( Plan B), Road No. 1 long the western boundary will be curbed and guttered and there will be a 40 metre APZ with modifications to the final lot layout to cater for the APZ. The road will link with the right of way and cleared and constructed firebreak along the western edge of the Machro development, that will link with Keith Andres Avenue. To the south the road will join Belle O'Connor Street. Belle O'Connor and Keith Andrews Drive link with Trevor Judd Avenue, a through road allowing traffic unrestricted access around the development.

The cul-de-sac in the Eric Norman Development has a turning circle and is directly linked to road number 1.

A minimum 40 metre APZ will be established along the boundary between Machro and Eric Norman developments, within the Machro site as shown on the plan.

- (c) If both parcels of land were developed concurrently, there will be a minimum 40metre APZ along the western boundary, with a curbed and guttered road(road no. 1) along the entire western edge linking Belle O'Connor Street to Keith Andrews Avenue. Both cul-de-sacs will have turning circles and be linked to road No. 1(Eric Norman Developments) and Trevor Judd (Machro).
- (d) Future construction of lots 59, 60, 61, 93, 103, 94, 95, 96, 98, 99, 100, 101, 102, 35, 34,33, and 27 shall be constructed to comply with level 3 Construction AS3959.
- (e) All access must conform with *Planning for Bushfire Protection, 2001*.

#### **NSW NATIONAL PARKS AND WILDLIFE SERVICE CONDITIONS**

20 The NSW National Parks and Wildlife Service has issued a conditional concurrence subject to the following conditions: -

- (i) The applicant for the development consent(the Applicant) must undertake the development in accordance with the

ameliorative measures documented in the species Impact Statement(SIS)that are currently extant and referred to in Sections 2.2 and 2.3 of this report, unless modified by the following conditions.

- (ii) The applicant must inform the NPWS and obtain its approval, prior to the clearing or construction, for any proposed variations in location of clearing construction design, structures or relative timing of clearing of the approved development that may adversely impact on threatened species, which is not contained within the SIS or development application. Any such proposed variations must be approved in writing by the NPWS before works associated with the variation can begin. Requests for proposed variations must include an assessment of the potential adverse impacts of the proposed variation on threatened species.
  
- (iii) The applicant must prepare and implement a Fauna Management Plan that addresses the impacts of clearing on the subject site on native fauna species. Specifically, the Plan must include: -
  - Measures for the immediate welfare and subsequent relocation (or putting into care if injured, distressed or otherwise incapacitated) of native fauna that are found within the area being cleared during or immediately subsequent to clearing, if the native fauna appear unable to move to appropriate other habitats of their own accord;
  - Arrangements with a licensed wildlife carer or organisation to collect and tend for any injured, distressed or otherwise incapacitated native fauna resulting from the vegetation clearing process;
  - Species and wildlife prescriptions, as appropriate, for searching for, handling and relocating all the threatened species and native fauna listed in Section 7.2 and appendix 2, of the SIS as occurring or having the potential to occur on the subject site(these prescriptions must include, where appropriate , pre-clearing measures to encourage potential occupiers of habitat to vacate the area prior to clearing, the searching of all hollow limbs and hollows present in felled trees and post clearing relocation of habitat features, such as tree hollows, if they are still occupied by native fauna species.);
  - The identification of suitable habitat, and the written concurrence of the landowner[s] of the habitat, for the relocation of any native fauna taken into care as a result of the clearing of the subject

- site and considered by the above wildlife carer or organisation to be suited to relocation;
  - The identification of the appropriate wildlife handling techniques, protective clothing and fauna holding equipment to be used by the wildlife career in the collection and transportation of injured distressed or otherwise incapacitated native fauna from the site of the clearing;
  - A requirement that the clearing contractors are provided with a copy of the Plan and are made aware of their responsibility to implement the relevant contained conditions;
  - A procedure for the provision of details to the NPWS, within one month of the date of the collection, of any native fauna species put into care or relocated during clearing, and
  - A commitment by the applicant to provide sufficient funding to enable the adequate implementation of the Plan.
- (iv) The applicant must not remove, clear or under scrub vegetation from the subject site between the months of June and December inclusive, unless NPWS has provided specific approval in writing for the activity.
- (v) The Applicant must, where practicable, minimise the burning of material from vegetation clearing occurring as part of the proposed development. Unless it is the requirement of another relevant consent conditions or approval by another authority, vegetation, timber, logs and topsoil that would otherwise be cleared, buried or removed from the subject site and dumped shall be mulched or otherwise utilised in landscaping or re-vegetation works on the subject site.
- (vi) The Applicant must prepare and implement a Vegetation Retention Plan that, within the constraints of the design of the proposed subdivision, fire hazard reduction measures and safety to building and people, identifies individual trees and areas of vegetation that will be retained, and measures for the on ground identification and conservation of these trees and areas of vegetation during and subsequent to clearing, subdivision and housing construction activities. Within the constraints of the proposed subdivision design, preference in the selection of trees and areas of vegetation to be retained must be given to known or likely habitat of threatened species known or likely to occur on the subject site.  
The Plan must be approved in writing by the NPWS before clearing of the vegetation begins on the subject site.

- (vii) Prior to both any Construction Certificate being issued for any subdivision or engineering works the subject of the development and the development being commenced, the Applicant must submit to the Council evidence in writing that the Applicant has entered into an arrangement with the Director-General of National Parks and Wildlife in respect of the acquisition or embellishment of land containing habitat similar to that within the subject site and or providing known or potential habitat for the threatened species known or likely to occur within the subject site, and or the conservation and management of those threatened species known or likely to occur within the subject site.

**ERIC NORMAN DEVELOPMENTS PTY LTD T6-03-191**

**GENERAL**

- 1 The development referred to in this application is to be carried out substantially in accordance with the approved development Plan No 50035-023 amendment "A" and as modified by any conditions of this consent.
- 2 The Construction Certificate for this development shall not be issued until all the conditions of the concurrence issued by the NSW National Parks and Wildlife Service identified in condition 19 of this consent have been met.

A clearance letter from NSW National Parks and Wildlife Service stating that satisfactory arrangements have been made and that written approval has been issued will be provided to Council or the private certifier prior to issue of the Construction Certificate.

Any variations to the conditions of concurrence are to be referred to the NSW National Parks and Wildlife Service for approval prior to the issuing of the construction certificate.

- 3 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained. A Construction Certificate may be obtained from Council upon application being made or from an accredited certifier.
- 4 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
- 5 Submission with the final plan of subdivision, copies of any instruments under Section 88B or E of the Conveyancing Act 1919, relevant to any restrictive covenants, easements, rights of way created or affected by this development.

**6** In addition to the requirements of the NSW Rural Fire Service as detailed in condition 18 of this consent, should this development proposal commence before the development immediately adjoining on lot 223 DP754396 then the following additional requirements shall be met prior to the release of the Subdivision Certificate: -

- (a) The creation of a suitable restriction as to user allowing for the creation and maintenance of the required 40metre wide Bushfire Asset Protection Zone for the full length of the common boundary between lots 511 and 223 over lot 223 and for the full length of the western boundary between lot 31 DP 754396 and proposed lots 93 to 103 and lot 81.

Lot 511 will be nominated as the benefiting lot on that part of the instrument that creates the section of Asset Protection Zone.

Proposed lots 86,87,88, 97 and 102 and 93 to 103 and lot 81 shall be nominated as the benefiting allotment on that part of the instrument that creates the section of Asset Protection Zone.

The restriction is to be clearly marked on the plan of subdivision.

Kempsey Shire Council is to be nominated as the sole party to vary, modify and/or extinguish the restriction.

The restriction shall cease to have effect in respect to proposed lots 86, 87, 88, 97 and 102 once lot 223 has been fully developed and in respect to proposed lots 93-103 and lot 81 shall cease to have effect upon full development of lot 31 DP754396.

- (b) In respect to the required Asset Protection Zone to be established over proposed lots 93, 103, 94, 95, 96, 98, 99, 100, 101 and 102 a restriction as to user is to be created restricting the erection of any building, including outbuildings within the affected area.

This restriction is to be clearly marked on the plan of subdivision

Kempsey Shire Council is to be nominated as the sole party to vary, modify and or extinguish this restriction.

A copy of the restriction is to be lodged for approval with the application for Subdivision Certificate.

Kempsey Shire Council is to be nominated as the sole party to vary, modify and/or extinguish the restriction.

The restriction to be drafted shall cease to have effect once adjoining lot 31 DP 754396 to the west is fully developed.

- 7 Submission of an application for Subdivision Certificate pursuant to Part 4A of the Environmental Planning and Assessment Act 1979, which authorizes the registration of the plan of subdivision.

