



MINUTES OF THE PLANNING COMMITTEE MEETING OF KEMPSEY SHIRE COUNCIL

Tuesday 24th February 2004 commencing at 9.04a.m.

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; Ken Woods and Donna Pearson.



APOLOGY:

2004. P11

RESOLVED:

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

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



ASSESSMENT OF ITEMS LISTED IN CONFIDENTIAL BUSINESS PAPER

2004. P12

RESOLVED:

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

That the confidential reports be considered in confidential section of the Meeting.



MINUTES OF THE PLANNING COMMITTEE MEETING OF KEMPSEY SHIRE COUNCIL DATED 27TH JANUARY 2004

2004. P13

RESOLVED:

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

That the Minutes of the Planning Committee Meeting of Kempsey Shire Council dated 27th January 2004, be adopted.



PUBLIC FORUM

- 1 - Mr Joe Vanzanen addressed Council regarding DES2 Proposed Two Storey Dwelling (page G3) 45 Francis Dimond Street, South West Rocks
- 2 - Mr Darren Perrin addressed Council in favour of DES3 (page G6) Proposed Shed – 38 Cyrus Saul Circuit, Frederickton
- 3 - Mr Ian Borger addressed Council speaking against DES3 (page G6) Proposed Shed – 38 Cyrus Saul Circuit, Frederickton
- 4 - Mr Ross O’Neil addressed Council in favour of RM1 Dual Occupancy Gregory Street South West Rocks (Page E1)
- 5 - Mr Keith Henry addressed Council in favour of DES5 Dwelling at Lot 33 DP1026368 Pola Creek Road, Pola Creek (Page G11)



CONSIDERATION OF LATE REPORTS

2004. P14

RESOLVED:

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

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



2004. P15

RESOLVED:

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

That NOM1 be dealt with prior to and in conjunction with DES5

That RM1 be dealt with in conjunction to DES15.



CONSIDERATION OF REPORTS RELATING TO PUBLIC FORUM – Reports DES2 (page G3), DES3 (page G6), RM1 (page E1) and DES15 (page G42), NOM1 and DES5 (page G11).

DES2

**PROPOSED TWO STOREY DWELLING – LOT 3
DP 1039514 NO 45 FRANCIS DIMOND STREET,
SOUTH WEST ROCKS**

FILE: T6-03-809 JGR

{Folio No. 270225}

SUMMARY:

Reporting that Council has received an application to build a split level brick veneer dwelling, which requires a variation to Council's DCP 22 Local Housing Strategy (2001) regarding front boundary building alignment.



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

Proposed Development

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

Siting

The allotment is situated on the western side of Francis Dimond Street. There is a cross fall of approximately 4 metres across the width of the allotment.

A registered stormwater and sewer easement 3 metre wide is situated across the rear of the allotment.

Heads of Consideration:

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

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

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

STANDARD	REQUIRED	PROPOSED	COMPLIES YES/NO
DENSITY - medium	3 bedroom – 400m ²	481m ²	Yes
SETBACKS - side			

- north elevations	1.5m	2.64	Yes
- south elevations	1.5m	2.55	Yes
- front	5m	<5m	No
- rear	1.5m	3.3	Yes
CARPARKING	1 covered space	2 covered spaces	Yes
PRIVATE OPEN SPACE	25m ²	25m ²	Yes
LANDSCAPING	130m ²	130>	Yes
HEIGHT	6.2m	6.02	Yes
SOLAR ACCESS	Adequate	Adequate	Yes
PRIVACY	Adequate	Adequate	Yes
CUT AND FILL	<1.5m	1.5m	Yes
LONG WALLS	20 m	<20 m	Yes
ACCESS	<25%	<25%	Yes

Comment

As indicated by the above table, the proposal complies with DCP 22 except in respect to the front setback to the street frontage.

Building Alignment

Building alignment in residential areas are governed by Section 4.2 of Development Control Plan No 22 2001, which requires a minimum setback of 5 metres to the primary street frontage.

Council may grant a variation to this standard if site constraints or existing structures on an allotment make compliance with current setbacks difficult. A reduced setback may be considered if the proposed setback is consistent with the majority of setbacks in the street with adjoining residences.

The owners have requested that Council give consideration to a reduction to the 5 metre setback to the primary street frontage, in respect to the following setbacks:

Garage - setback 4.770 metres, encroachment 230mm.

Front lower entry and upstairs living area - 3.250 metres encroachment 1.75 metres.

The owners have prepared a detailed submission, seeking a concession to the 5 metre building alignment. The submission is summarised, and the following points are considered relevant to enable Council to make an assessment of the proposal in respect to a building alignment variation. A full copy of the submission forms part of this report. ([Appendix C](#))

- 1 There are existing dwellings and outbuildings constructed on allotments adjoining the development at building alignments less than 5 metres. ([Appendix D](#))

- 2 The building design utilizes the slope of the land so as to minimize cut and fill. By moving the entry point on the south eastern corner will necessitate a deeper site cut.
- 3 The floor plan and orientation of the building has been designed to maximize energy efficiency requirements.
- 4 The front of the building is stepped to minimise the impact to the street frontage.
- 5 It is proposed to heavily landscape the front south eastern corner of the building to provide for an improved streetscape.
- 6 We believe the encroachments are minor and that we have provided adequate compensatory area and that there will be no significant effect upon the streetscape. (*Appendix E*)

Conclusion

The owner's submission has highlighted that the encroachments are relatively minor, this is acknowledged.

It is accepted that the site area is restrictive 481m² and that the building envelope is reduced by a 3 metre wide stormwater and sewer easement at the rear. These constraints necessitate the designer to consider the size and design of the building so as not to over develop the site.

It is considered that minor design changes to the building can be made so as to comply with the required building alignment, these design changes will not necessitate major alterations to the building.

The following design changes are recommended:

- 1 Shorten the building garage/rumpus area by 230 mm.
- 2 Step the front upper living area and lower foyer entry by 1.75 metres.

Director Environmental Services Recommendation:

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

MOVED:

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

That approval be granted subject to the conditions as set by the Director Environmental Services.

The MOTION was PUT to the Meeting and was LOST.

2004. P16

RESOLVED:

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

That the Director's recommendation be adopted.

DES3	PROPOSED SHED - LOT 18 DP 832352 NO 38 CYRUS SAUL CIRCUIT, FREDERICKTON
FILE: T6-04-04	SNB
	{Folio No. 270249}

SUMMARY:

Reporting that a Development Application has been received for approval to erect a colorbond garage for which an objection has been received.



Applicant: Darren Perrin
Subject Land: Lot 18 DP 832352 No 38 Cyrus Saul Circuit, Frederickton
Proposal: Garage

The applicant has submitted an application to erect an 8 metre long by 7 metre wide colorbond garage behind the rear boundary of the adjoining property. Appended to this report is a copy of part of the subdivision plan, which forms the site plan and indicates the location of the proposed garage. (*Appendix F*)

Because of the potential impact of the proposed garage on the adjoining property with respect to views, the application was advertised in accordance with Council's Notification Policy. In response, Council received a written objection from an adjoining neighbour, which is appended to this report. (*Appendix G*) The principal concerns of the respondent relate to loss of views.

It is proposed that the external walls of the garage will be 2.7 metres high and that the roof will have a pitch of 15 degrees. The applicant has provided a written submission in support of the application, which is appended to this report. (*Appendix H*) Despite his assertions that the proposed position of the garage is the most suitable, a site inspection revealed that there are some limitations with this location. There is likely to be an adverse impact on views from the adjoining property. In addition, the proposed site is located on the edge of a gully, which will necessitate more extensive cutting and filling of the ground so as to provide a level building platform than other potential locations on the property.

The applicant has provided levels, which indicate that the ridge of the proposed garage will be approximately 850mm (with a 15 degree roof pitch) above the 1.5 metre high colorbond fence located at the rear boundary of the adjoining property. If the roof pitch is reduced to 11 degrees (an option suggested by the applicant) the height of the garage at the ridge will be approximately 600-700 mm above the level of the fence. Therefore it is considered that the proposal, as submitted, will constitute a significant loss of views over the Macleay River floodplain from the adjoining property, which is already restricted by an existing large tree on the applicant's property.

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MAYOR

Photographs taken during the site inspection showing the existing outlook from the adjoining property and the proposed building site are appended to this report. *(Appendix I)*

Under the provisions of Council's Development Control Plan no. 30, boundary fences within town areas can be erected without Council approval up to a height of 1.8 metres. Therefore, whilst the respondent has chosen to erect a 1.5 metre high fence with the retention of views in mind, there is nothing preventing a 1.8 metre fence from being erected along the rear boundaries. In view of this it would be reasonable to restrict the height of any development in this position to a maximum of 300 mm above the level of the existing boundary fence.

Director Environmental Services Recommendation:

- A** That the applicant be requested to amend the plans by either relocating the proposed garage to a position whereby the level of the ridge does not exceed the level of the top of the existing colorbond boundary fence by more than 300 mm or where the building would not unacceptably obstruct views from adjoining dwellings.

- B** That upon receipt of the aforementioned amended plans, the application be approved subject to the following;
 - 1** The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.

 - 2** The garage is not approved for or to be used for human habitation, industrial or commercial purposes.

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

 - 4** The garage is not to be occupied prior to the issue of an Occupation/Interim Occupation Certificate by Council. An application for a certificate is enclosed. It is requested that it be completed and returned to Council prior to requesting an inspection. A minimum of 48 hours notice is necessary when requesting the inspection. Appointments will be made in accordance with the inspection program for that area.

 - 5** The following inspections are required to be made and a minimum of 48 hours notice is necessary where requesting an inspection. Appointments will be made in accordance with the inspection program for the area.

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MAYOR

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) all steel reinforcement prior to the pouring of concrete;

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

- 6 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.
- 7 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 8 A survey is to be submitted on completion of the concrete slab formwork to ensure that the level of the garage at the ridge does not exceed the level of the existing colorbond fence located on the adjoining property (Lot 19 DP 832382 No 36 Cyrus Saul Circuit) by more than 300 mm.
- 9 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.
- 10 Roofwaters are to be discharged 3 metres clear of the building with measures incorporated at the discharge point to prevent erosion.
- C That if suitable amended plans are not received within 14 days of notice being given, that consent be refused for the following reason:
- The proposal is likely to result in unacceptable impacts on the views of the adjoining dwelling, having regard to the availability of feasible alternative locations.
- D That the objector be advised of Council's decision.

2004. P17

RESOLVED:

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

That this matter be deferred until amended plans have been submitted and such plans should agree with the Director's configurations.

The following rescission motion RM1 was dealt with in conjunction with report DES15.

RM1	DUAL OCCUPANCY GREGORY STREET, SOUTH WEST ROCKS FILE: T6-03-37 RBP (NRN)	{Folio No. 270222}
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Notice is hereby given that we intend to move the following Rescission Motion at the Planning Meeting of Kempsey Shire Council on Tuesday 24th February 2004.

MOVED:

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

That resolution number 2003.P99 from the Planning Committee Meeting held 25th November 2003, as follows;

That the applicant be invited to submit a plan for a single dwelling as the current application is;

- a. Not in compliance with DCP22.*
- b. Egress is not considered suitable for a dual-occupancy development.*
- c. The topography of the site is unsuitable for the proposed development.*

be rescinded.

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Councillor B Sowter

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Councillor N Joukhadar

.....
Councillor P Parkinson

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

That the Directors recommendation in respect to DES7 of the Planning Meeting of November 25, 2003 Dual Occupancy, Gregory Street, South West Rocks be adopted.