#### **PUBLIC UTILITIES**

- 8 The applicant shall make satisfactory arrangements with Telstra Australia for the provision of underground telephone plant to each lot. A letter from Telstra stating that satisfactory arrangements have been made for the provision of underground telephone plant is to be lodged with Council prior to release of the linen plan.
- 9 The applicant is to make satisfactory arrangements with CountryEnergy for the supply of electricity to each lot. A letter from CountryEnergy stating that satisfactory arrangements have been made for the provision of underground electricity supply to this development is to be lodged with Council prior to release of the linen plan.
- 10 Any necessary alterations to or relocations of public utility services to be carried out at no cost to Council.

#### **CONTRIBUTIONS**

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

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

- (a) Payment of a contribution towards district water supply at the rate of \$1184 per equivalent tenement, i.e \$1184 x 22 E.T = \$26,048 (Indexed 2003/2004), prior to the issue of the Subdivision Certificate.
- (b) Payment of a contribution towards the augmentation of sewerage headworks( Spencerville Area 1) at the rate of \$2899 per equivalent tenement, i.e \$2,899 x 22 E.T = \$63,778 (Indexed 2003/2004), prior to the issue of the Subdivision Certificate.
- (c) Extension of the town water supply main(s) is necessary to serve the proposed development, at full cost to the

applicant. Detailed plans are to be submitted for approval prior to the issue of the Construction Certificate.

- (d) Extension of the town sewer main(s) is necessary to serve the proposed development, at full cost to the applicant. Detailed plans are to be submitted for approval prior to the issue of the Construction Certificate.
- (e) Provision of a suitable booster pump station to allow for the adequate supply of reticulated water to each lot in this subdivision. The applicant's Consultant Engineer is to liaise with Council's Water and Sewer Manager Mr Glenn Pearson of Council's Business Enterprises Unit for details prior to preparing the detailed engineering drawings.

The final plans for the booster pump station is to be submitted to council for approval prior to the issue of the Construction Certificate.

- 12 Payment of a cash contribution prior to the issuing of the required Subdivision Certificate towards Council's Belle O'Connor Street Trunk drainage system in accordance with Council's Section 94 Plan for Belle O'Connor Trunk Stormwater Drainage at the rate of \$1852 per equivalent tenement, i.e. \$1,852 x 22 E.T. = \$40,744 (indexed 2003/2004).

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

- 13 The applicant is to pay a contribution towards the outdoor recreation for each additional dwelling unit after the first unit in accordance with Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Subdivision Certificate, at the rate prevailing at that time. The current rate is \$1842 per additional dwelling unit, i.e \$1,842 x 22 E.T = \$40,524. (Indexed 2003/2004).

- 14 The applicant is to pay a contribution towards upgrading Belle O'Connor Street for each additional building entitlement created. The contribution to be paid will be the rate prevailing at the time of having the plan of subdivision released. The current rate is \$1241 per additional building entitlement created, i.e. \$1,241 x 22 = \$27,302 total for 2003/2004 (Indexed).

**Note**

*If deferment of Section 94 and 64 contributions are required, a written request accompanied by a copy of the relevant title deeds must be lodged with Council.*

*When deferring payment the subdivider will be required to enter into a deed with Council, at the owner's expense. The agreement will require a Caveat to be endorsed on the allotment Title and will make provision for Council to be paid the upgrading*

*contribution when the allotment is sold. The amount of contribution to be paid will be the rate per allotment fixed by Council for the year in which the transfer takes place. The Subdivision Certificate will be released once the Deed and Caveat have been registered.*

#### **INFORMATION TO BE SUBMITTED WITH THE CONSTRUCTION CERTIFICATE**

- 15 Detailed Engineering Plans providing for Civil Works within the subject property as shown in the plan of application (50035-022 amendment "A") in strict compliance with Council's *Engineering Guidelines for Subdivision and Development DCP 36*.

#### **STORMWATER DRAINAGE**

- a) Provision of a piped urban stormwater drainage system to convey all existing and proposed storm flows through this development in accordance with the most recent version of Australian Rainfall and Runoff (1987).
- b) Piped Inter-allotment Stormwater Drainage is to be installed to service proposed allotments 97 and 82 to 92.
- c) Submission of a Soil and Water Management Plan prepared using Landcom publication "*Managing Urban Stormwater Soils and Construction*" and approved by the NSW Department of Infrastructure Planning and Natural Resources.
- d) All stormwater from the development site is to be routed through a gross pollutant trap[s] to remove gross pollutants as well as fine sediments. The applicant's Engineer is to liaise with Council's Environmental Services Department prior to submitting preliminary engineering plans. This unit[s] is to be located clear of the proposed habitat protection areas.
- e) Provision of a permanent onsite detention facility clear of future public reserves to limit flows from this development to pre-development levels, thence connection to the existing natural drainage system. To be designed in accordance with the current version of Australian Rainfall and Runoff and having regard to Water sensitive Urban Design principles.

#### **ROADS/ANCILLARY WORKS**

- f) The proposed internal roads are to be constructed for the full frontage of all the lots in the development to the characteristics defined in Table D1.5 of Development Control Plan No 36 Councils *Engineering Guidelines for Subdivision and Development as follows*: -

- (i) Proposed Road No. 1(from Belle O'Connor Street to proposed road number 2. shall be a Type 2 Local Street, and
  - (ii) Proposed Road 2 shall be a Type 2 Local street.
  - (iii) The intersection with Road number 1 is to be design and construction in accordance with DCP 36 and the Austroads Manual Part 5 intersections at grade for urban streets.
- g) Details on the method(s) to be employed by the Contractor to dispose of cleared vegetation shall be lodged with Council for approval prior to Council issuing the Construction Certificate. Council will not approve of disposal by burning off onsite.
  - h) The street design for this development is to incorporate traffic calming principles allowing in accordance with DCP 36.
  - i) Provision of functional vehicular access to all proposed allotments i.e provision of layback type kerb and gutter.
  - j) Provision of a concrete footpath along one side of the proposed internal road pursuant to Section D1.16 (5) of Development Control Plan No 36.
  - k) 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.
  - l) 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.

The following inspections required:

- a) Council is to inspect all Telstra and Country Energy cables where they cross existing and or new Council sewer or water mains prior to the contractor back filling the trench.
- b) The inspections for the required civil engineering works are listed in Section 6.3 of Council's Engineering Guidelines for Subdivision and Development (DCP 36) and must be undertaken prior to the appointed contractor proceeding to the next stage of the construction.

**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.**

- 16 The plans for the required construction certificate are to include a detailed plan of management to form the basis of an appropriate restriction as to user providing for maximum tree retention, incorporating the following: -**
- (a) A survey plan prepared by a registered surveyor indicating the location of all trees over 3 metres in height and 200mm in diameter relative to the proposed lot boundaries.**
  - (b) Identification of building envelopes on each affected allotment not less than six metres from trees nominated for retention.**
  - (c) Location of water, sewer, electricity, telecommunication and drainage services so as to minimise the removal of trees.**
  - (d) Retention of all trees within roads and public reserves, except where required to be removed to provide services and construct roads.**
  - (e) A report prepared by a suitably qualified person indicating that the proposed tree retention will comply with the Rural Fire Service *Planning for Bushfire Protection, 2001*.**
  - (f) Details of the means of protecting trees nominated for retention during construction of the subdivision.**

**The required restriction as to user shall provide that all buildings, including outbuildings shall be restricted to within the identified building envelopes and nominating Kempsey Shire Council as the sole party to vary.**

**A draft of the proposed instrument is to be provided to Council prior to the release of the Subdivision Certificate.**

- 17 Creation of an appropriate 88E instrument providing that no tree may be removed from the affected allotments, except in accordance with an approval to construct a building within nominated building envelopes or where Kempsey Shire Council has given its written agreement on the basis that retention of any tree represents an unacceptable risk to public safety.**

#### **NSW RURAL FIRE SERVICE CONDITIONS**

- 18 The NSW Rural fire service has issued a Bushfire Safety Authority subject to the following conditions: -**

- (a) Should Macro P/L develop first (Plan A), a right of way and cleared and constructed fire break will be established along the western edge of the Eric Norman site that will link with a formed, curbed and guttered road along the western side of the macro development. To the south the fire trail will link with Belle O'Connor Street and to the north the curbed and guttered section will link with Keith Andrews Avenue. Both Belle O'Connor Street and Keith Andrews Avenue link with Trevor Judd Avenue, a through road allowing traffic unrestricted access around the development.

The cul-de-sac in the Macro Development has a turning circle and is directly linked to Trevor Judd Avenue. This turning circle shall comply with requirements for Bushfire Protection, 2001.

A minimum 40metre APZ shall be established along the western boundary of the Macro Development and along the boundary between Macro and Eric Norman developments, within the Eric Norman site, as shown on the plan.

- (b) Should Eric Norman P/L develop first (Plan B), Road No. 1 along the western boundary will be curbed and guttered and there will be a 40 metre APZ with modifications to the final lot layout to cater for the APZ. The road will link with the right of way and cleared and constructed fire break along the western edge of the Macro development, that will link with Keith Andrews Avenue. To the south the road will join Belle O'Connor Street and Keith Andrews Drive link with Trevor Judd Avenue, a through road allowing traffic unrestricted access around the development. The cul-de-sac in the Eric Norman Development has a turning circle and is directly linked to road number 1. A minimum 40 metre APZ will be established along the boundary between Macro and Eric Norman developments, within the Macro site as shown on the plan.
- (c) If both parcels of land were developed concurrently, there will be a minimum 40metre APZ along the western boundary, with a curbed and guttered road (road no. 1) along the entire western edge linking Belle O'Connor Street to Keith Andrews Avenue. Both cul-de-sacs will have turning circles and be linked to road No. 1 (Eric Norman Developments) and Trevor Judd (Macro).
- (d) Future construction of lots 59, 60, 61, 93, 103, 94, 95, 96, 98, 99, 100, 101, 102, 35, 34,33, and 27 shall be constructed to comply with level 3 Construction AS3959.

- (e) All access must conform with *Planning for Bushfire Protection, 2001*.

#### NSW NATIONAL PARKS AND WILDLIFE SERVICE CONDITIONS

19 The NSW National Parks and Wildlife Service has issued a conditional concurrence subject to the following conditions: -

- (i) The applicant for the development consent (the Applicant) must undertake the development in accordance with the ameliorative measures documented in the species Impact Statement (SIS) that are currently extant and referred to in Sections 2.2 and 2.3 of this report, unless modified by the following conditions.
- (ii) The applicant must inform the NPWS and obtain its approval, prior to the clearing or construction, for any proposed variations in location of clearing construction, design, structures or relative timing of clearing of the approved development that may adversely impact on threatened species, which is not contained within the SIS or development application. Any such proposed variations must be approved in writing by the NPWS before works associated with the variation can begin. Requests for proposed variations must include an assessment of the potential adverse impacts of the proposed variation on threatened species.
- (iii) The applicant must prepare and implement a Fauna Management Plan that addresses the impacts of clearing on the subject site on native fauna species. Specifically, the Plan must include: -
- Measures for the immediate welfare and subsequent relocation (or putting into care if injured, distressed or otherwise incapacitated) of native fauna that are found within the area being cleared during or immediately subsequent to clearing, if the native fauna appear unable to move to appropriate other habitats of their own accord;
  - Arrangements with a licensed wildlife carer or organisation to collect and tend for any injured, distressed or otherwise incapacitated native fauna resulting from the vegetation clearing process;
  - Species and wildlife prescriptions, as appropriate, for searching for, handling and relocating all the threatened species and native fauna listed in Section 7.2 and appendix 2, of the SIS as occurring or having the potential to occur on the subject site (these prescriptions must include, where appropriate, pre-clearing measures to encourage potential occupiers of habitat to vacate the area

prior to clearing, the searching of all hollow limbs and hollows present in felled trees and post clearing relocation of habitat features, such as tree hollows, if they are still occupied by native fauna species):-

- The identification of suitable habitat, and the written concurrence of the landowner[s] of the habitat, for the relocation of any native fauna taken into care as a result of the clearing of the subject site and considered by the above wildlife carer or organisation to be suited to relocation;
  - The identification of the appropriate wildlife handling techniques, protective clothing and fauna holding equipment to be used by the wildlife career in the collection and transportation of injured distressed or otherwise incapacitated native fauna from the site of the clearing;
  - A requirement that the clearing contractors are provided with a copy of the Plan and are made aware of their responsibility to implement the relevant contained conditions;
  - A procedure for the provision of details to the NPWS, within one month of the date of the collection, of any native fauna species put into care or relocated during clearing, and
  - A commitment by the applicant to provide sufficient funding to enable the adequate implementation of the Plan.
- (iv) The applicant must not remove, clear or under scrub vegetation from the subject site between the months of June and December inclusive, unless NPWS has provided specific approval in writing for the activity.
- (v) The Applicant must, where practicable, minimise the burning of material from vegetation clearing occurring as part of the proposed development. Unless it is the requirement of another relevant consent conditions or approval by another authority, vegetation, timber, logs and topsoil that would otherwise be cleared, buried or removed from the subject site and dumped shall be mulched or otherwise utilised in landscaping or re-vegetation works on the subject site.
- (vi) The Applicant must prepare and implement a Vegetation Retention Plan that, within the constraints of the design of the proposed subdivision, fire hazard reduction measures and safety to building and people, identifies individual trees and areas of vegetation that will be retained, and

measures for the on ground identification and conservation of these trees and areas of vegetation during and subsequent to clearing, subdivision and housing construction activities. Within the constraints of the proposed subdivision design, preference in the selection of trees and areas of vegetation to be retained must be given to known or likely habitat of threatened species known or likely to occur on the subject site.

The Plan must be approved in writing by the NPWS before clearing of the vegetation begins on the subject site.

- (vii) Prior to both any Construction Certificate being issued for any subdivision or engineering works the subject of the development and the development being commenced, the Applicant must submit to the Council evidence in writing that the Applicant has entered into an arrangement with the Director-General of National Parks and Wildlife in respect of the acquisition or embellishment of land containing habitat similar to that within the subject site and or providing known or potential habitat for the threatened species known or likely to occur within the subject site, and or the conservation and management of those threatened species known or likely to occur within the subject site.

**MOVED:**

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

That Kempsey Shire Council contact the New South Wales Ombudsman and the Department of ICAC to ensure the process has been proper in regards to subdivisions of Lot 52 and Lot 223 South West Rocks.

**An Amendment was MOVED:**

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

That all 3 developments be referred to the Minister for Infrastructure Planning and Natural Resources for consideration as an area of state significance.

**The AMENDMENT was PUT to the Meeting and was LOST.**

**An Amendment was MOVED:**

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

That the Director's Recommendation be adopted with the addition of the words "and shall not include metal sheet fencing" to the end of point 19 (d).

**The AMENDMENT was PUT to the Meeting and was LOST.**

**An Amendment was MOVED:**

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

**That:-**

(a) the applications for Lot 52 be referred to the Minister for Infrastructure Planning and Natural Resources and

(b) the subdivision for Lot 223 be approved subject to the following conditions:-

**MACHRO DEVELOPMENTS PTY LTD T6-02-402**

**GENERAL**

1 The development referred to in this application is to be carried out substantially in accordance with the approved development Plan No 50419-02 and as modified by any conditions of this consent.

2 Submission of an appropriate restriction as to user to be placed over the title of proposed lots 6 to 14 and 21 to 27 preventing vehicular and pedestrian access onto Keith Andrews Avenue and Gregory Street.

This restriction is to be clearly marked on the plan of subdivision.

Kempsey Shire Council is to be nominated as the sole party to vary, modify and or extinguish this restriction.

A copy of the restriction is to be lodged for approval with the application for Subdivision Certificate.

3 The Construction Certificate for this development shall not be issued until all the conditions of the concurrence issued by the NSW National Parks and Wildlife Service identified in condition 22 of this consent have been met.

A clearance letter from NSW National Parks and Wildlife Service stating that satisfactory arrangements have been made and that written approval has been issued will be provided to Council or the private certifier prior to issue of the Construction Certificate.

Any variations to the conditions of concurrence are to be referred to the NSW National Parks and Wildlife Service for approval prior to the issuing of the construction certificate.

4 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained. A Construction Certificate may be obtained from Council upon application being made or from an accredited certifier.

5 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.

**6** Submission with the final plan of subdivision, copies of any instruments under Section 88B or E of the Conveyancing Act 1919, relevant to any restrictive covenants, easements, rights of way created or affected by this development.

**7** In addition to the requirement of the NSW Rural Fire Service (as detailed in condition 21 of this consent) should this development proposal commence before the development immediately adjoining lot 511 DP1048157 then the following additional requirements shall be met prior to the release of the Subdivision Certificate: -

**(a)** The creation of a suitable restriction as to user allowing for the creation and maintenance of the required 40metre wide Bushfire Asset Protection Zone for the full length of the common boundary between lots 511 and 223 over Lot 511.

Proposed lots 1,6, and 16 to 20 shall be nominated as the benefiting allotments on that part of the instrument that creates the section of Asset Protection Zone.

The restriction is to be clearly marked on the plan of subdivision.

Kempsey Shire Council is to be nominated as the sole party to vary, modify and/or extinguish the restriction.

The restriction shall cease to have effect once lot 511 has been fully developed.

**(b)** The required fire trail, where it traverses lot 511 is to be wholly located within a suitable right of carriageway of sufficient width to allow construction and ongoing maintenance.

This restriction is to be clearly marked on the plan of subdivision

Kempsey Shire Council is to be nominated as the sole party to vary, modify or extinguish this restriction.

A copy of the restriction is to be lodged for approval with the application for Subdivision Certificate.

**(c)** In respect to the required Asset Protection Zone to be established along the full length of the western boundary of lot 223, a suitable restriction as to user is to be created over proposed lots 27, 32 to 35 restricting the erection of any building, including outbuildings within the affected area.