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Councillor B Sowter

The MOTION was PUT to the Meeting and was LOST.

**DES15 DUAL OCCUPANCY
GREGORY STREET, SOUTH WEST ROCKS
FILE: T6-03-37 AD**

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

Mr Ross O'Neill, Applicant has submitted amended plans, made two further submissions, and sought the advice of a planning consultant regarding previous resolutions of Council relating to the development application. The submission is attached and may be summarised as follows:

(Appendix R)

- The compliance table within the Council report dated 25th November 2003 is misleading in relation to carparking and overshadowing;
- The issue of unsuitable egress for a dual occupancy has been addressed through the submission of amended plans;
- The amended landscape plan along the southern boundary is considered effective in addressing landscape and streetscape concerns;
- The development is consistent and compatible with the area;

The original objectors have made submissions relating to the rescission motion as attached which may be summarised as follows: *(Appendix S)*

- The applicant only wishes to take advantage of increased property values regardless of impacts upon safety in disregard of standards set out in DCP 22.
- The development will have a huge impact on safety, with the proposal being a tight squeeze. Access is unsuitable, with entry into the garage to Unit 1 being of concern.

SUMMARY:

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



Applicant: R R O'Neill
Subject land: Lot 2 DP 622342, No 75 Gregory Street, South West Rocks

THIS IS PAGE 10 OF THE FULL TEXT MINUTES OF THE PLANNING COMMITTEE MEETING OF THE KEMPSEY SHIRE COUNCIL HELD ON TUESDAY 24TH FEBRUARY 2004.

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MAYOR

Zone: 2(a) Residential
Proposal: Dual Occupancy ([Appendix L](#))

Heads of Consideration:

The proposal has been examined having regard for the Heads of Consideration identified under Section 79 C(1) of the Environmental Planning and Assessment Act with the following matters considered to be of particular relevance to the proposal. The proposal is not contrary to any State Environment Planning Policy (SEPP's), North Coast Regional Environmental Plan 1988 (NCREP 1988) or Kempsey Local Environment Plan 1987 (KLEP 1987).

Traffic Conflict

Having regard to the inherent constraints of the site, including:-

- The fact that the proposed driveway adjoins the road at the junction of the service land and Gregory Street;
- Traffic volumes within the area are substantial, having regard to the fact that South West Rocks Public School lies directly opposite the proposal;
- This section of Gregory Street is an arterial road, with traffic speeds ranging between 40 kilometres and 60 kilometres per hour depending on school hours;

The application was referred to Council's Local Traffic Committee for comment.

Council's Local Traffic Committee on the 14th May 2003, resolved that:-

"An onsite turning movement area be provided to allow vehicles to exit the development in a forward direction."

The applicant was subsequently invited to submit amended plans providing for the required turning area, with resulting discussion and further correspondence involving methods of preventing any vehicle reversing from the site, whilst complying with Australian Standard 2890.1- Off Street Car Parking.

Amended plans were received on the 22nd September 2003 providing the required turning area, with a barrier at the southern boundary preventing vehicles from reversing from the development. The plans received indicate compliance with AS2890.1.

DCP 22 - Local Housing Strategy

The proposal is required to comply with the following development standards outlined in DCP 22 - Local Housing Strategy.

STANDARD	REQUIRED	PROPOSED	COMPLIES Y/N
DENSITY - medium	2br + 3br = 570m ²	611m ²	Yes
SETBACKS - side - front - rear	0.9 metres 5.0 metres 0.9 metres	Side:-U1/1.2m US/1.2m Front:- 5m Rear:- 0.9m	Yes
CARPARKING	1 covered per unit + 1 visitor	2 covered 1 visitor	No*
PRIVATE OPEN SPACE	25m ² with 4 x 4 quadrangle	U1:- 48.4m ² w/ 4x4 square U2:- 57m ² w/c 4x4 square	Yes
LANDSCAPING	200 m ²	225 m ²	Yes
HEIGHT	<6.2m	Unit 1: 4.46m U2: 4.96m	Yes
SOLAR ACCESS	> than 2 hours of sunlight of living areas between 9am- 3pm on 22 June	Concern re impact on southern adjoining lot	Concern
PRIVACY	Sect 4.8 DCP 22	Adequate	Yes
CUT AND FILL	1.5m maximum	1.3m	Yes

Carparking

Section 4.3.4 of DCP 22 requires that driveways should be setback 1 metre from side boundaries to allow effective screen planting unless other effective means can be demonstrated. The applicant has submitted plans showing the driveway at zero setback for approximately 5 metres but has provided adequate compensation at the turnaround barrier, thereby achieving the objective of a visual landscaped separation between the driveway and property boundary.

Solar Access

Concern has been raised that the proposal will significantly overshadow living areas of dwelling on the southern adjoining lot ('Chamonix Village').

Following clarification in respect to incorrect levels on the development plans, having regard for the lower elevation of Unit 2 in relation to the adjoining dwelling, overshadowing would comply with DCP 22. ([Appendix M](#))

Public Exhibition

The development application was advertised in accordance with Councils Policy, with six (6) objections having been received which may be summarised as follows:- ([Appendix N](#))

Objection	Planning Comment
1 The block is over developed. 611m ² is too small for a dual occupancy,	1 The development is for a two bedroom and a 3 bedroom unit in a designated medium density area as defined by DCP 22, requiring a minimum lot size of 570m ² .
2 The proposal does not comply with dual occupancy requirements - there is only 1 visitor carpark available.	2 Only 1 visitor carpark is required for dual occupancy applications.
3 Cars will be reversing onto a major road, opposite a school, which is dangerous to children creating a major hazard in an already busy location.	3 (See Traffic Conflict)
4 Overshadowing will create a shadow on dwelling 5 of Chamonix Villages yard during winter.	4 "Solar Access".
5 Close proximity of the dwellings will impact upon privacy.	5 Although Unit 2 is in close proximity to dwelling 5 (Chamonix Village), no significant privacy impacts are anticipated as the southern facing wall of Unit 2 is the external wall of the garage, and as such, mitigates overlooking from Unit 2 living areas.
6 The proposal will impact upon ocean breezes, views of the reserve, and light.	6 The proposal is not expected to substantially impact upon the micro-climate of the area, with no

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| <p>7 Drainage is of concern. The area already floods and high density living may exacerbate the existing problem.</p> | <p>windows of any living areas of dwelling 5 being overshadowed for more than 2 hours on the 22nd June. Some loss of view is to be expected however the vacant lot is zoned for residential purposes and complies with Councils height and setback requirements.</p> |
| <p>8 The value of surrounding properties will depreciate.</p> | <p>7 The lot is not considered to be flood prone, with conditions to be applied regarding stormwater drainage to the rear of the lot. Section 94 Contributions for Stormwater drainage are applicable.</p> |
| <p>9 Such close and high density living has the propensity to create a "slum" area in future.</p> | <p>8 The proposal is considered appropriate to the amenity of the area. Impact upon the value of surrounding properties is speculative.</p> |
| <p>10 Noise will be a problem, with concern regarding the proximity of the driveway to the southern adjoining lot.</p> | <p>9 The impact upon the future socio-economic character of the area is speculative. It must be noted that the proposal complies with the density provisions of DCP 22 in excess of 41m², and that the southern adjoining lot contains 14 dwellings.</p> <p>Council has a responsibility to ensure that the provision of a variety of housing styles, sizes and choice occurs in suitably zoned residential areas in accordance with the overall objectives of DCP 22.</p> |
| <p>10 Noise will be a problem, with concern regarding the proximity of the driveway to the southern adjoining lot.</p> | <p>10 The traffic generated by the development is not considered to significantly impact upon the amenity of the neighbourhood. The driveway shown on amended plans received is marginally non-compliant with Section 4.3.4(a) of DCP 22 in respect that a small section of the driveway is not setback from the southern boundary by 1 metre, although intensive screen planting will be required along the turning barrier,</p> |

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MAYOR

	and at other areas set back from the boundary.
	Other residential noise generated by the development is not expected to be detrimental to the amenity of the area.
11 Without any decent backyard area, especially if there is no back fence, the reserve will be used as a playground, carpark, or rubbish dump.	11 The proposal complies with both private outdoor space and carparking requirements as outlined in DCP 22.
12 It is hoped that no application has been made to remove the large tree at the front of the block.	12 Plans submitted do not show any proposed removal of the tree.

Director Environmental Services Recommendation:

That should Council consider the two variations to DCP 22 justified, 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:**

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MAYOR

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

- 12 All excavation and backfilling are to be executed safely and in accordance with appropriate professional standards, and are to be properly guarded and protected to prevent them from being dangerous to life or property.
- 13 If the excavation is to extend below the level of the base of the footings on an adjoining allotment, the person causing the excavation shall:
- (a) preserve and protect such building from damage; and
 - (b) if necessary, underpin and support the building in an approved manner.
- Seven (7) days notice is to be given to the owner of the adjoining allotment of the intention to excavate below the level of the base of the footings. (Reference: Clause 34, Local Government (Approvals) Regulation 1993).
- 14 Hoarding/fence is to be provided to the site in accordance with the assessment provided to Council.
- 15 Details of proposed hoarding to be submitted, in writing, prior to the commencement of building operations.
- 16 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.
- 17 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 18 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.
- 19 The dwelling shall be constructed to include all of the energy efficiency specified by HMB/012/KEM/345 provided with the application.
- 20 Access from the street to the property boundary to be via a standard layback and full width concrete paving. Paving to be 125mm thick unreinforced with construction joints to suit service trenches. Applicant is to consult Council's Environmental

Services Department for details prior to commencing work on site.

- 21 Any redundant footpath crossings or access culverts to be removed and reconstructed at the applicant's expense, and footway access restored to the satisfaction of Council, prior to occupation of the premises.
- 22 All internal accessways and parking spaces have been designed and constructed in accordance with Council's Engineering Guidelines for Subdivision and Development to at least concrete paved standard.
- 23 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 Roofwaters are to be connected to the existing stormwater disposal system.
- 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 A Survey Certificate is to be submitted upon completion of the roof framing of Unit 2 to ensure that the top plate is at or below 12.2 metres A.H.D.
- 28 The following survey certificates must be given to Council at the following stages for Unit 2:-
 - On completion of floor slab framework before concrete is poured, detailing the location of the structure to the boundaries and compliance with the floor height showing the finished floor level at 9.75 metres A.H.D. Levels shall relate to the datum shown on the consent.
 - At completion of the framework confirming that location is in accordance with the approval.
- 29 Payment of a cash contribution prior to the issuing of the required Construction Certificate towards Council's trunk drainage system in accordance with Council's Section 94 Plan

for Stormwater Drainage at the rate of \$639 per equivalent tenement, i.e. \$639 x .66 E.T. = \$422 (Indexed 2003/2004).

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

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

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 \$2681 per equivalent tenement, i.e. \$2681 x 0.66 E.T = \$1786. (Indexed 2003/2004)
- b Payment of a contribution towards water supply headworks at the rate of \$1184 per equivalent tenement, i.e. \$1184 x 0.66 E.T = \$781. (Indexed 2003/2004)

- 31 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 \$1842 per additional dwelling unit, i.e. \$1842 x 0.66 E.T = \$1216. (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.

- 32 A substantial concrete kerb barrier is to be provided and suitably landscaped at the entrance to the proposed driveway suitable for directing vehicles to the turning area provided on site for the purposes of ensuring vehicles exit the development in a forward motion in accordance with the requirements of AS2890.1 - Off Street parking. Details are to be provided with the plans for the required Construction Certificate.