- 8 Submission of an application for Subdivision Certificate pursuant to Part 4A of the Environmental Planning and Assessment Act 1979, which authorizes the registration of the plan of subdivision.

#### **PUBLIC UTILITIES**

- 9 The applicant shall make satisfactory arrangements with Telstra Australia for the provision of underground telephone plant to each lot. A letter from Telstra stating that satisfactory arrangements have been made for the provision of underground telephone plant is to be lodged with Council prior to release of the linen plan.
- 10 The applicant is to make satisfactory arrangements with CountryEnergy for the supply of electricity to each lot. A letter from CountryEnergy stating that satisfactory arrangements have been made for the provision of underground electricity supply to this development is to be lodged with Council prior to release of the linen plan.
- 11 Any necessary alterations to or relocations of public utility services to be carried out at no cost to Council.

#### **CONTRIBUTIONS**

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

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

- (a) Payment of a contribution towards district water supply at the rate of \$1184 per equivalent tenement, i.e \$1184 x 34 E.T = \$40,256 (Indexed 2003/2004), prior to the issue of the Subdivision Certificate.
- (b) Payment of a contribution towards the augmentation of sewerage headworks(Spencerville Area 4) at the rate of \$1592 per equivalent tenement, i.e \$1,592 x 29 E.T = \$46,168 (Indexed 2003/2004), prior to the issue of the Subdivision Certificate.
- (c) Payment of a contribution towards the augmentation of sewerage headworks (Spencerville Area 1) at the rate of \$2899 per equivalent tenement, i.e \$2,899 x 5 E.T = \$29,495 (Indexed 2003/2004), prior to the issue of the Subdivision Certificate.
- (d) Extension of the town water supply main(s) is necessary to serve the proposed development, at full cost to the

applicant. Detailed plans are to be submitted for approval prior to the issue of the Construction Certificate.

- (e) Extension of the town sewer main(s) is necessary to serve the proposed development, at full cost to the applicant. Detailed plans are to be submitted for approval prior to the issue of the Construction Certificate.
  - (f) Provision of a suitable booster pump station to allow for the adequate supply of reticulated water to each lot in this subdivision in accordance with the requirements of Development Control Plan 36 *Engineering Guidelines for Subdivision and Development Section D11.17*. The applicant's Consultant Engineer is to liaise with Council's Water and Sewer Manager Mr Glenn Pearson of Council's Business Enterprises Unit for details prior to preparing the detailed engineering drawings.  
The final plans for the booster pump station is to be submitted to council for approval prior to the issue of the Construction Certificate.
13. Payment of a cash contribution prior to the issuing of the required Subdivision Certificate towards Council's Belle O'Connor Street Trunk drainage system in accordance with Council's Section 94 Plan for Belle O'Connor Trunk Stormwater Drainage at the rate of \$1852 per equivalent tenement, i.e. \$1,852 x 34 E.T. = \$62,968 (indexed 2003/2004).
- The Plan may be inspected at Council's offices, Cnr Elbow and Tozer Streets, West Kempsey.
- 14 The applicant is to pay a contribution towards the outdoor recreation for each additional dwelling unit after the first unit in accordance with Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Subdivision Certificate, at the rate prevailing at that time. The current rate is \$1842 per additional dwelling unit, i.e \$1,842 x 34 E.T = \$62,628. (Indexed 2003/2004).
- 15 The applicant is to pay a contribution towards upgrading Belle O'Connor Street for each additional building entitlement created. The contribution to be paid will be the rate prevailing at the time of having the plan of subdivision released. The current rate is \$1241 per additional building entitlement created, i.e. \$1,241 x 34 = \$42,194 total for 2003/2004 (Indexed 2003/2004).

**Note:-**

*If deferment of Section 94 and 64 contributions are required, a written request accompanied by a copy of the relevant title deeds must be lodged with Council.*

*When deferring payment the subdivider will be required to enter into a deed with Council, at the owner's expense. The agreement*

*will require a Caveat to be endorsed on the allotment Title and will make provision for Council to be paid the upgrading contribution when the allotment is sold. The amount of contribution to be paid will be the rate per allotment fixed by Council for the year in which the transfer takes place. The Subdivision Certificate will be released once the Deed and Caveat have been registered.*

#### **INFORMATION TO BE SUBMITTED WITH THE CONSTRUCTION CERTIFICATE**

- 16 Detailed Engineering Plans providing for Civil Works within the subject property as shown in the plan of application (50419-02) in strict compliance with Council's *Engineering Guidelines for Subdivision and Development DCP 36*.

#### **STORMWATER DRAINAGE**

- a) Provision of a piped urban stormwater drainage system to convey all existing and proposed storm flows through this development in accordance with the most recent version of Australian Rainfall and Runoff (1987).
- b) Piped Inter-allotment Stormwater Drainage is to be installed to service proposed allotments 4 to 14; 21 to 27, 15,16,18,19 and 20.
- c) Submission of a Soil and Water Management Plan prepared using Landcom publication "*Managing Urban Stormwater Soils and Construction*" and approved by the NSW Department of Infrastructure Planning and Natural Resources.
- d) All stormwater from the development site is to be routed through a gross pollutant trap[s] to remove gross pollutants as well as fine sediments. The applicant's Engineer is to liaise with Council's Environmental Services Department prior to submitting preliminary engineering plans. This unit[s] is to be located clear of the proposed habitat protection areas.

#### **ROADS/ANCILLARY WORKS**

- e) The proposed internal roads are to be constructed for the full frontage of all the lots in the development to the characteristics defined in Table D1.5 of Development Control Plan No 36 Councils *Engineering Guidelines for Subdivision and Development as follows*: -
  - (i) Extension of Trevor Judd Avenue (from the adjacent Settlers Ridge Estate to the unformed Crown Road) and construction of the unformed Crown Road (from the southern boundary of the property to Trevor Judd Avenue) shall be a type 2 Local Street, and
  - (ii) Proposed Road 2 shall be a Type 1 Local Access.

- f) Details on the method(s) to be employed by the Contractor to dispose of cleared vegetation shall be lodged with Council for approval prior to Council issuing the Construction Certificate. Council will not approve of disposal by burning off onsite.
- g) Construction of a fire trail (from the made section of Belle O'Connor Street in the south to the common boundary of lots 511 and 223 and from Trevor Judd Avenue to Keith Andrews Avenue) in accordance with the provisions of the publication Planning for Bushfire Protection 2001, to meet the conditional issue of the NSW Rural Fire Service approval for a Bush Fire Safety Authority. Detailed Engineering plans are to be submitted to Council for approval prior to the issue of the Construction Certificate.
- h) The street design for this stage of the development is to incorporate traffic calming principles in accordance with DCP 36.
- i) Provision of functional vehicular access to all proposed allotments i.e. provision of layback type kerb and gutter.
- j) Provision of a concrete footpath along one side of the proposed internal road pursuant to Section D1.16 (5) of Development Control Plan No 36.
- k) Applicant is to supply and install a "no through" road sign at the intersection of Keith Andrews Avenue and the new Fire Trail.
- l) The applicant is to submit a list of at least three (3) names in accordance with Council's Policy on Street Naming for Council to consider in respect to the proposed internal roads number 2 and the Crown Road.
- m) The proposed Fire Trail where it traverses the section of Crown Road north of the Trevor Judd Avenue intersection is to be sign posted restricting vehicle access to Fire fighting appliances. Details Plans showing how it is intended to physically restrict use of this Fire Trail by others is to be submitted to Council for approval.
- n) The Section of Crown Road traversing along the western boundary of the property is to be dedicated as public road. The applicant is to meet all costs associated with the road dedication.
- o) 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.
- p) 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.

The following inspections required:

- (i) Council is to inspect all Telstra and Country Energy cables where they cross existing and or new Council sewer or water mains prior to the contractor back filling the trench.
- (ii) The inspections for the required civil engineering works are listed in Section 6.3 of Council's Engineering Guidelines for Subdivision and Development (DCP 36) and must be undertaken prior to the appointed contractor proceeding to the next stage of the construction.

**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.

17 The plans for the required construction certificate are to include a detailed plan of management to form the basis of an appropriate restriction as to user providing for maximum tree retention, incorporating the following: -

- (a) A survey plan prepared by a registered surveyor indicating the location of all trees over 3 metres in height and 200mm in diameter relative to the proposed lot boundaries.
- (b) Identification of building envelopes on each affected allotment not less than six metres from trees nominated for retention.
- (c) Location of water, sewer, electricity, telecommunication and drainage services so as to minimise the removal of trees.
- (d) Retention of all trees within roads and public reserves, except where required to be removed to provide services and construct roads.
- (e) A report prepared by a suitably qualified person indicating that the proposed tree retention will comply with the Rural Fire Service *Planning for Bushfire Protection, 2001*.
- (f) Details of the means of protecting trees nominated for retention during construction of the subdivision.

The required restriction as to user shall provide that all buildings, including outbuildings shall be restricted to within the identified building envelopes and nominating Kempsey Shire Council as the sole party to vary.