2004. P18

RESOLVED:

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

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

Councillor Parkinson recorded his vote against the foregoing Resolution.

NOM1	FLOOD PLAIN MANAGEMENT STRATEGY POLICY
FILE: R Pacific Hwy	KJF (NRN) {Folio No. 270221}

Notice is hereby given that I intend to move the following motion at the Planning meeting of Council scheduled for 24th February, 2004.

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

That a report be submitted to Council detailing the impacts to the Flood Plain Management Strategy Policy with the proposals for the preferred option for the Pacific Highway upgrade east of Kempsey, bearing in mind one of the principal objectives of the policy is:-

To ensure that new development in the flood prone lands is compatible with the degree of flood hazard and that adequate flood proofing measures are incorporated in the design of the development thereby minimising the possibility of loss of life and damage to property.

An Amendment was **MOVED:** *Moved: Cl. Bowen*
Seconded: Cl. Hunt

After the bypass of Kempsey and its mode of construction is finally determined and the flood study component of the EIS is complete, that Council's policy be amended to take into consideration any changes that need to be made to the flood plain management policy provided flooding data or modelling information identifies that there is a need to do so.

2004. P19 The **AMENDMENT** was **PUT** to the **MEETING** and was **CARRIED**, became the **MOTION** and was **CARRIED**.

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

MOVED: *Moved: Cl. Sowter*
*Seconded: Cl. **

That the Directors recommendation in respect to DES7 of the Planning Meeting of November 25, 2003 Dual Occupancy, Gregory Street, South West Rocks be adopted.

.....
Councillor B Sowter

DES5	DWELLING - LOT 33 DP 1026368 POLA CREEK ROAD, POLA CREEK
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.....
MAYOR

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

SUMMARY:

Reporting that Council has received a Development Application to replace a dwelling at Pola Creek which does not comply with Council's Flood Risk Management Policy. ([Appendix J](#))



Applicant: Dutton Engineering Excellence
Subject Land: Lot 33 DP 1026368 Pola Creek Rd, Pola Creek
Zone: 1(a3) – Rural Agricultural Protection
Proposal: Replace Dwelling

Heads of Consideration:

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

The proposal is not contrary to any State Environmental Planning Policy (SEPP), North Coast Regional Environmental Plan 1988 (NCREP1988), or Kempsey Local Environment Plan 1987 (KLEP 1987).

Flood Risk Management Policy

Councils Flood Risk Management Policy – Section 6.2.3 Other Floodways (Rural Floodways) states that:

“In the case of new dwellings, construction will not be permitted unless it can be shown that the product of depth and velocity of flow of water during a 1 in 100 flood is equal to, or less than one (1)...Council will need to be satisfied that there will be no undue risk of loss of life or damage to property during such a flood. The depth of flow is to be related to the “natural surface”.

“Council may make an exception in the case of replacement of an existing dwelling house used in conjunction with a bona fide agricultural use of the land. In many instances it would be appropriate to provide a mound for such a replacement dwelling.”

Assessment of the Development Application has revealed that the level of inundation at the site is 1.3 metres, with velocity at 1.13 metres per second, resulting in a product of 1.47 – exceeding the maximum of 1 – raising concern

that structural damage to buildings may occur, and that safety may be compromised in such an event. (*Appendix K*)

The applicant has sought to justify the variation by stating that there was an existing dwelling on the land, thereby making application under existing use rights for the proposal. Whilst the land does have a dwelling entitlement, an inspection of the property revealed that there was a dwelling on the land that was in a dilapidated state.

In order to establish existing use rights, it is necessary for the applicant to demonstrate the building has been used as a dwelling continuously since 1969 when planning controls commenced. Further, the use is deemed to have been abandoned if it ceased for a period of more than 12 months in that time.

Applicants Submission

The applicant, landowner, and neighbouring landowners (past and present), after being requested to submit documentary evidence of existing use rights, and provide written submissions justifying the variation to the flood policy submitted information which may be summarised as follows: (*Appendix L*)

- The land was owned, occupied and operated as a dairy farm by the Borger family from 1898 until 1973, and is being used for cattle, corn and Lucerne.
- The existing dwelling was built around 1912 by John Borger, and continuously occupied until 1973 when it was sold. Since 1973 the house has been occupied intermittently for the purposes of farm work.
- It is becoming increasingly difficult to operate the farm from our residence in Sherwood – it is having a costly impact upon finances, socially, and detrimentally upon health.
- This application is driven by a genuine desire to relocate to the farm to be better able to manage it productively.
- The property is a genuine and valuable agricultural enterprise comprising 15 hectares of rich alluvial soil.
- During the March flood of 2001 the proposed site was not totally covered by water and was the holding place for 200 cattle. All survived.
- The existing old Borger home on the proposed site was the highest dwelling on Pola Creek and has never suffered any major structural damage from previous floods.

Planning Comment

Whilst it is agreed that the land is operating as a viable agricultural enterprise, the establishment of existing use rights on the land for a dwelling has clearly not been demonstrated as the *Environmental Planning and Assessment Act*

1979 section 107 (3) states "A use is presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months." As the dwelling does not enjoy existing use rights, Council's Flood Risk Management Policy requires Council to treat the application as a new dwelling. Having regard to the extreme flood hazard the potential risk to life and property, it is recommended that the dwelling not be approved.

However, should Council be of a mind to approve the Development application, the following conditions of consent should be applied:

- 1 The development referred to in this application is to be carried out substantially in accordance with the approved development plans as modified by any conditions of this consent.
- 2 This consent does not permit the habitation of other structures on the subject site. One (1) dwelling only is permitted.
- 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 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 A Construction Certificate shall not be issued until all relevant conditions of this consent have been complied with.
- 6 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.
- 7 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.

- 8 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) all steel reinforcement prior to the pouring of concrete.

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

- 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:-
- 10 Installing, constructing or altering a waste treatment device or a human waste storage facility or a drain connected to any such device or facility.
- 11 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.

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

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

- a Structural Engineer's Details for slab and earth mound is to be submitted prior to any work commencing on the building.
- b Protection is to be provided from subterranean termites. Council's Code of Practice outlines methods which may be used. Details of the proposed method or methods are to be submitted for approval prior to commencement of work and suitable certifications are to be submitted prior to the issue of an occupation certificate.
- c That the floor surface of the wet areas are properly graded and drained and the junctions of the floor with the walls are treated to prevent the penetration of moisture into the walls. An inspection of the treated area is to be arranged with Council or suitable certification is to be submitted prior to the issue of an occupation certificate.

- d The windows and glass installations within the building shall comply with AS 1288, Part 3.6 BCA Housing Provisions and AS2047. The applicant shall furnish Council with a report from the supplier upon completion of the window and glass installation indicating compliance with the requirements of AS1288 and AS2047.
 - e Details of roof trusses, tie down and roof bracing are to be submitted prior to commencement of any building work on the site.
 - f Details of wall bracing to be carried out in accordance with Australian Standard 1684-1999 are to be submitted to Council prior to commencement of work.
 - g Class 1(a) and 1(b) Buildings

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

The system is to be provided with mains electrical power, have a stand by power supply and installed in each storey to comply with Clause E1.7 (N.S.W. Variation). Details of location of the units are to be provided for approval prior to installation.
 - h All glass in shower doors, shower screens, bath enclosures and associated windows (the lowest sight line of which is less than 1500mm above the floor or bottom of the bath or shower base) shall be Grade A Safety Glass.
 - i Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
 - j Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
- 14 The proposed dwelling is to have a floor level of 4.49 metres A.H.D. in accordance with council's Flood Plain Management Strategy Policy.

In this regard, Council requires submission of a Survey Certificate issued by an accredited certifier prior to pouring of slab indicating that the minimum floor level will be achieved.
- 15 Construction of a vehicular access from the road formation to the property boundary in accordance with Council's Standard for Access to Rural Properties. Applicant is to consult Mr Tony Castle of Council's Environmental Services Department for requirements before commencing construction.

- 16 Runoff and soil erosion controls shall be installed in accordance with the approved Erosion Control prior to work commencing on the site. The controls shall incorporate:-
- a diversion of uncontaminated upslope 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.
- 17 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.
- 18 Provide (2) copies of specification booklets.
- 19 Provide completed Energy Rating Assessment form and Part D hot Water Units.

Director Environmental Services Recommendation:

That Council refuse the application for the following reasons:

- 1 The proposal is contrary to Council's Flood Risk Management Policy, as it is likely to result in an unacceptable risk to life or damage to property; and**
- 2 The proposal is likely to create an unacceptable precedent for similar proposals within the Shire.**

MOVED:

*Moved: Cl. Parkinson
Seconded: Cl. Bowen*

The Director Environmental Services Recommendation be adopted.

An Amendment was MOVED:

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

That in the absence of evidence of existing use rights Council refuse the application for the following reasons:

- 1 The proposal is contrary to Council's Flood Risk Management Policy, as it is likely to result in an unacceptable risk to life or damage to property; and
- 2 The proposal is likely to create an unacceptable precedent for similar proposals within the Shire.

The Amendment lapsed for want of a seconder.

2004. P20 The MOTION was PUT to the MEETING and was CARRIED.



At this stage 11.00 a.m. the Meeting adjourned for Morning Tea and upon resumption at 11.34 a.m. all present at the adjournment were in attendance.



ADOPTION OF AGENDA ORDER OF BUSINESS

2004. P21 **RESOLVED:**

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

That the Agenda Order of Business be adopted.



NOTICE OF MOTION

NOM1	FLOOD PLAIN MANAGEMENT STRATEGY POLICY
	FILE: R Pacific Hwy KJF (NRN) {Folio No. 270221}

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

.....
Councillor John Bowell

RM1	DUAL OCCUPANCY
	GREGORY STREET, SOUTH WEST ROCKS
	FILE: T6-03-37 RBP (NRN) {Folio No. 270222}

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

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MAYOR

DIRECTOR ENVIRONMENTAL SERVICES REPORT

DES1	PROPOSED DWELLING ALTERATIONS – LOT 1
	DP 111848 NO 12 BETTS STREET, EAST KEMPSEY
	FILE: T6-03-820 JGR {Folio No. 270224}

SUMMARY:

Reporting that Council has received a Section 96 application to modify the garage layout which requires a variation to Council's Development Control Plan No 22 regarding a reduced building alignment.



Applicant: A & S Henry
Subject Land: Lots 1 DP 111848 No 12 Betts Street, East Kempsey
Zone: 2(a) Residential
Proposal: Dwelling alterations

Background

Council approved application T6-03-820 on the 5th January 2004, the applicant initially sought a reduction to Council's minimum alignment, however on consultation with Council's approval officer it was decided to site the addition in accordance with Council's minimum alignment of 5 metre so as to comply with DCP 22.

Proposal

The applicant has now determined that the garage addition would not be functional, and now requests that Council consider an enlargement of the garage.

It is proposed to site the garage 3.5 metres to the front boundary from the southern corner and 5 metre from the northern corner, as the front boundary is not parallel to the garage extension. (*Appendix A*)

Minimum Building Alignment

Council's minimum building alignment in respect to DCP 22 is 5 metres.

The applicants have prepared a submission, seeking a reduction in Council's minimum building alignment. The submission is summarised, and the following points are considered relevant to enable Council to assess the proposal and to provide a concession to the building alignment.

A full copy of the submission forms part of this report. (*Appendix B*)

- 1 We require the 4 metre extension to the existing garage to allow the garaging of our Commodore Station Wagon. The existing shed area will not allow the opening of the tail gate because the roof area is too low.

Comment

The existing floor to ceiling level is 1.8 metres which is considered low, the accepted floor to ceiling height for a garage is 2.1 metres. To lower the existing floor level would require significant structural work.

- 2 The rear lane access is too narrow to allow easy access.

Comment

There is rear access to the property via a laneway which is Council dedicated and maintained. The existing lane is narrow, however, it would be possible to provide separate garaging to the rear, and access could be designed from the laneway. For convenience access from Betts Street would be most preferred by the applicant.

- 3 The extension of the garage will not block views or vision from the street.

Comment

Council's road reserve is 4 metres, the proposed garage addition will be cut 1 metre on the cross fall of the allotment.

It is considered that the design of the garage addition with a hipped roof will enhance the appearance of the dwelling and will not detract from the appearance of the streetscape, the amenity of the adjoining premises will not be affected.

Section 79(1)(e) – Advertising

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

2004. P22

RESOLVED:

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

That Council approve the Section 96 modification with the existing Development T6-03-820 conditions applying.

DES2	PROPOSED TWO STOREY DWELLING – LOT 3 DP 1039514 NO 45 FRANCIS DIMOND STREET, SOUTH WEST ROCKS FILE: T6-03-809 JGR	{Folio No. 270225}
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This report was dealt with earlier in the meeting just after PUBLIC FORUM.

DES3	PROPOSED SHED - LOT 18 DP 832352 NO 38 CYRUS SAUL CIRCUIT, FREDERICKTON	FILE: T6-04-04 SNB	{Folio No. 270249}
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This report was dealt with earlier in the meeting just after PUBLIC FORUM.

DES4	BED AND BREAKFAST/FARMSTAY - YARRAHAPINNI	FILE: T6-02-439 AD	{Folio No. 270250}
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SUMMARY:

Reporting that Council has received an application for a bed and breakfast/farmstay which does not comply with the requirements of Development Control Plan No 29 – Bed and Breakfast Accommodation.



Applicant: M Care
Subject Land: Lots 1, 2, 3, 4 DP 789586 Hunters Road, Yarrahapinni
Zone: 1(a3) Rural-Agricultural Protection
Proposal: Bed and Breakfast/Farmstay

Heads of Consideration:

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

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

Development Control Plan No 29 – Bed and Breakfast Accommodation

The proposal is required to comply with the following development standards of DCP 29:

DEVELOPMENT STANDARDS	COMPLIES?
Is accommodation restricted to rooms forming part of dwellings which are not capable of being occupied separately as dwellings?	No
Compliance with the BCA?	

.....
MAYOR

(Fire Safety)	Yes – to be conditioned
Adequate Carparking?	Yes

Background

The proposal does not comply with DCP 29 as the accommodation rooms are located on the ground floor of the dwelling, adjacent to a kitchen with access to a laundry. Concern was raised with the applicant relating to this, and further investigation revealed the dwelling was approved by Council in 1991 in its current form.

At that meeting, concern was raised that the building was not a single dwelling, but a two storey dual occupancy as there was no internal staircase or access between levels, with access being achieved via an external staircase.

The applicant was advised that compliance with DCP 29 could be achieved by rendering the kitchen and laundry unusable, however, the applicant did not wish to proceed with that particular course of action for the following reasons:

- The upstairs section now contains a kitchen, whereas the original approval was only for a bar;
- The cost of removing the downstairs pre-approved kitchen is prohibitive and the laundry is the only one servicing the whole dwelling;
- Only the lower floor is proposed to be utilised as accommodation in the capacity of a bed and breakfast facility.

Planning Comment

Having regard for the previous building approval issued by Council which approved of building layout in its current form, it is considered reasonable to vary the DCP in this instance to allow the downstairs rooms to be utilised for the purposes of bed and breakfast accommodation. A condition should be imposed requiring a guest register to be kept indicating that patrons stay at the facility for a maximum of thirty (30) days or less. The register should be submitted to Council every six (6) months from the date of granting of consent.

Public Exhibition

The proposal was advertised in accordance with Council policy, with no objections having been received.

2004. P23

RESOLVED:

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

That the Bed and Breakfast/Farmstay 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 building or portion of the building is not to be used or adopted for use as a residential flat building.
- 3 The applicant/owner should note that the Commonwealth Disability Discrimination Act 1992 provides opportunity for public complaint possibly leading to legal action if access to premises by people with disabilities or their carers is precluded. This may require action to provide or improve access in addition to the minimum requirements of the Building Code of Australia.

The Human Rights and Equal Opportunity Commission can provide further information on this issue (tel: 088-021-199 toll free).
- 4 Smoke detectors will be required to be fitted to each room in accordance with the Building Code of Australia.
- 5 Areas proposed to provide accommodation will need to comply with the requirements of the Building Code of Australia specifically in respect to the requirements for light, ventilation and damp-proofing.
- 6 A guest register is to be kept showing dates and times of stay at the premises. Copies of the register and accompanying statutory declarations are to be submitted to Council every six (6) months from the date of consent.
- 7 The applicant is to ensure that no person is to occupy the area approved for guest accommodation for a continuous period of more than 30 days.

DES5	DWELLING - LOT 33 DP 1026368 POLA CREEK ROAD, POLA CREEK	{Folio No. 270251}
	FILE: T6-03-769 AD	

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

DES6	SUBDIVISION OF LOT62 DP596991, AT INCHES ROAD, VERGES CREEK	{Folio No. 270252}
	FILE: T6-00-487 AJC	

SUMMARY:

Reporting on a request for Council to consider Street names for a right of carriageway in accordance with Council policy for these rural residential developments.



Applicant: Mr P Moore, 51 Inches Road, Verges Creek
Subject Land: Lot 62 DP596991, at Inches Road, Verges Creek

Proposal

The applicant has submitted the following list of names to consider:

- Red Belly Lane
- Barred Frog Lane
- Whistlers Lane
- Sooty Owl Lane
- Masked Owl Lane
- Wompoo Way

The abovementioned names describe native fauna species.

Council records indicate that there are no other Council streets bearing these names in the Kempsey Shire.

Discussion

Council's Street Naming Policy requires that Council apply names for new subdivisions as follows: -

- (a) From the lists provided by the RSL, Macleay River Historical Society and Kempsey Local Aboriginal Land Council;
- (b) The developer supplies a list of possible names with supporting documentation.

The Sooty and Masked Owls are listed on the NSW National Park Service as vulnerable. There have been no sightings listed on the Atlas of NSW Wildlife suggesting these owls are present in this locality.

However the Flora and Fauna Assessments provided for the subdivisions did recognise that from data supplied by State Forests that the Olive Whistler, Sooty Owl, Masked Owl, Wompoo Fruit Dove did occur in the Kempsey region.

In the circumstance it would seem appropriate to use one of the names provided by the applicant as the names have an affinity with the Kempsey region.

Director Environmental Services Recommendation:

For the determination of Council.

That the applicant be invited to nominate their preferred option.

DES7	SUBDIVISION OF LOT 63 DP596991, AT INCHES ROAD, VERGES CREEK FILE: T6-03-276 AJC	{Folio No. 270253}
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SUMMARY:

Reporting on a request for Council to consider Street names for two rights of carriageway in accordance with Council policy for these rural residential developments.



Applicants: J L & P R Huckstepp, 69 Inches Rd, Verges Creek, Kempsey.
Subject Land: Lot 63 DP596991, at Inches Road, Verges Creek

Proposal

The applicant has provided the following list of names for Council to consider:-

- Richards Place
- Lochmaben Place
- Glengarry Place

Richards Place was chosen, as it was the applicant's late son's name.

The remaining two names were taken from areas outside the Kempsey Shire where the applicant's have lived in the past.

There is currently in existence a street named Richard Elrington Street in Crescent Head. The balance of the street names provided are not contained in the Council database but have no links to this region.

Discussion

Council's Street Naming Policy requires that Council apply names for new subdivisions as follows: -

- (a) From the lists provided by the RSL, Macleay River Historical Society and Kempsey Local Aboriginal Land Council;
- (b) The developer supplies a list of possible names with supporting documentation.

The applicant prefers the name Richards Place, which does not comply with the current Street Naming policy as a Christian name is being used and the proposal does not have affinity with the aspects listed in Section 2(d) of the policy. With respect to the remaining names chosen by the applicant, compliance with Section 2(d) of the policy has not been demonstrated as having an affinity with the locality.

Director Environmental Services Recommendation:

The applicant is to be invited to submit a list of street names that comply with Council's Policy on street naming for consideration.

2004. P25

RESOLVED:

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

That the carriageway be named Richards Place.

DES8	MODIFICATION TO EXISTING DRAINAGE EASEMENT
FILE: S15-92-25	AJC
	{Folio No. 270254}

SUMMARY:

Reporting on a proposal to extinguish an existing easement to drain water 3 wide created in DP833901 and form a private easement to drain water in its place.



Applicant : Ms C L Hughes and Mr C I Knowles
Subject Land: 21 Hilton Trotter Place, West Kempsey

Proposal

The proposal is to extinguish the existing easement to drain water 3 wide (which is currently vested in Council) and create a private easement to drain water 1 metre wide in favour of lots 4 and 6 DP 25187. Council's Development Control Plan 36, *Engineering Guidelines for Subdivision and Development* requires interallotment drainage lines in new subdivisions to be private lines located within a private easement to drain water.

The location of the existing Council easements are as shown in the plan attached to this report. ([Appendix M](#))

Discussion

This drainage easement was provided by the development in 1993 to allow for future extension of the existing interallotment drainage. Council's Director of Engineering has considered this proposal and has no objections.

The following action will be required no matter how slight or great the change to the existing drainage easement: -

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MAYOR

SUMMARY:

Reporting on a request made to include an adjoining parcel of land, identified in Council's Land Release Strategy, in the Saltwater Developments rezoning in South West Rocks.



- Subject Land:** Lot 84 DP 79245 Arakoon Road, Arakoon (5 Ha)
(Appendix N)
- Owner:** Winten Property Group
- Current Zoning:** 1(c) rural (Smallholdings), 1(d) Rural (Investigation)
(Appendix O)
- Proposed Zoning:** 2(a) Residential

At its meeting of 11 June 2002 Council resolved to rezone Lots 509 and 19 DP 850963 and Lot 52 DP 831284, Phillip Drive, South West Rocks, for residential purposes. *(Appendix P)* The proponents now wish to include the above lot in this rezoning, as it adjoins the eastern boundary of Lot 52. It is also identified in Council's Land Release Strategy as land for release, subject to the findings of the appropriate studies and investigations. As such it is reasonable to include this lot in the earlier rezoning and subsequent Local Environmental Study.

To include this lot in the rezoning it will be necessary for Council to formally resolve to amend Kempsey Local Environmental Plan 1987 to rezone Lot 84 from 1(c) Rural (Smallholdings) to 2(a) Residential and to include it in the Local Environment Study being prepared for the adjoining land. This will ensure consistency and a coordinated approach to planning the area.

2004. P27

RESOLVED:

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

- 1 Council amend Kempsey Local Environmental Plan 1987 to rezone the subject land from 1(c) Rural (Smallholdings) to 2(a) Residential; and
- 2 The subject land be included in the Local Environmental Study being prepared for Lots 509 and 19 DP 850963 and Lot 52 DP 831284 Phillip Drive, South West Rocks, at no cost to Council.