A draft of the proposed instrument is to be provided to Council prior to the release of the Subdivision Certificate.

- 18 Creation of an appropriate 88E instrument providing that no tree may be removed from the affected allotments, except in accordance with an approval to construct a building within nominated building envelopes or where Kempsey Shire Council has given its written agreement on the basis that retention of any tree represents an unacceptable risk to public safety.
- 19 The Plans for the required Construction Certificate are to include a Landscape/ Streetscape Plan prepared by a suitably qualified Landscape Architect in respect to proposed allotments 6 to 14 and 21 to 27 inclusive in Keith Andrews Avenue and Gregory Street in accordance with Development Control Plan 36, *Section D13 Land and Street Scape Design* and having regard for but not limited to the following points: -
- (a) Screening the proposed development.
  - (b) Prohibiting vehicular and pedestrian access to Keith Andrews Avenue and Gregory Street
  - (c) Landscaping to be clear of any existing or proposed services
  - (d) Incorporate the use of suitable fencing that compliments the various management plan provisions.
- 20 The Plans for the required Construction Certificate are to include a Streetscape Plan prepared by a suitably qualified Landscape Architect in respect to proposed extension of Trevor Judd Avenue, Road numbers 1 and 2 in accordance with Development Control Plan 36, *Section D13 Land and Street Scape Design*.

#### **NSW RURAL FIRE SERVICE CONDITIONS**

- 21 The NSW Rural fire service has issued a Bushfire Safety Authority subject to the following conditions: -
- (a) Should Machro P/L develop first (Plan A), a right of way and cleared and constructed fire break will be established along the western edge of the Eric Norman site that will link with a formed, curbed and guttered road along the western side of the macro development. To the south the fire trail shall link with Belle O'Connor Street and to the north the curbed and guttered section will link with Keith Andrews Avenue. Both Belle O'Connor Street and Keith Andrews Avenue link with Trevor Judd Avenue, a through road allowing traffic unrestricted access around the development.

The cul-de-sac in the Machro Development has a turning circle and is directly linked to Trevor Judd Avenue. This turning circle shall comply with requirements for Bushfire Protection, 2001.

A minimum 40metre APZ shall be established along the western boundary of the Machro Development and along

the boundary between Machro and Eric Norman developments, within the Eric Norman site, as shown on the plan.

- (b) Should Eric Norman P/L develop first (Plan B), Road No. 1 long the western boundary will be curbed and guttered and there will be a 40 metre APZ with modifications to the final lot layout to cater for the APZ. The road will link with the right of way and cleared and constructed fire break along the western edge of the Machro development, that will link with Keith Andres Avenue. To the south the road will join Belle O'Connor Street. Belle O'Connor Street and Keith Andrews Drive link with Trevor Judd Avenue, a through road allowing traffic unrestricted access around the development.

The cul-de-sac in the Eric Norman Development has a turning circle and is directly linked to road number 1.

A minimum 40 metre APZ will be established along the boundary between Machro and Eric Norman developments, within the Machro site as shown on the plan.

- (c) If both parcels of land were developed concurrently, there will be a minimum 40metre APZ along the western boundary, with a curbed and guttered road (road no. 1) along the entire western edge linking Belle O'Connor Street to Keith Andrews Avenue. Both cul-de-sacs will have turning circles and be linked to road No. 1(Eric Norman Developments) and Trevor Judd (Machro).
- (d) Future construction of lots 59, 60, 61, 93, 103, 94, 95, 96, 98, 99, 100, 101, 102, 35, 34,33, and 27 shall be constructed to comply with level 3 Construction AS3959.
- (e) All access must conform with *Planning for Bushfire Protection, 2001*.

#### NSW NATIONAL PARKS AND WILDLIFE SERVICE CONDITIONS

22 The NSW National Parks and Wildlife Service has issued a conditional concurrence subject to the following conditions: -

- (i) The applicant for the development consent (the applicant) must undertake the development in accordance with the ameliorative measures documented in the species Impact Statement (SIS) that are currently extant and referred to in Sections 2.2 and 2.3 of this report, unless modified by the following conditions.
- (ii) The applicant must inform the NPWS and obtain its approval, prior to the clearing or construction, for any proposed variations in the location of clearing construction, design, structures or relative timing of clearing of the approved development that may adversely

impact on threatened species, which is not contained within the SIS or development application. Any such proposed variations must be approved in writing by the NPWS before works associated with the variation can begin. Requests for proposed variations must include an assessment of the potential adverse impacts of the proposed variation on threatened species.

(iii) The applicant must prepare and implement a Fauna Management Plan that addresses the impacts of clearing on the subject site on native fauna species. Specifically, the Plan must include: -

- Measures for the immediate welfare and subsequent relocation (or putting into care if injured, distressed or otherwise incapacitated) of native fauna that are found within the area being cleared during or immediately subsequent to clearing, if the native fauna appear unable to move to appropriate other habitats of their own accord;
- Arrangements with a licensed wildlife carer or organisation to collect and tend for any injured, distressed or otherwise incapacitated native fauna resulting from the vegetation clearing process;
- Species and wildlife prescriptions, as appropriate, for searching for, handling and relocating all the threatened species and native fauna listed in Section 7.2 Appendix 2, respectively, of the SIS as occurring or having the potential to occur on the subject site (these prescriptions must include, where appropriate, pre-clearing measures to encourage potential occupiers of habitat to vacate the area prior to clearing, the searching of all hollow limbs and hollows present in felled trees and post clearing relocation of habitat features, such as tree hollows, if they are still occupied by native fauna species.);
- The identification of suitable habitat, and the written concurrence of the landowner(s) of the habitat, for the relocation of any native fauna taken into care as a result of the clearing of the subject site and considered by the above wildlife carer or organisation to be suited to relocation;

The identification of the appropriate wildlife handling techniques, protective clothing and fauna holding equipment to be used by the wildlife career in the collection and transportation of injured distressed or otherwise incapacitated native fauna from the site of the clearing;

**A requirement that the clearing contractors are provided with a copy of the Plan and are made aware of their responsibility to implement the relevant contained conditions;**

**A procedure for the provision of details to the NPWS, within one month of the date of the collection, of any native fauna species put into care or relocated during clearing, and**

**A commitment by the applicant to provide sufficient funding to enable the adequate implementation of the Plan.**

**The Plan must be approved in writing by the NPWS before clearing activities begin on the subject site.**

- (iv) The applicant must not remove, clear or under scrub vegetation from the subject site between the months of June and December inclusive, unless NPWS has provided specific approval in writing for the activity.**
- (v) The Applicant must, where practicable, minimise the burning of material from vegetation clearing occurring as part of the proposed development. Unless it is the requirement of another relevant consent conditions or approval by another authority, vegetation, timber, logs and topsoil that would otherwise be cleared, buried or removed from the subject site and dumped shall be mulched or otherwise utilised in landscaping or re-vegetation works on the subject site.**
- (vi) The Applicant must prepare and implement a Vegetation Retention Plan that, within the constraints of the design of the proposed subdivision, fire hazard reduction measures and safety to building and people, identifies individual trees and areas of vegetation that will be retained, and measures for the on ground identification and conservation of these trees and areas of vegetation during and subsequent to clearing, subdivision and housing construction activities. Within the constraints of the proposed subdivision design, preference in the selection of trees and areas of vegetation to be retained must be given to known or likely habitat of threatened species known or likely to occur on the subject site.  
The Plan must be approved in writing by the NPWS before clearing of the vegetation begins on the subject site.**
- (vii) Prior to both any Construction Certificate being issued for any subdivision or engineering works the subject of the development and the development being commenced, the Applicant must submit to the Council evidence in writing that the Applicant has entered into an arrangement with the Director-General of National Parks and Wildlife in**

respect of the acquisition or embellishment of land containing habitat similar to that within the subject site and or providing known or potential habitat for the threatened species known or likely to occur within the subject site, and or the conservation and management of those threatened species known or likely to occur within the subject site.

2003. P61 The AMENDMENT was PUT to the MEETING and was CARRIED became the MOTION and was CARRIED.

At this stage 10.50 a.m. the Meeting adjourned for Morning Tea and upon resumption at 11.23 a.m. all present at the adjournment were in attendance.

DES11	RESIDENTIAL UNIT ADDITIONS, FREDERICKTION
FILE: T6-03-401 AD	{Folio No. 261614}

**SUMMARY:**

Reporting that an application has been received to erect three units and five garages in addition to two existing units, for which objections have been received.