DES10	POINT PLOMER ROAD LEP COMMITTEE
	FILE: T5-89 RBP (NRN) {Folio No. 270256}

SUMMARY:

Reporting on the progress of the Point Plomer Road LEP Committee following Council's appointment of the Committee.



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MAYOR

Meetings have been held on the 22nd January and 5th February 2004, the minutes and agendas for which are included. (*Appendix Q*)

2004. P28

RESOLVED:

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

That the information be noted.

**DES11 CHANGES TO THE NSW BUILDING CERTIFICATION
SYSTEM**

FILE: B9-20 KJW (NRN)

{Folio No. 270257}

SUMMARY:

Reporting on the changes to Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003 (QOC Act) which is likely to change and substantially increase work processes within the Environmental Services Department.



The Environmental Planning and Assessment Amendment (Quality of construction) Act 2003 (QOC Act) was assented to on 10th December 2003. It aims to provide greater clarity and accountability in regulating development and introduces measures to improve building and subdivision certification.

A small number of provisions commenced on the 10th December 2003. To integrate with Governments decision to discontinue home warranty insurance for high-rise residential development the remaining provisions commences in two stages, first stage commenced on 1st January 2004 and second stage will commence on 1st March 2004.

The QOC Act includes a package of legislative reform. Of particular importance are:

- Increasing the time-frame for taking proceedings in relation to offences under the Act and allowing complaints to be made, and acted upon, against a person whose accreditation to act as an accredited certifier has been suspended or lapsed commenced on 10th December 2003.
- A regime of mandatory critical stage inspections for each class of building (as defined in the Building Code of Australia) - partial commencement on 1st January 2004 (for class 2,3 and 4 building), with full commencement on 1st March 2004;
- Defining the role and responsibilities of the Principal Certifying Authority (PCA) partial commencement 1st January 2004 (in relation to inspections), full commencement on 1st March 2004;

- Tying the issue of the Occupation Certificate or Subdivision Certificate to compliance with any pre-conditions of consent to be met for the work prior to the issue of the certificate - commencement on 1st March 2004;
- Requiring on-site signs to identify the PCA and the principal contractor (the coordinator of the building work) - commencement on 1st March 2004;
- Giving auditors appointed by the Director-General (Departmental auditors) the power to audit Councils in their role as certifying authorities - commencement on 1st March 2004;
- A requirement that the PCA must be appointed by the person with the benefit of the development consent, and only allowing the builder to appoint the PCA if the builder is also the owner of the land - commencement on 1st March 2004;
- New offences and penalties for improper conduct by certifiers - commencement on 1st March 2004;
- A provision allowing consent authorities to reject a development application within 7 days if the application is not accompanied by the required information in Part 1, Schedule 1 of the EP&A Regulation 2000 - commencement on 1st March 2004;
- Clearer provisions governing the replacement of a PCA with another PCA - commencement on 1st January 2004; and
- Allowing an accredited certifier to issue compliance certificates to certify that specified building work or subdivision work for which that accredited certifier prepared plans and specifications has been completed in accordance with the plans and specifications (as long as that accredited certifier is not the PCA for the project) - commencement on 1st March 2004.

The Department of Infrastructure Planning and Natural Resources (DIPNR) were providing further clarification and details in January 2004 on the changes to the AOC Act. At the time of the preparation of this report DIPNR had not issued the details for the changes which commence 1st March 2004.

In implementing the new legislation changes within Councils Environmental Services Department will be in the following, but may not be limited to these areas.

- 1 Council undertaking the role and responsibilities as the Principal Certifying Authority (PCA). The PCA is responsible for overseeing the construction phase of development and as such is more a "project manager" than a BCA specialist. The PCA and everyone on their project term must respect the legal context within which the project has been approved. This could involve additional time spent on building sites, meeting with the principal contractor (builder) checking conditions, consent and required inspections.

- PCAs should ensure each PCA service agreement identifies the terms and cost of their engagement, the mandatory inspections and other inspections required by the PCA, and the requirements of their client.
- PCAs should be encouraged to issue a Notice of Intention to Serve an Order if there is a departure from the development as approved.
- PCAs should implement a sound administrative regime that clearly documents:
 - a The conditions of their engagement (as outlined above)
 - b Dates of notices from the principal contractor or owner-builder to inspect, and the inspections carried out
 - c Outstanding conditions of consent and building defects at each inspection
 - d Notices to issue an order served by the PCA
 - e Complaints received and resolved
 - f Date of issue of occupation certificates
- PCAs are encouraged to engage accredited professionals who are officially recognised with the necessary skills, competencies and experience to give expert advice, or to carry out inspections on their behalf (where applicable).

2 Inspection of Developments.

Mandatory critical stage inspections will be required for all classes of buildings. The PCA may rely on other certifying authorities to assist in these inspections but must undertake the final inspection. The PCA will have the responsibility of notifying the person with benefit of the consent of critical stage inspections as well as other inspections that are to be carried out.

Note: It is estimated that this requirement alone will result in at least a 10% increase in the Department's workload.

3 Modifying and updating Councils application and forms.

DIPNR have advised that they will be producing model forms, to reflect the requirements introduced by the QOC Act.

4 Recording and holding of all information relating to each application.

The PCA must implement sound administrative procedures on the status and progress of construction of each application.

5 Reviewing Councils approval process and conditions.

Council should ensure its conditions of consent have clear intended outcomes, based on sound planning and building principles, DIPNR is working on guidelines for development consent conditions. Those guidelines, which will be finalised in consultation with stakeholders, will help council write clear, outcome focussed conditions that identify who has to check which matters at what time. The use of such conditions may lessen the need for Section 96 modifications.

6 Reviewing Council Fee Structure.

With additional inspections to be carried out and additional time spent in carrying out the duties of a PCA council will need to review its fee structure in the area of inspection, construction certificates and PCA to recover the cost of providing the service.

7 Staff training.

For Council to integrate the new legislation into Councils work program will require training all staff associated with the approval process and/or PCA requirements.

Note: If it is estimated that the cumulative impacts of these changes will result in an increase in the Department's work load of 20%. It is intended to closely monitor the impacts of the changes in respect to impacts on staff resources which may ultimately necessitate a review of staffing levels.

2004. P29

RESOLVED:

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

That the information be noted.

DES12

STAFF MATTERS

FILE: S10-2 RBP (NRN)

{Folio No. 270259}

SUMMARY:

Reporting that resignations have been received from Council's Strategic Planner and Development Engineer.



The resignation of Mark Innis (Strategic Planner) and John Matthews (Development Engineer) have recently been received.

Mark Innis is to take up a planning position with a consultancy on the Gold Coast and John is joining Hastings Council.

Whilst we are seeking to fill the positions, the general shortage of people with similar qualifications and experience will make this difficult. The services of both Mark and John will be missed and Council may expect a decline in services in subdivision approvals, strategic planning and development control generally until these positions are filled.

2004. P30

RESOLVED:

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

That the information be noted.

DES13

PROCESS IMPROVEMENTS - DEVELOPMENT APPLICATIONS

FILE: S10-45

RBP

{Folio No. 270264}

SUMMARY:

Reporting that a review has been undertaken in relation to Council's Development Application processes which has identified the need for a number of structural and process improvements, including the need for an additional staff member.



Following directions from the General Manager, a comprehensive review was undertaken of the systems adopted by Council in the processing of development applications with a view to identifying areas where improved efficiencies could be achieved. The primary aim of these is to reduce the average processing times for development applications in a cost effective manner. The review, which included discussions and visits with other Councils, identified a number of key areas where improvements could be made.

The review also recognised a need to reorganise the Department to meet key performance measures for other planning and development functions of the Department related to environmental control and health related matters.

Based on past records, it is estimated that Council currently has sufficient staff to meet key performance measures in the areas of development and environmental control where the total number of Local Development applications received does not exceed 600 per annum.

Note: Whilst this does not include the number of Section 96, Construction Certificates and Complying Development Applications also received, it is prime indicator of development activity and work loads. The number of development applications received for the past five (5) financial years are as follows:

1999 - 685

2000 - 687

2001 - 620

2002 - 767

2003 - 889

Although subject to fluctuations, analysis of past data indicates development applications are on a steadily increasing trend.

Whilst the Department has struggled to meet the target of 70% of development applications approved in 30 days, other functions have also suffered. These other functions include:-

- Issuing Building Certificates
- Responding to environmental complaints
- Renewing annual Caravan park Licenses
- Renewing Public Entertainment licenses
- Issuing Annual Fire Safety Certificates
- Processing Onsite Sewerage Management System applications
- Ensuring Food Shops are operating in accordance with Regulations
- Ensuring Development Application conditions are enforced
- Issuing Planning Certificates
- Undertaking Strategic Planning
- Updating drainage diagrams
- Processing Tree Preservation Order Applications
- Acting as Principal Certifying Authority on developments
- Carrying out building/subdivision inspections
- Issuing of Roads Act Approvals
- Issuing of Occupation Certificates
- Release of Subdivision Certificates

Discussions have taken place with the General Manager and in order to address all functions of the department, it is intended to reorganise the Department so as to maintain the impetus for meeting the key performance indicators in the areas of development application approvals and environmental control and to increase the efficiency of the development application process by increasing use of Complying Development provisions.

A number of efficiencies to clerical procedures have also been identified which are intended to be implemented.

Complying Development

Complying Development is development which meets a set of predetermined development standards set down in DCP 30 - Exempt and Complying Development. These predetermined development standards are chosen to ensure that only developments of minimal environmental impact, including impacts on neighbours, are dealt with by means of Complying Development applications. Under DCP 30, applications for Complying Development do not require neighbour notification or public exhibition. Complying Development applications are also open to competition with private accredited certifiers.

From an administrative resource point of view, Complying Development is far less demanding than for Local Development Applications as the onus is placed on the applicant to provide information at a greater level of detail than for local development applications in order to determine compliance. In

return, Council is required under legislation to determine Complying Developments within seven (7) days.

At present, Complying Development comprises only approximately 3% of development applications determined, almost all of which are determined by Council. This compares to approximately 70% at Hastings Council. The reasons for this difference is that Hastings has far more flexible exempt and complying provisions with very few restrictions on single and two storey detached dwellings and the fact that Hastings Council actively promotes Complying Development at it's counter and makes direct approaches to individual builders in order to utilise the service. It should be noted that a number of private certifiers are operating in Port Macquarie in direct competition with Hastings Council which is not currently the case in Kempsey Shire with private certifiers choosing not to provide this service. This is presumably due to the distances involved and the inability to compete with Council, particularly in respect to inspection charges as a result of economies of scale.

The result of the current system is that the development application processing system has been bogged down with a large number of minor developments such as carports, pergolas, garages and dwelling additions that will not result in any significant impact on the environment or neighbours but which either do not meet Council's current requirements for Complying Development or applicants choose not to submit the proposal as Complying Development.

With some relaxation of existing standards for single storey development and by actively promoting Complying Development, it is estimated that Complying Development could eventually be increased to 30% of applications received. A target of less than 30% is unlikely to have any significant impact on efficiencies and would not enable Council to dedicate a position to Complying Development applications. In order to achieve the target of 30% (which could be increased over time) the following measures are recommended:

- 1 Create one full-time equivalent position of Complying Development Officer to be responsible for the passage of all Complying Development applications through Council.
- 2 Review DCP 30 - Exempt and Complying Development to identify areas where standards could be relaxed. This would require public exhibition and Council would need to determine the balance between increasing efficiencies and reduced neighbour notification which would be the subject of a separate detailed report to be submitted to Council in March 2004.
- 3 Review Council's Fees and Charges to provide for increased fees for Complying Development in line with other Councils in order to offset the cost of employing the additional Complying Development Officer. This will also require the preparation of a separate report in conjunction with preparation of the draft Estimates for the 2004/05 Budget.

In the interim, it is intended to utilise the existing DCP 30 and reorganise existing staff to achieve up to 10% by Complying Development by targeting high volume builders and those specialising in minor additions.

Note: It must be noted that Council has previously employed additional administrative planning and building staff, including employment by contract of a Building Inspector, on the basis of the current level of fees being received in excess of budget estimates and on the basis that Council would review re-appointment of any staff contingent upon the level of development activity at the time. In order for Complying Development to be an effective means of increasing efficiency, the position of Complying Development Officer would be an additional full time position.

It should also be noted that whilst the increased reliance on Complying Development would improve efficiencies in development application processing, there would be no reduction in the number of inspections required to be undertaken by Council. In fact, having regard to recent legislative changes this requirement is likely to significantly increase.

Departmental Structure

Whilst the recommended changes to Complying Development would speed up many minor developments, the overall demand on staff resources would not diminish. As stated, Council is also responsible for a range of other environmental and development related functions for which the Department has specific performance indicators it must meet. The current structure has contributed towards these other functions being allocated less resources in favour of the constant immediate pressures of approving development applications.

Council needs to provide a duty of care to address potential public health and safety implications of these other functions.

A survey undertaken of seven other Councils from the Central and Mid North Coast indicates that the Department's current structure is different to other similar sized and larger Councils, all of which have specialised development control and environmental health sections or departments. Having regard to the likely continued trend of strong growth and development, the increasing complexity of the development application assessment process, Council's and the community's growing expectations that these other important environmental, public health and safety functions will continue (and probably increase) and the Department's obligations to meet agreed outputs, a reorganisation of staff within the Department is proposed.

In respect to the proposed reorganisation, the following points should be noted:

- 1 It is proposed to split the environmental health and building functions to align with the Department's outputs as specified in Council's Management Plan in order to provide adequate impetus to both functions by appointment of a Building Services Coordinator and an Environmental Health Services Coordinator directly responsible for each function to the Building and Environment Manager. This may

require some adjustment to salaries, commensurate with the additional responsibilities. Provided Council continues the contract hire of a Building Inspector, this will not require any additional staff, except for the proposed Complying Development Officer.

- 2 On the basis that the Building and Environment Manager is released from assessing and inspecting developments, it is proposed to bring the Rangers under the Manager's supervision as they also perform several environmental health roles, including overgrown block notices, illegal signage and other inspections where required, in addition to noise and dog complaints. There is also scope to utilise Rangers for erosion control infringements.
- 3 It is proposed to retain estuary, floodplain, environmental projects and acid sulfate soil management under the Director's supervision as these functions are separate from the development function, assist in regulating other Council activities, including flood mitigation and will increasingly involve strategic planning issues.
- 4 The management of the planning function is largely the same as currently exists, given recent appointments including approval of an additional planner and Planning Compliance Officer.

The General Manager has agreed to the new structure with the Complying Development Officers' role subject to Council allocating resources.

Delegations

A major impediment to the timely assessment of development applications is the current restricted delegations to staff. The reporting of applications to Council represents a significant proportion of staff resources estimated at not less than 25%.

Currently staff do not have any delegation to approve applications where objections are received, even where proposals comply with Council's policies, except where conditions can be imposed to overcome the objections. Staff also do not have any delegation to refuse applications that do not comply with Council's Policies and statutory requirements, whether or not objections are received, except where proposals do not comply with mandatory requirements of the Environmental Planning and Assessment Act. In each case a separate report is required to be prepared for Council, which is both resource demanding and delays applications. This situation has recently been partially addressed by amendments to DCP 22, however, the full benefits of these changes are yet to be determined.

From discussions held with other Councils, this Council's delegations are far less than the delegations of the Councils consulted who report very few development applications to Council. Taree, for example, has delegation down to Manager level to approve applications that comply with policies where objections are received and to refuse applications which do not comply with Council's policies. This allows the elected representatives to concentrate more on policy formulation.

To achieve these considerable efficiencies, it is recommended that Council resolve to delegate authority to the General Manager to approve development applications that comply with all Council policies, even where objections are received, provided no unacceptable impacts would result as a consequence of that development and to refuse applications that do not comply with Council policies resulting in unacceptable impacts, whether or not objections are received.

Any development applications which do not comply with Council's policies could not be approved unless determined by Council, whether or not objections are received.

Note: It should be noted that under the provisions of Section 82A of the Environmental Planning and Assessment Act, any applicant who is dissatisfied with a determination made under the delegated authority of the General Manager may request a review of determination which must be referred to Council for determination.

It is estimated that these measures would reduce reporting to Council on development application related matters by up to 50%.

As Councils Public Notification Policy forms part of DCP 30 - Exempt and Complying Development, any changes to current delegations would require amendment to DCP 36. As advised, a separate detailed report concerning amendments to DCP 36 will be presented to Council in March 2004.

Director Environmental Services Recommendation:

- A That Council give consideration in the 2004/2005 Budget to the employment of an additional full-time position being a Complying Development Officer.**
- B That Council note the information relating to potential efficiencies afforded by an increased utilisation of Complying Development and increase delegations to the General Manager, to be the subject of a separate detailed report to Council.**

2004. P31

RESOLVED:

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

- A. That Council employ an additional full-time position being a Complying Development Officer.**
- B. That Council note the information relating to potential efficiencies afforded by an increased utilisation of Complying Development and increase delegations to the General Manager, to be the subject of a separate detailed report to Council.**
- C. That consideration be made in the budget for a trainee development control officer.**

SUMMARY:

Reporting that the following applications have been approved:

APPROVALS**Local Development (LD)****Council Report on Local Development Application**

Reporting that the following applications have been approved

2002/LD-00318 15 DULCONGHI STREET CRESCENT HEAD
TWO STOREY DWELLING ADDITION

Owner: KENNETT G E & RL
Builder: 0

2003/LD-00395 123 KAWANA LANE BARRAGANYATTI
2 FARMSTAY UNITS

Owner: DOWSETT PJ & WALKER J
Builder: 0

2003/LD-00426 Lot 11 DP700765 COCHRANE STREET WEST
KEMPSEY
SUBDIVISION

Owner: KEMPSEY NURSING HOME P/L
Builder: 0

2003/LD-00522 52 MAIN STREET WILLAWARRIN
SWIMMING POOL

Owner: CAIRNCROSS J & KILLIN T
Builder: 0

2003/LD-00629 22 HOME STREET HAT HEAD
DWELLING

Owner: BURNETT P&Y
Builder: 0

2003/LD-00651 Lot 176 DP752409 PACIFIC HIGHWAY CLYBUCCA
DWELLING AND ATTACHED GARAGE

Owner: BUCHANAN T & S
Builder: 0

2003/LD-00677 Lot 12 DP777701 CROADS LANE CLYBUCCA
FLOOD MOUND

Owner: MITCHELL D & H
Builder: 0

2003/LD-00680 684 KINCHELA CREEK LEFT BANK RD KINCHELA

FLOOD MOUND
Owner: ENNIS P & M
Builder: 0

2003/LD-00687 Lot 28 DP752417 MARYS BAY ROAD
DONDINGALONG
DWELLING AND SHED
Owner: HERDEGEN D C & D H

2003/LD-00717 27 TOZER STREET WEST KEMPSEY
FUNERAL PALOUR
Owner: COACHCOT PTY LTD
Builder: 0

2003/LD-00724 10 WILLIAM STREET EAST KEMPSEY
DUAL OCCUPANCY AND STRATA SUBDIVISION
Owner: COSTA P & K
Builder: 0

2003/LD-00766 3 DENNIS CRESCENT SOUTH WEST ROCKS
DUAL OCCUPANCY AND SUBDIVISION
Owner: SUPAEAST PTY LTD
Builder: 2

2003/LD-00767 410 BELMORE RIVER LEFT BANK ROAD BELMORE
RIVER
DWELLING ADDITION, SEPARATE GARAGE AND MOUND
Owner: SIMPSON D & K
Builder: 0

2003/LD-00771 6 TREVOR JUDD AVENUE SOUTH WEST ROCKS
DUAL OCCUPANCY UNITS AND TORRENS TITLE
SUBDIVISION
Owner: CLARKE N & D
Builder: 0

2003/LD-00788 47-49 FREDERICK KELLY STREET SOUTH WEST
ROCKS
8 BAY FACTORY & STRATA SUBDIVISION INTO 8 LOTS
Owner: VOYEE P/L, SUPAEAST P/L, R CROAD
Builder: 0

2003/LD-00792 233 BATTLES OUTLET ROAD DONDINGALONG
SHED
Owner: BUTTERFIELD T & S
Builder: 0

2003/LD-00803 30 STURT STREET SOUTH WEST ROCKS
DWELLING AND ATTACHED GARAGE
Owner: BARRETT K & S
Builder: 0

2003/LD-00811 43-45 FREDERICK KELLY STREET SOUTH WEST
ROCKS

HIRE STORAGE OF BUILDING MATERIALS, MOTOR VEHICLE &
EQUIPMENT

Owner: MARTIN R & B

Builder: 0

2003/LD-00813 14 EDGAR STREET FREDERICKTON
DWELLING

Owner: COOK D

2003/LD-00815 21 DENNIS CRESCENT SOUTH WEST ROCKS
DWELLING AND ATTACHED GARGAGE

Owner: JACLESTA PTY LTD

Builder: 0

2003/LD-00820 12 BETTS STREET EAST KEMPSEY
DWELLING ADDITIONS

Owner: HENRY A & S

Builder: 0

2003/LD-00825 9 SALMON CIRCUIT SOUTH WEST ROCKS
DWELLING & SWIMMING POOL

Owner: MACKAY P & L

Builder: 0

2003/LD-00828 9A JAMES GRIMWADE PLACE EAST KEMPSEY
DWELLING AND ATTACHED GARAGE

Owner: BARNETT R & MURPHY R

Builder: 0

2003/LD-00831 15-33 GREAT NORTH ROAD FREDERICKTON
PERGOLA & UNISEX DISABLED TOILET

Owner: KEMPSEY SHIRE COUNCIL

Builder: 0

2003/LD-00836 57 WINSTEAD ROAD KUNDABUNG
DWELLING ADDITIONS

Owner: FISCHER L R & J L

Builder: 0

2003/LD-00841 14 COMARA TERRACE CRESCENT HEAD
DWELLING ADDITIONS

Owner: HART JC & HC

Builder: 0

2003/LD-00844 7 MARLIN CIRCUIT HAT HEAD
DWELLING AND ATTACHED GARAGE

Owner: SMITHERS A

Builder: 0

2003/LD-00845 30A WEST STREET SOUTH KEMPSEY
RELOCATION OF DWELLING

Owner: REID J & RM
Builder: 0

2003/LD-00849 45 CAMERON STREET WEST KEMPSEY
DWELLING ADDITIONS
Owner: CRAWFORD L
Builder: 0

2003/LD-00851 9 DILBERANG CLOSE SOUTH WEST ROCKS
DWELLING AND ATTACHED GARAGE
Owner: SWAN M & L
Builder: 0

2003/LD-00853 970 PIPERS CREEK ROAD DONDINGALONG
DWELLING ADDITIONS
Owner: MEERS A
Builder: 0

2003/LD-00854 22 DENNIS CRESCENT SOUTH WEST ROCKS
DWELLING AND ATTACHED GARAGE
Owner: CAMBRAI CELLARS PTY LTD
Builder: 0

2003/LD-00859 33 BARRAGANYATTI HUT ROAD BARRAGANYATTI
DWELLING ADDITIONS
Owner: CROSS C & T
Builder: 0

2003/LD-00860 2 CAMPBELL PLACE ALDAVILLA
DWELLING ADDITIONS
Owner: HAIGH R & R
Builder: 0

2003/LD-00864 61 SMITH STREET KEMPSEY
HOTEL ALTERATIONS
Owner: VISKAUSKAS P G & VISKAUSKAS MRS
Builder: 0

2003/LD-00865 5 HILTON TROTTER PLACE WEST KEMPSEY
DWELLING AND ATTACHED GARAGE
Owner: SPALDING M

2003/LD-00866 31 BISSETT STREET EAST KEMPSEY
DWELLING ADDITIONS
Owner: WILKINS L & J
Builder: 0

2003/LD-00867 7 MERTENS PLACE SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: MIDSON G & A
Builder: 0