2003. P62 **RESOLVED:** *Moved: Cl. Sowter*  
*Seconded: Cl. Bowell*

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 has been issued on the basis that Council has been appointed as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.
- 3 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.
- 4 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
- 5 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice

- of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.
- 6 The dwellings are not to be occupied until all conditions of Council's consent have been complied with to the satisfaction of Council and an Occupation Certificate has been obtained.
  - 7 Before the commencement of site works, demolition or building, the following activities must be completed:
    - a Installation of soil erosion and sedimentation control devices.
    - b Installation of safety fencing/hoardings between the property and the street
    - c Protection barriers for existing trees
    - d Installation of builder's toilets
    - e Installation of signage in prominent, visible position including -
      - "Unauthorised site entry is prohibited"
      - Name and phone number of builder or other responsible person for contact outside working hours.
  - 8 Provision of a security deposit to Council totalling \$600 to cover any damage sustained to public property including footway and kerb and gutter or road pavement during construction and to ensure satisfactory completion of any works on public property required in connection with this approval. The deposit is to be lodged with Council prior to the issuing of the required Construction Certificate and will be released upon submission of documentary evidence indicating that an Occupation Certificate has been issued.
  - 9 Submission of an application(s) to Council pursuant to Section 68 of the Local Government Act 1993 for the following, prior to the issue of a Construction Certificate:-
    - a Installing a temporary structure on land.
    - b Carrying out water supply work.
    - c Installing, altering, disconnecting or removing a meter connected to a service pipe.
    - d Carrying out sewerage work.
    - e Carrying out stormwater drainage work.
    - f Disposing of waste into a sewer of the Council.
  - 10 Approval is subject to the condition that the builder or person who does the residential building work complies with the

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

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

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

Seven (7) days notice is to be given to the owner of the adjoining allotment of the intention to excavate below the level of the base of the footings. (Reference: Clause 34, Local Government (Approvals) Regulation 1993).
- 14 Hoarding/fence is to be provided to the site in accordance with the assessment provided to Council. Details of proposed hoarding to be submitted, in writing, prior to the commencement of building operations.
- 15 A builder's toilet complying with Clause 78I of the Environmental Planning and Assessment Regulation, and connected directly to the sewer is required on site throughout the entire building operation.

Note: Clause 78 I requires that the toilet must be provided before any work is commenced.
- 16 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 17 If the soil conditions require it:-
  - (a) retaining walls or other approved methods of preventing movement of the soil must be provided; and

(b) adequate provision must be made for drainage.

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

Walls	<i><b>NATHERS ASSESSMENT TO BE PROVIDED</b></i>
Roof	<i><b>PRIOR TO THE RELEASE OF THE</b></i>
Wall	<i><b>CONSTRUCTION CERTIFICATE INDICATING</b></i>
Roof	<i><b>THE PROPOSAL COMPLIES WITH THE</b></i>
Ceiling	<i><b>MINIMUM RATING OF 3.5 STARS IN</b></i>
Hotwater	<i><b>ACCORDANCE WITH COUNCIL'S POLICY</b></i>

- 19 All stormwater drainage from this site is to be collected and piped and directed for disposal to the existing Council piped stormwater drainage system at the intersection of Edgar and William Streets, detailed Engineering Plans are to be submitted for approval prior to the issuing of a Construction Certificate.

- 20 Access from the street to the property boundary to be via a standard layback and full width concrete paving. Paving to be 125mm thick unreinforced with construction joints to suit service trenches and is to be widened to allow for appropriate access to Garages 1 and 2 in accordance with AS 2890.1 - Off Street Parking. Applicant is to consult Council's Environmental Services Department for details prior to commencing work on site.

- 21 Any redundant footpath crossings or access culverts to be removed and reconstructed at the applicant's expense, and footway access restored to the satisfaction of Council, prior to occupation of the premises.

- 22 All internal 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.

- 23 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.

- 24 Provision of concrete kerb and gutter and extension of the existing bitumen seal to the new kerb and gutter to Council's Urban Standard at full cost to the applicant. Detailed plans to be submitted for approval prior to release of the Construction Certificate.

- 25 The plans prepared for the required Construction Certificate are to provide for a footpath across the full road frontage of the property strictly in accordance with Council's Engineering Guidelines for Subdivision and Development. All works are to be carried out strictly in accordance with the plan.
- 26 Roofwaters are to be connected to the existing stormwater disposal system.
- 27 An interception drain at the boundary of the property to collect all stormwater runoff from paved areas piped then discharged to the required stormwater disposal system, strictly in accordance with Council's Engineering Guidelines for Subdivision and Development.
- 28 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.
- 29 Soil Erosion control measures are to be implemented on the site. The control measures shall be in accordance with Council's Guidelines - Preparing an Erosion and Sediment Control Plan. The Control Plan is to be submitted and approved prior to release of the required Construction Certificate.
- 30 The plans for the required Construction Certificate to provide for the widening of the concrete driveway from the road to the turning area in accordance with AS 2890.1 - Off Street Parking.
- 31 The plans for the required Construction Certificate are to provide for increased entries to garages 1, 2, 3, 4 and 5 by 200mm each to provide for suitable access to some in accordance with AS2890.1 - Off Street Parking. In the event the re-design requires encroachment into the street setback of 5 metres, the visitor parking space specified on the plan is to be located adjacent to Edgar Street, and suitably landscape and screen planted. Details are to be provided prior to the release of the Construction Certificate.
- 32 The plans for the required Construction Certificate are to provide for the widening of the proposed driveway adjacent to the northern end of Unit 3, sufficient to ensure vehicles can exit from garages 3, 4 and 5 in a forward motion in accordance with AS 2890.
- 33 The required landscaping plan is to provide for effective screen planting along the eastern boundary adjoining proposed unit 3 and the neighbouring dwelling to ensure privacy.
- 34 The plans prepared for the required Construction Certificate are to be accompanied by the following:-

Detailed plans providing for the relocation of Council's Existing sewer main and associated structures adjacent to Unit 4 and Unit 5 have been designed strictly in accordance with Council's Engineering Guidelines for Subdivision and Development.

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

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

- a Payment of a contribution towards district water supply at the rate of \$1,184 per equivalent tenement, i.e \$1,184 x 2 E.T = \$2,368. (Indexed 2003/2004)
  - b Provision of separate sewer junctions with a maximum of two connections per junction to the existing sewer main. Details to be provided with the required Construction Certificate.
- 36 The applicant is to pay a contribution towards outdoor recreation for each additional dwelling unit after the first unit in accordance with Council's Section 94 Plan for Outdoor Recreation. The contribution is to be paid prior to the release of the Construction Certificate, at the rate prevailing at that time. The current rate is \$510 per additional dwelling unit, i.e \$410 x 1.98 E.T = \$1,009.80. (Indexed 2003/2004)

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



#### ADOPTION OF AGENDA ORDER OF BUSINESS

2003. P63

RESOLVED:

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

That the Agenda Order of Business be adopted.



#### DIRECTOR ENVIRONMENTAL SERVICES REPORT

DES1	DEVELOPMENT CONTROL - SOUTH OF CRESCENT HEAD FILE: R POINT PLOME BWC	{Folio No. 261545}
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This report was dealt with earlier in the meeting just after Public Forum.

<b>DES2</b>	<b>CHANGE OF USE - AIR CONDITIONER AND REFRIGERATION REPAIRS - GLADSTONE</b>
<b>FILE: T6-03-412 AD</b>	<b>{Folio No. 261547}</b>

**SUMMARY:**

Reporting that Council has received an application for a change of use of a shop to an air conditioner and refrigeration repairs workshop for which objections have been received.



**Director Environmental Services Recommendation:**

- A. That the development consent be refused for the following reasons:
1. The proposal is likely to result in unacceptable impacts on the residential amenity of the locations by reason of noise.
  2. Insufficient provision has been made for staff and customer parking.
- B. That the objectors be notified of Council's decision.

**MOVED:**

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

That this matter be listed for a Works Inspection.

**An Amendment was MOVED:**

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

That this matter be approved subject to conditions 1 to 19;

- 1 The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.
- 2 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.
- 3 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.

- 4 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.
- 5 The building is not to be occupied until all conditions of Council's consent have been complied with to the satisfaction of Council and an Occupation Certificate has been obtained.
- 6 This consent permits the use of the proposed workshop for repairs to and storage refrigeration equipment only. Separate consent will be required for any sheet metal fabrications.
- 7 Before the commencement of site works, demolition or building, the following activities must be completed:
  - a Installation of soil erosion and sedimentation control devices.
  - b Installation of safety fencing/hoardings between the property and the street
  - c Protection barriers for existing trees
  - d Installation of builder's toilets
  - e Installation of signage in prominent, visible position including -
    - "Unauthorised site entry is prohibited"
    - Name and phone number of builder or other responsible person for contact outside working hours.
- 8 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 Hoarding/fence is to be provided to the site in accordance with the assessment provided to Council.
- 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 All activities are to be restricted to between 8.00am and 6pm Monday to Friday and 8.00am to noon Saturdays.
- 12 All loading and unloading in connection with the use of the subject premises shall be carried out wholly within the subject property.
- 13 Vehicular access from the street to the property boundary is to be via a heavy duty layback and full width 150mm thick reinforced concrete paving. A detailed plan is to be submitted prior to the release of the Construction Certificate.