2003/LD-00868 628 SHERWOOD ROAD SHERWOOD

DWELLING ALTERATIONS
Owner: O'BRIEN D

2003/LD-00870 207 BALLENGARA ROAD DONDINGALONG
DWELLING
Owner: RYAN B

2003/LD-00873 284 GREGORY STREET SOUTH WEST ROCKS
SWIMMING POOL
Owner: FERGUSON D & M

2003/LD-00876 33 PHILLIP DRIVE SOUTH WEST ROCKS
BBQ AREA
Owner: DICKENSON K & JONES G

2003/LD-00883 Lot 1 DPDP795851 COOKS LANE CLYBUCCA
TELECOMMUNICATIONS TOWER
Owner: ROBINSON H
Builder: 0

2003/LD-00884 6 EDEN STREET KEMPSEY
SHED & DEMOLISH EXISTING SHED
Owner: WATERS G
Builder: 0

2003/LD-00885 536 GOWINGS HILL ROAD DONDINGALONG
RELOCATION OF EXISTING BUILDING
Owner: DEETH M & S

2003/LD-00886 29 MARLIN DRIVE SOUTH WEST ROCKS
DWELLING
Owner: ROBERTS J & J
Builder: 0

2003/LD-00888 3 GRANDVIEW PLACE SOUTH WEST ROCKS
2 STOREY DWELLING
Owner: REEDER M
Builder: 0

2004/LD-00005 2 BEECH PLACE SOUTH WEST ROCKS
DWELLING
Owner: MAINEY WR
Builder: 0

2004/LD-00008 12 GREENFIELDS AVENUE WEST KEMPSEY
DWELLING ADDITIONS
Owner: ROSS K
Builder: 00

2004/LD-00012 Lot 1 DP186792 PACIFIC HIGHWAY KEMPSEY
FLOOD MOUND
Owner: PAIX'S PROPERTIES PTY LTD
Builder: 0

2004/LD-00020 7 GEOFFREY O'HEA STREET WEST KEMPSEY
DWELLING ADDITIONS
Owner: HAIGH J & N
Builder: 0

2004/LD-00030 41 YARRAVEL STREET SOUTH KEMPSEY
DWELLING ADDITIONS
Owner: WAKELING HA
Builder: 0

2004/LD-00033 9 MARLIN CIRCUIT HAT HEAD
DWELLING AND ATTACHED GARAGE
Owner: CARMODY W & C
Builder: 0

Summary Type	No	Value
Local Development Application	53	5143023

As at 13 Feb 2004 209 applications are in the office awaiting a determination.

The number of applications in excess of 40 days is 102

The reasons for the matters outstanding are:-

BL	Builders Licence Requirements	1
FD	Further Details Req	59
IA	Incomplete Application	18
NN	Neighbour Notification	5
OA	Other Agencies	15
RC	Refer Council	1
XX	No Reason Given	3

Construction Certificates (CB)

Council Report on Construction Certificate Building

Reporting that the following applications have been approved

2001/CB-00489 Lot 110 DP861059 ROSELLA PLACE ARAKOOON
ADDITION TO EXISTING SHED
Owner: HEATH G & L

2002/CB-00273 15 DULCONGHI STREET CRESCENT HEAD
TWO STOREY DWELLING ADDITION
Owner: KENNETT G E & RL

2003/CB-00439 52 MAIN STREET WILLAWARRIN
SWIMMING POOL
Owner: CAIRNCROSS J & KILLIN T

- 2003/CB-00506 Lot 13 DP805770 SMOKY RIDGE DRIVE ARAKOOON
TWO STOREY DWELLING
Owner: KNIBBS D & R
- 2003/CB-00523 Lot 176 DP752409 PACIFIC HIGHWAY CLYBUCCA
DWELLING AND ATTACHED GARAGE
Owner: BUCHANAN T & S
- 2003/CB-00528 22 HOME STREET HAT HEAD
DWELLING
Owner: BURNETT P&Y
- 2003/CB-00569 Lot 28 DP752417 MARYS BAY ROAD
DONDINGALONG
DWELLING AND SHED
Owner: HERDEGEN D C & D H
- 2003/CB-00599 Lot 850 DP790816 NEW ENTRANCE ROAD
SOUTH WEST ROCKS
TWO STOREY DWELLING
Owner: MYALL PROPERTIES PTY LTD
- 2003/CB-00634 3 DENNIS CRESCENT SOUTH WEST ROCKS
DUAL OCCUPANCY & SUBDIVISION
Owner: SUPAEAST PTY LTD
- 2003/CB-00635 410 BELMORE RIVER LEFT BANK ROAD
BELMORE RIVER
DWELLING ADDITION, SEPARATE GARAGE AND MOUND
Owner: SIMPSON D & K
- 2003/CB-00654 233 BATTLES OUTLET ROAD DONDINGALONG
SHED
Owner: BUTTERFIELD T & S
- 2003/CB-00656 47-49 FREDERICK KELLY STREET
SOUTH WEST ROCKS
8 BAY FACTORY & STRATA SUBDIVISION INTO 8 LOTS
Owner: VOYEE P/L, SUPAEAST P/L, R CROAD
- 2003/CB-00676 14 EDGAR STREET FREDERICKTON
DWELLING
Owner: COOK D
- 2003/CB-00677 21 DENNIS CRESCENT SOUTH WEST ROCKS
DWELLING AND ATTACHED GARGAGE
Owner: JACLESTA PTY LTD
- 2003/CB-00682 12 BETTS STREET EAST KEMPSEY
DWELLING ADDITIONS
Owner: HENRY A & S
- 2003/CB-00686 9 SALMON CIRCUIT SOUTH WEST ROCKS

DWELLING & SWIMMING POOL
Owner: MACKAY P & L

2003/CB-00690 9A JAMES GRIMWADE PLACE EAST KEMPSEY
DWELLING AND ATTACHED GARAGE
Owner: BARNETT R & MURPHY R

2003/CB-00694 57 WINSTEAD ROAD KUNDABUNG
DWELLING ADDITIONS
Owner: FISCHER L R & J L

2003/CB-00699 14 COMARA TERRACE CRESCENT HEAD
DWELLING ADDITIONS
Owner: HART JC & HC

2003/CB-00700 7 MARLIN CIRCUIT HAT HEAD
DWELLING AND ATTACHED GARAGE
Owner: SMITHERS A

2003/CB-00704 30A WEST STREET SOUTH KEMPSEY
RELOCATION OF DWELLING
Owner: REID J & RM

2003/CB-00706 9 DILBERANG CLOSE SOUTH WEST ROCKS
DWELLING AND ATTACHED GARAGE
Owner: SWAN M & L

2003/CB-00708 22 DENNIS CRESCENT SOUTH WEST ROCKS
DWELLING AND ATTACHED GARAGE
Owner: CAMBRAI CELLARS PTY LTD

2003/CB-00711 45 CAMERON STREET WEST KEMPSEY
DWELLING ADDITIONS
Owner: CRAWFORD L

2003/CB-00712 31 BISSETT STREET EAST KEMPSEY
DWELLING ADDITIONS
Owner: WILKINS L & J

2003/CB-00713 7 MERTENS PLACE SOUTH WEST ROCKS
DWELLING ADDITIONS
Owner: MIDSON G & A

2003/CB-00715 970 PIPERS CREEK ROAD DONDINGALONG
DWELLING ADDITIONS
Owner: MEERS A

2003/CB-00720 33 BARRAGANYATTI HUT ROAD BARRAGANYATTI
DWELLING ADDITIONS
Owner: CROSS C & T

2003/CB-00721 2 CAMPBELL PLACE ALDAVILLA
DWELLING ADDITIONS

Owner: HAIGH R & R

2003/CB-00724 33 PHILLIP DRIVE SOUTH WEST ROCKS
BBQ AREA

Owner: DICKENSON K & JONES G

2003/CB-00726 284 GREGORY STREET SOUTH WEST ROCKS
SWIMMING POOL

Owner: FERGUSON D & M

2003/CB-00730 628 SHERWOOD ROAD SHERWOOD
DWELLING ALTERATIONS

Owner: O'BRIEN D

2003/CB-00731 207 BALLENGARA ROAD DONDINGALONG
DWELLING

Owner: RYAN B

2003/CB-00732 5 HILTON TROTTER PLACE WEST KEMPSEY
DWELLING AND ATTACHED GARAGE

Owner: SPALDING M

2003/CB-00733 29 MARLIN DRIVE SOUTH WEST ROCKS
DWELLING

Owner: ROBERTS J & J

2003/CB-00734 6 EDEN STREET KEMPSEY
SHED & DEMOLISH EXISTING SHED

Owner: WATERS G

2003/CB-00735 536 GOWINGS HILL ROAD DONDINGALONG
RELOCATION OF EXISTING BUILDING

Owner: DEETH M & S

2004/CB-00001 3 GRANDVIEW PLACE SOUTH WEST ROCKS
2 STOREY DWELLING

Owner: REEDER M

2004/CB-00006 2 BEECH PLACE SOUTH WEST ROCKS
DWELLING

Owner: MAINEY WR

2004/CB-00012 12 GREENFIELDS AVENUE WEST KEMPSEY
DWELLING ADDITIONS

Owner: ROSS K

2004/CB-00018 7 GEOFFREY O'HEA STREET WEST KEMPSEY
DWELLING ADDITIONS

Owner: HAIGH J & N

2004/CB-00027 41 YARRAVEL STREET SOUTH KEMPSEY
DWELLING ADDITIONS

Owner: WAKELING HA

2004/CB-00029 9 MARLIN CIRCUIT HAT HEAD
DWELLING AND ATTACHED GARAGE
Owner: CARMODY W & C

Summary Type	No	Value
Construction Certificate Building	43	0

As at 13 Feb 2004 186 applications are in the office awaiting a determination.

The number of applications in excess of 40 days is 60

The reasons for the matters outstanding are:-

BL	Builders Licence Requirements	2
DA	DA Approval Required	2
DR	DA Requirements	4
FD	Further Details Req	39
IA	Incomplete Application	6
NN	Neighbour Notification	1
OA	Other Agencies	1
RC	Refer Council	1
XX	No Reason Given	4

2004. P32

RESOLVED:

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

That the information be noted.

DES15	DUAL OCCUPANCY GREGORY STREET, SOUTH WEST ROCKS FILE: T6-03-37 AD {Folio No. 270261}
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This report was dealt with earlier in the meeting just after PUBLIC FORUM in conjunction with RM1.