- 14 All internal accessways and parking spaces have been designed and constructed in accordance with Council's Engineering Guidelines for Subdivision and Development to at least concrete paved standard.
- 15 Provision of a sign at the front of the development indicating that \*customer/visitor parking is available at the rear prior to occupation of the premises.
- 16 The applicant is to submit plans prepared by a suitably qualified engineer demonstrating the method of retention and removal of stormwater from concrete paved hardstand areas to a suitable stormwater system. Details are to be provided with the plans for the required Construction Certificate.
- 17 Compliance with the Building Code of Australia.
- All building work must be carried out in accordance with the requirements of the (BCA).
- A construction certificate shall not be issued until the Principal Certifying Authority (PCA) is satisfied that the plans and specifications comply with the BCA.
- 18 The applicant is to provide details prior to the occupation of the premises relating to control and disposal of any wastewater, waste, grease, oil, chemicals, dust generated in accordance with the requirements of Council and the Environmental Protection Authority (EPA) NSW.
- 19 Upon receipt of complaints considered justified by Council, monitoring of noise impacts is to be carried out by a suitably qualified acoustic consultant. Where non-compliance with noise regulations occurs, the activity is to cease until such time as suitable ameliorative measures to contain impacts are undertaken.

The AMENDMENT was PUT to the Meeting and was LOST.

2003.P64

The MOTION was PUT to the MEETING and was CARRIED.

DES3	NAMING OF EXISTING ROAD OFF EVERINGHAMS LANE, FREDERICKTON FILE: T6-02-697 JRM	{Folio No. 261602}
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**SUMMARY:**

Reporting that Council has received an application for the naming of a new road off Everinghams Lane, Frederickton.



2003. P65

**RESOLVED:**

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

That the request to name the road as Yarnold Close be approved.

<b>DES4</b>	<b>NAMING OF RIGHT OF CARRIAGEWAY OFF RIVER STREET, GREENHILLS</b>
<b>FILE: T6-02-356 JRM</b>	<b>{Folio No. 261606}</b>

**SUMMARY:**

Reporting Council has received an application for the naming of a new right of carriageway off River Street, Greenhills.



2003. P66

**RESOLVED:**

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

That the name of the new right of carriageway be "Caerlon Place" after the original brick home built by H J Moses.

<b>DES5</b>	<b>REVIEW OF DCP22 FOR SOUTH WEST ROCKS</b>
<b>FILE: T4-40 RPB</b>	<b>{Folio No. 261608}</b>

**SUMMARY:**

Reporting on amendments to DCP 22 recommended by the South West Rocks DCP22 Review Committee for the purposes of public exhibition.



**Committee's Recommendation:**

That the draft DCP appended to this report be placed on public exhibition for a period of not less than 28 days.

**General Manager's Recommendation:**

- A. That the Committees recommendations as they relate to aims and objectives; increased lot sizes; maximum site coverage; tree retention; dual occupancy controls and restrictions on design and materials for outbuildings be included in a separate section in the Draft DCP relating only to South West Rocks.
- B. That the Draft DCP, with the above amendments be placed on public exhibition for a period of not less than 28 days.

- C. That the Committee members be thanked for their efforts and recommendations.

2003. P67 RESOLVED:

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

That this matter be dealt with in a Workshop.



At this stage 11.42 a.m. the Meeting adjourned for Workshop and upon resumption at 12.17 p.m. all present at the adjournment were in attendance.

2003. P68 RESOLVED:

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

That the Meeting move back into open Council.

2003. P69 RESOLVED:

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

- A. That the Committees recommendations as they relate to aims and objectives; increased lot sizes; maximum site coverage; tree retention; dual occupancy controls and restrictions on design and materials for outbuildings be included in a separate section in the Draft DCP relating only to South West Rocks.
- B. That the Draft DCP, with the above amendments be placed on public exhibition for a period of not less than 28 days.
- C. That the Committee members be thanked for their efforts and recommendations.
- D. That provision be made within subclause 3.5 streetscape for submission of a statement by a suitably qualified person indicating that the tree retention does not represent an unacceptable risk to public or property safety.

2003. P70 RESOLVED:

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

That Council advertise and offer other communities the same opportunity to participate in a DCP22 review process.

<b>DES6</b>	<b>DUMPING OF RUBBISH</b>	
	<b>FILE: H2-17A</b>	<b>BWC</b>
		<b>{Folio No. 261609}</b>

**SUMMARY:**

Reporting on a recent local Court decision regarding depositing of litter.



2003. P71

**RESOLVED:**

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

That the information be noted.

<b>DES7</b>	<b>PROPOSED DEMOLITION OF AN EXISTING TWO STOREY DWELLING and ERECTION OF A NEW TWO STOREY DWELLING LOT 311 DP 754441 No 30 DULCONGHI STREET, CRESCENT HEAD FILE: T6-03-347 SAR</b>	<b>{Folio No. 261610}</b>
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**SUMMARY:**

Reporting that a Development Application has been received for approval to demolish an existing two-storey dwelling and erect a new two-storey dwelling at the above-mentioned address.



2003. P72

**RESOLVED:**

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

That the Development Application T6-03-347 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 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained. A Construction Certificate may be obtained from Council upon application being made or from an accredited certifier.
- 4 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.
- 5 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.

- 6 The building is not to be occupied until all conditions of Council's consent have been complied with and an Occupation Certificate has been obtained from Council or an accredited certifier and submitted to Council.
- 7 The front driveway apron and under apron stormwater drainage pipe is to be reconstructed.
- 8 Engineering design details showing levels for driveway and drainage are to be submitted prior to commencement of works.
- 9 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;
- (e) completion of stormwater systems prior to backfilling;
- (f) 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.

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

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

- 11 Before work commences, the Council must be informed in writing of the name and contractor licence number of the licensee who has been contracted to do or intends to do the work.
- 12 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.
- 13 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.

- 14 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.

- BCA conditions-
- a Structural Engineer's Details for Retaining walls, reinforced concrete slab and structural 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 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 Artificial lighting and mechanical ventilation is to be provided to the ground floor W.C. compartment.

- k Kitchen exhaust fans are to be ducted externally of the building or a re-circulating hood type be provided.

- l 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.

- m 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.
  - n 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.
  - o Any sarking used in the roof of the dwelling must have a flammability index not more than 5.
  - p Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
  - q Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
- 15 A Survey Certificate is to be submitted upon completion of the roof framing to ensure that the top plate is at or below 44.87 metres A.H.D.
  - 16 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.
  - 17 The dwelling shall be constructed to include all of the energy efficiency requirements contained within the single residence scorecard provided.
  - 18 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.
  - 19 Building materials are not to be stored within the road reserve or any other public place.
  - 20 Excavated material from the site is not to be placed within the road reserve or any other public place.
  - 21 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.
  - 22 Roofwaters are to be directed by means of sealed pipes to the street gutter.

- 23 No trees to be lopped or removed except in accordance with Council's Policy on Tree Preservation, and with the written consent of Council.
- 24 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.

Councillor Hunt recorded his vote against the foregoing Resolution.

DES8	<b>PROPOSED FIRST FLOOR ADDITIONS          LOT 151 DP 565060 No 26 BARNARD STREET,          GLADSTONE          FILE: T6-03-464 SAR</b>	{Folio No. 261611}
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This report was dealt with earlier in the meeting just after Public Forum.

DES9	<b>TWO STOREY DWELLING ADDITION - CRESCENT          HEAD          FILE: T6-03-494 AD</b>	{Folio No. 261612}
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**SUMMARY:**

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Reporting that Council has received a Development Application for an awning on an approved second dwelling in a designated low density area for which objections have been received.



2003. P73

**RESOLVED:**

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

- 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 does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.**
  - 3 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.**
  - 4 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.**
  - 5 Before the commencement of site works, demolition or building, the following activities must be completed:**
    - a Installation of soil erosion and sedimentation control devices.**
    - b Installation of safety fencing/hoardings between the property and the street**
    - c Protection barriers for existing trees**
    - d Installation of builder's toilets**
    - e Installation of signage in prominent, visible position including -**
      - "Unauthorised site entry is prohibited"**
      - Name and phone number of builder or other responsible person for contact outside working hours.**
  - 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 Hoarding/fence is to be provided to the site in accordance with the assessment provided to Council.
- 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 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 12 A Survey Certificate is to be submitted upon completion of the roof framing to ensure that the top plate is at or below 33.6 metres A.H.D.
- 13 The hours of construction 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 Building materials are not to be stored within the road reserve or any other public place.
- 15 Roofwaters are to be connected to the existing stormwater disposal system.

**B** That the objector be notified of Council's decision.

<b>DES10</b>	<b>DUAL OCCUPANCY, SOUTH WEST ROCKS</b>
<b>FILE: T6-03-455 AD</b>	<b>{Folio No. 261613}</b>

**SUMMARY:**

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*THIS IS PAGE 70 OF THE EDITED MINUTES OF THE PLANNING COMMITTEE MEETING OF THE KEMPSEY SHIRE COUNCIL HELD ON TUESDAY 23RD SEPTEMBER 2003*

Reporting that Council has received a Development Application for a dual occupancy which does not comply with Development Control Plan No 22 - Local Housing Strategy.



2003. P74

**RESOLVED:**

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

**That consent be granted subject to the following conditions of consent:**

- 1 The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.**
- 2 This consent has been issued on the basis that Council has been appointed as the Principal Certifying Authority and Council has accepted the appointment and will be issuing the construction certificate.**
- 3 This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.**
- 4 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.**
- 5 Two days prior to commencing work Form 7 under Environmental Planning and Assessment Act Regulations, Notice of Commencement of Building or Subdivision work and Appointment of Principal Certifying Authority is to be submitted to Council.**
- 6 The dwellings are not to be occupied until all conditions of Council's consent have been complied with to the satisfaction of Council and an Occupation Certificate has been obtained.**
- 7 Before the commencement of site works, demolition or building, the following activities must be completed:**
  - a Installation of soil erosion and sedimentation control devices.**
  - b Installation of safety fencing/hoardings between the property and the street**
  - c Protection barriers for existing trees**
  - d Installation of builder's toilets**
  - e Installation of signage in prominent, visible position including -**
    - "Unauthorised site entry is prohibited"**

- Name and phone number of builder or other responsible person for contact outside working hours.
- 8 Provision of a security deposit to Council totalling \$600 to cover any damage sustained to public property including footway and kerb and gutter or road pavement during construction and to ensure satisfactory completion of any works on public property required in connection with this approval. The deposit is to be lodged with Council prior to the issuing of the required Construction Certificate and will be released upon submission of documentary evidence indicating that an Occupation Certificate has been issued.
  - 9 Submission of an application(s) to Council pursuant to Section 68 of the Local Government Act 1993 for the following, prior to the issue of a Construction Certificate:-
    - a Installing a temporary structure on land.
    - b Carrying out water supply work.
    - c Carrying out water supply work.
    - d Carrying out sewerage work.
    - e Carrying out stormwater drainage work.
    - f Connecting a private drain or sewer with a public drain or sewer under the control of a Council or with a drain or sewer which connects with such a public drain or sewer.
    - g Disposing of waste into a sewer of the Council.
  - 10 Approval is subject to the condition that the builder or person who does the residential building work complies with the applicable requirements of Part 6 of the Home building Act 1989 whereby a person must not contract to do any residential building work unless a contract of insurance that complies with this Act is in force in relation to the proposed work. It is the responsibility of the builder or person who is to do the work to satisfy Council that they have complied with the applicable requirements of Part 6.  
  
Details are to be submitted to Council prior to work commencing.
  - 11 Before work commences, the Council must be informed in writing of the name and contractor licence number of the licensee who has been contracted to do or intends to do the work
  - 12 All excavation and backfilling are to be executed safely and in accordance with appropriate professional standards, and are to be properly guarded and protected to prevent them from being dangerous to life or property.

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

- (a)** preserve and protect such building from damage; and
- (b)** if necessary, underpin and support the building in an approved manner.

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

**14** Hoarding/fence is to be provided to the site in accordance with the assessment provided to Council. Details of proposed hoarding to be submitted, in writing, prior to the commencement of building operations.

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

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

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

**17** If the soil conditions require it:-

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

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

- On completion of floor slab framework before concrete is poured, detailing the location of the structure to the boundaries.
- At completion of the slab confirming that location is in accordance with the approval.

**19** The dwelling shall be constructed to include all of the energy efficiency requirements contained within NatHERS assessment Number KEM 294 dated 15<sup>th</sup> July 2003.

**20** Access from the street to the property boundary to be via a standard layback and full width concrete paving. Paving to be

125mm thick un-reinforced with construction joints to suit service trenches. Applicant is to consult Council's Environmental Services Department for details prior to commencing work on site.

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

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

- a Payment of a contribution towards the augmentation of sewerage headworks at the rate of \$2,964 per equivalent tenement, i.e \$2,964 x 1 E.T = \$2,964. (Indexed 2003/2004)
- b Payment of a contribution towards district water supply at the rate of \$1,184 per equivalent tenement, i.e \$1,184 x 1 E.T = \$1,184. (Indexed 2003/2004)

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

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

- 29 Amended plans are to be submitted prior to the release of the Construction Certificate showing private open space provisions for the proposed units in strict compliance with Development Control Plan No 22.
- 30 Amended plans are to be submitted prior to the release of the Construction Certificate showing proposed unit 1 as being located 800mm closer to Memorial Avenue to allow for a further 270mm internal separation distance at each of the three (3) residential units and visitors garages, in accordance with the requirements of AS2890.1. Whilst ensuring private open space provisions for unit 1 remain compliant with DCP 22.
- 31 The plans for the required Construction Certificate are to include a Schedule of Finishes providing for a non-painted decorative masonry finish to the garage wall on the southern boundary.
- 32 The plans for the required Construction Certificate are to provide for a privacy screen for the full height and width of the southern edge of the upper deck on Unit 2.

Councillor Hunt recorded his vote against the foregoing Resolution.

<b>DES11</b>	<b>RESIDENTIAL UNIT ADDITIONS, FREDERICKTION</b>
<b>FILE: T6-03-401 AD</b>	<b>{Folio No. 261614}</b>

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

Councillor Bowell declared an interest in the following item for the reason that he was the owner of a residence, the subject of an application listed in the report and retired from the Chamber.

<b>DES12</b>	<b>BUILDING AND DEVELOPMENT</b>
<b>FILE: B9-2 BWC (NRN)</b>	<b>{Folio No. 261615}</b>

**SUMMARY:**

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*THIS IS PAGE 75 OF THE EDITED MINUTES OF THE PLANNING COMMITTEE MEETING OF THE KEMPSEY SHIRE COUNCIL HELD ON TUESDAY 23RD SEPTEMBER 2003*

Reporting on applications approved and matters related to processing of applications.



2003. P75

**RESOLVED:**

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

That the information be noted.

<b>DES13</b>	<b>SUBDIVISION OF LOTS 52 DP 1025337 AND LOT 223 DP 754396, SOUTH WEST ROCKS FILE: T6-02-402, T6-03-186 &amp; T6-03-191</b>	<b>AJC</b> {Folio No. 261616}
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This report was dealt with earlier in the meeting just after Public Forum.



### QUESTIONS WITHOUT NOTICE

Councillor Bowell

Councillor Bowell was advised:-

- 1 By the Acting Director Environmental Services that a report will be forthcoming on the impact of the PlanFirst document.
- 2 By the General Manager that stage 1 of the consultants report on the land between Landsborough Street and Paragon Avenue has been considered by Council and stage 2 is proceeding.
- 3 That the anti-social issues at South West Rocks will be taken up with the Community Safety Council.
- 4 By the Mayor that there would be a report forthcoming on the results of the meeting with the RTA regarding industrial land strategy.

Councillor Hunt

Councillor Hunt was advised:-

- 1 By the Acting Director Environmental Services that the proposed sale of parts of Wharf Road are included in the development application received for road closure.

Councillor Sowter

Councillor Sowter was advised:-

- 1 By the Mayor that the second bridge crossing was the subject of a phone call this morning and that Council will be updated on 2<sup>nd</sup> October.

Councillor Sproule

Councillor Sproule was advised:-

- 1 By the Mayor that only when matters are deemed to be a matter of urgency that Planning issues may be raised at Ordinary Council Meetings.



## MOTION FOR COMMITTEE

2003. P76

**RESOLVED:**

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

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

<b>DES1</b>	<b>NON-COMPLIANCE WITH CONDITIONS OF CONSENT FILE: T6-03-280 RBP</b>
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### SUMMARY:

Reporting on non-compliance with conditions of consent.

### REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

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



2003. P77

**RECOMMENDED:**

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

That the applicant be advised that unless payment of the required carparking contribution is made within 14 days of notice being given or a satisfactory application is made to vary the parking requirement based on submission of documented and verifiable evidence, that Council intends to commence action in the Land and Environment Court to ensure compliance, including order as to cost.

## 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

2003. P78

**RESOLVED:**

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

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



At this stage 12.55 p.m. the Meeting adjourned for Luncheon and upon resumption at 2.05 p.m. all present at the adjournment were in attendance.



At this stage 2.05 p.m. the Meeting adjourned for a Workshop on the future direction of South West Rocks and upon resumption at 2.55 p.m. all present at the adjournment were in attendance.

2003. P79

**RESOLVED:**

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

That Council endorse the action of the executive committee regarding the strategic direction for South West Rocks and request that the committee prepare a simpler paper ensuring that matters referred to in the Parsons Brinkerhoff report which are relevant to this matter, are included together with recommendations on how to involve the South West Rocks community.



## CONCLUSION:

There being no further business, the Meeting terminated at 3.05 p.m.