DIRECTOR ENVIRONMENTAL SERVICES SUPPLEMENTARY REPORT

DES16 (SUPP.)	PROPOSED TWO STOREY DWELLING LOT 49 DP 791310 NO 81 OCEAN STREET, SOUTH WEST ROCKS FILE: T6-03-882 DJW {Folio No. *}
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SUMMARY:

THIS IS PAGE 57 OF THE FULL TEXT MINUTES OF THE PLANNING COMMITTEE MEETING OF THE KEMPSEY SHIRE COUNCIL HELD ON TUESDAY 24TH FEBRUARY 2004.

.....
MAYOR

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



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

Proposed Development

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

SITING

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

Heads of Consideration

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

The proposal may be defined as ‘dwelling house’ and is permissible with consent in the 2(a) Residential “A” Zone under Kempsey Local Environmental Plan 1987.

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

DCP No 22 - Local Housing Strategy

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

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

An assessment of the proposal against the relevant Standards of DCP No 22 results in the following:

STANDARD	REQUIRED	PROPOSED	COMPLIES YES/NO
DENSITY	1 x 4 bedroom – 500m ²	840m ²	Yes

.....
 MAYOR

SETBACKS - side - east elevations - west elevations - front - rear	1.5m min 1.5m min 5m 1.5m min	1.5m 1.5m 7.5m >1.5m	Yes Yes Yes Yes
CARPARKING	1 covered space	2 covered spaces	Yes
PRIVATE OPEN SPACE	25m ²	>25m ²	Yes
LANDSCAPING	165m ²	>165m ²	Yes
HEIGHT	6.2m	6.3m & 7.05m	No
SOLAR ACCESS	15 points	15 points	Yes
PRIVACY	Adequate	Adequate	Yes
CUT AND FILL	<1.5m	>1.5m	Yes
LONG WALLS	20m	<20m	Yes
ACCESS	<20%	<19%	Yes
MAXIMUM SITE COVERAGE	252m ²	299m ²	No

Building height

As indicated in the table above, the proposal complies with DCP 22 except in respect to the dwelling's building height and maximum site coverage.

Comment

The building heights within various residential and commercial zones are controlled by Clauses 24 and 25 of Kempsey Local Environmental Plan 1987. In respect to residential zones, buildings are restricted to two (2) storeys with a topmost floor ceiling level of not more than 6.2 metres above *natural ground level* unless the topography of the site makes compliance extremely difficult.

The applicant proposes a 6.3 metre and 7.05 metre building height, a minor variation due to the topography of the site, as described under heading "Siting" (above).

It is considered the supporting documentation from Hadlow Design Services shows the variations meet the performance objectives of DCP 22, they are:
([Appendix T](#))

- (a) *The garage floor level has been designed so that the driveway complies with Council's guidelines for driveway access. Any lowering of the garage floor levels could exceed these guidelines.*

- (b) *The maximum excavation for the lower level floor is approximately 1.5metres. Any lowering of this floor level would exceed Council's DCP 22 requirements of 1.5 metres maximum cut.*
- (c) *The maximum height from ground level to top of ridge is 7.9 metres, within the maximum allowable height of 7.9 metres (6.2 x 1.7).*
- (d) *Council at the October 2003 Council Meeting approved a dwelling at Lot 46 (No 17) Ocean Street, South West Rocks, which exceeds the 6.2 metre height requirement by a maximum of 1.38 metres.*

Our proposed dwelling exceeds the 6.2 metres height requirement by 0.85 metres and is situated on a lot of similar gradient to Lot 46.

The maximum height is at the open outdoor dining area, which will never be enclosed.

The maximum height at the external wall of the building is 6.3 metres at the south west corner.

Maximum site coverage

Comment:

The site coverage exceeds the maximum site coverage by 6 % which is considered acceptable in this instance for the following reasons:

- 1 Does not effect the streetscape or neighbourhood when viewed from the Ocean street or neighbouring streets
- 2 The proposed dwelling is compatible with the quality and size of the existing dwellings constructed in Ocean Street.
- 3 No objections have been received

Section 79c(1)(e) - Advertising

The proposal was advertised in accordance with the Environmental Planning and Assessment Act 1997 and Council's Policy with no objections received.

Conclusion

It is considered reasonable for Council to permit a variation of building height of 6.3 metres and 7.05 metres in this instance due to the circumstances of the case. It is further considered that the proposed development will not adversely affect the adjoining owners.

Having considered all of the relevant matters under Section 79(c) of the Environmental Planning and Assessment Act, 1979 and the relevant standards of DCP 22. It is recommend that the development application be approved subject to the following conditions

Director Environmental Services Recommendation:

That Development Application T6-03- 882 be approved subject to the following conditions:

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

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

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

Inspections required:

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

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

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

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

- 7 Before work commences, the Council must be informed in writing of the name and contractor licence number of the licensee who has been contracted to do or intends to do the work.
- 8 All excavation and backfilling are to be executed safely and in accordance with appropriate professional standards, and are to be properly guarded and protected to prevent them from being dangerous to life or property.
- 9 A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours.
- 10 A builder's toilet complying with Clause 78I of the Environmental Planning and Assessment Regulation, and connected directly to the sewer is required on site throughout the entire building operation.

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

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

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

- a Structural Engineer's Details for footing reinforced concrete slab, structural steel work is to be submitted prior to any work commencing on the building.
- b Protection is to be provided from subterranean termites. Council's Code of Practice outlines methods which may be used. Details of the proposed method or methods are to be submitted for approval prior to commencement of work and suitable certifications are to be submitted prior to the issue of an occupation certificate.

- c That the floor surface of the wet areas are properly graded and drained and the junctions of the floor with the walls are treated to prevent the penetration of moisture into the walls. An inspection of the treated area is to be arranged with Council or suitable certification is to be submitted prior to the issue of an occupation certificate.
- d The windows and glass installations within the building shall comply with AS 1288, Part 3.6 BCA Housing Provisions and AS2047. The applicant shall furnish Council with a report from the supplier upon completion of the window and glass installation indicating compliance with the requirements of AS1288 and AS2047.
- e Should the verandah, patio or landing exceed 1 metre in height above the ground then a suitable balustrade is to be provided to the verandah, patio or landing and steps for safety and convenience.

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

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

Note: Spacing of rails not to exceed 125mm.

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

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

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

- g Kitchen exhaust fans are to be ducted externally of the building or a recirculating hood type be provided.
- h Class 1(a) and 1(b) Buildings

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

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

location of the units are to be provided for approval prior to installation.

- i All glass in shower doors, shower screens, bath enclosures and associated windows (the lowest sight line of which is less than 1500mm above the floor or bottom of the bath or shower base) shall be Grade A Safety Glass.
 - k The walls immediately adjacent or behind a bath, basin, sink or trough, shall be finished to a height of not less than 300mm above the fixture or in the case of a shower, to a height of 1.8 metres above the floor with cement render ceramic tiles or other approved finish impervious to water.
 - l The door to all fully enclosed sanitary compartments must open outwards, or slide, or be readily removable from the outside, in accordance with the requirements of the Building Code of Australia.
 - m Any sarking used in the roof of the dwelling must have a flammability index not more than 5.
 - n The sub floor ventilation must comply with Part 3.4.1.2 a) b) c) d) e) f) and g) of the Building Code of Australia (Housing Provisions).
 - o Earth works must comply with Part 3.1.1 of the Building Code of Australia (Housing Provisions).
 - p Drainage of the site must comply with Part 3.1.2 of the Building Code of Australia (Housing Provisions).
- 12 A Survey Report is to be submitted on completion of slab formwork to ensure the location of the building is in accordance with the approval issued.
- 13 The hours of operation of the activity are to be confined to 7.00 a.m. to 6.00 p.m., Mondays to Fridays, and 7.00 a.m. to 12 noon, Saturdays.
- 14 Construction of a vehicular access from the road formation to the property boundary in accordance with Council's Standard for Access to Urban Properties. Applicant is to consult Mr Tony Castle of Council's Environmental Services Department for requirements before commencing construction.
- 15 Roofwaters are to be directed by means of sealed pipes to the drainage easement. Details are to be provided with the plans for the required Construction Certificate.

- 16 Runoff and soil erosion controls shall be installed in accordance with the approved Erosion Control prior to work commencing on the site. The controls shall incorporate:-
- a diversion of uncontaminated upsite runoff around cleared and/or disturbed areas and areas to be cleared and/or disturbed.
 - b sediment control fences at the downslope perimeter of the cleared and/or disturbed area to prevent unwanted sediment and other debris escaping from the land.
 - c maintenance of all erosion control measures at maximum operational capacity until the land is effectively rehabilitated and stabilised beyond the completion of construction.

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

Note:

- i Any roof drainage system is to be connected to the required discharged point at the building frame inspection stage.
- ii Any material spilled or deposited on the road reserve or in the gutter is to be removed immediately.

2004. P33

RESOLVED:

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

That this matter be deferred until the date the application was submitted is provided by the Director.

.....
R B Pitt
ACTING DIRECTOR
ENVIRONMENTAL SERVICES



QUESTIONS WITHOUT NOTICE

Councillor Parkinson

Councillor Parkinson was advised:-

1. That the General Manager, in future, would ensure all new advertisement signs for the area will be approved by Council.

2. That the Director Environmental Services would investigate the illegal occupancy and illegal roadworks by Torumbee Pastoral Company.
3. That Kempsey Toyota had been requested to comply with the need for oil and grease arrestors in regard to the issue of discharge.

Councillor **Bowell**

Councillor **Bowell** was advised:-

1. The truck stop under development at Kundabung did not require any consultation on behalf of the RTA to Council and the matter would be referred to the Local Traffic Committee.
2. The air services have been withdrawn from Kempsey.
3. That the Director Environmental Services had inspected the site at Tiller's Right-of-Way Loftus Road and the building was compliant but a question still remains on the access to the property.

Councillor **Bowen**

Councillor **Bowen** was advised:-

1. That the Director Environmental Services would investigate the discharge into the drain in Verge Lane behind Farmers Market and Bearepairs.



The following item was deferred from earlier in the Meeting just prior to Questions Without Notice.

DES16 (SUPP.)	PROPOSED TWO STOREY DWELLING LOT 49 DP 791310 NO 81 OCEAN STREET, SOUTH WEST ROCKS FILE: T6-03-882 DJW {Folio No. *}
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2004. P34

RESOLVED:

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

That the application be returned to the applicant as it is in breach of DCP22 in relation to the height of the building and the site coverage and the applicant be invited to resubmit the application in line with the new DCP22 guidelines.



MOTION FOR COMMITTEE

.....
MAYOR

2004. P35

RESOLVED:

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

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



**DIRECTOR ENVIRONMENTAL SERVICES
CONFIDENTIAL REPORT**

DES1	DWELLING - LOT 33 DP 1026368 POLA CREEK ROAD, POLA CREEK
	FILE: T6-03-769 RBP (NRN) {Folio No. 270262}

SUMMARY:

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

REASON FOR PRESENTATION OF REPORT ON A CONFIDENTIAL BASIS

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



2004. P36

RECOMMENDED:

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

That the information be noted.



REPORT OF THE MEETING OF THE COMMITTEE OF THE WHOLE

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



ADOPTION OF REPORT OF THE COMMITTEE OF THE WHOLE

2004. P37

RESOLVED:

Moved: Cl. Howell

Seconded: Cl. Bowen

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



CONCLUSION:

There being no further business, the Meeting terminated at 12.35 p.m.

